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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2011–1280; Special Conditions No. 25–452–SC]

Special Conditions: Gulfstream Aerospace Corporation, Model GVI Airplane; Windshield Coating in Lieu of Wipers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: This special condition is issued for the Gulfstream Aerospace Corporation Model GVI airplane. This airplane will have a novel or unusual design feature(s) associated with the use of a hydrophobic windshield coating, rather than windshield wipers, as the means to maintain a clear portion of the windshield during precipitation conditions, as required by the airworthiness standards for transport category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is November 14, 2011. We must receive your comments by January 5, 2012.

ADDRESSES: Send comments identified by docket number FAA–2011–1280 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, *etc.*). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Paul Bernado, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1209; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

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

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

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

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

Background

On March 29, 2005, Gulfstream Aerospace Corporation (GAC) applied for an FAA type certificate for its new Model GVI passenger airplane (hereafter referred to as ''the GVI'' airplane). On September 28, 2006, GAC re-applied for the GVI type certificate in order to adhere to the application effectivity established by Title 14, Code of Federal Regulations (14 CFR) 21.17(c), and on July 31, 2011, GAC requested an extension of application in accordance with § 21.17(d)(2). The FAA concurred with this request and established a new effective application date of September 18, 2007. The GVI airplane will be an all-new, two-engine jet transport airplane. The maximum takeoff weight will be 99,600 pounds, with a maximum passenger count of 19 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, GAC must show that the GVI meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–120, 25–122, 25–124, and 25–132 thereto. If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the GVI because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to complying with the applicable airworthiness regulations and special conditions, the GVI must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. The FAA must also issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

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

Novel or Unusual Design Features

The GVI flightdeck design incorporates a hydrophobic windshield coating to provide adequate pilot compartment view in the presence of precipitation. Sole reliance on such a coating, without windshield wipers or a windshield blower, constitutes a novel or unusual design feature for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. Therefore, special conditions are required that provide the level of safety equivalent to that established by the regulations.

Discussion

Section 25.773(b)(1) of 14 CFR requires a means to maintain a clear portion of the windshield for both pilots to have a sufficiently extensive view along the flight path during precipitation conditions. The regulations require this means to maintain such an area during precipitation in heavy rain at speeds up to 1.5 V_{SR1}. The existing regulations cover technologies that primarily account for increased airflow and precipitation rates as limiting conditions. For example, as airflow and precipitation rates increase, the effectiveness of windshield wipers to maintain an area of clear vision normally degrades as airflow and precipitation rates increase. It is assumed that because high speeds and high precipitation rates represent limiting conditions for windshield wipers, they will also be effective at lower speeds and precipitation levels. Accordingly, § 25.773(b)(1)(i) does not require maintenance of a clear area of forward vision at lower speeds or lower precipitation rates. A forced air stream blown over the windshield has also been used to maintain an area of clear vision in precipitation. The limiting conditions for this technology are comparable to those for windshield wipers. Accordingly, introduction of this technology did not require special conditions to maintain the level of safety embodied in the existing regulations.

However, the heavy rain and high-speed conditions specified in the current rule do not necessarily represent the limiting conditions for hydrophobic windshield coatings, which may depend to some degree on airflow over the windscreen to maintain a clear vision area. For example, in low-speed flight or during surface operations, airflow over the windshield may not be adequate to maintain a sufficiently clear area of the windshield. Additionally, during such critical times as during final approach where the airplane is at a higher-than-normal pitch attitude, airflow over the windshield may be disturbed. In these cases, areas of airflow disturbance or separation on the windshield could cause failure to maintain a clear vision area on the windshield.

In addition to airflow, the effectiveness of hydrophobic coatings may also be affected by the size of precipitation. In some cases, the properties of the coating may not be sufficient to provide a clear area of vision during precipitation in the form of light mist.

The heavy rain and high-speed conditions specified in the current rule do not necessarily represent the limiting condition for this new technology. For example, airflow over the windshield, which may be necessary to remove moisture from the windshield, may not be adequate to maintain a sufficiently clear area of the windshield in low-speed flight or during surface operations. Alternatively, airflow over the windshield may be disturbed during such critical times as the approach to land, where the airplane is at a higher-than-normal pitch attitude. In these cases, areas of airflow disturbance or separation on the windshield could cause failure to maintain a clear-vision area on the windshield.

In summary, the current regulations identify speed and precipitation rate requirements that represent limiting conditions for windshield wipers and blowers, but not for hydrophobic coatings, so it is necessary to issue special conditions to maintain the level of safety represented by the current regulations.

Applicability

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

Conclusion

This action affects only certain novel or unusual design features on the GVI. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for GAC GVI airplanes.

Pilot Compartment View—Hydrophobic Coatings in Lieu of Windshield Wipers

The airplane must have a means to maintain a clear portion of the windshield, during precipitation conditions, enough for both pilots to have a sufficiently extensive view along the ground or flight path in normal taxi and flight attitudes of the airplane. This means must be designed to function, without continuous attention on the part of the crew, in conditions from light misting precipitation to heavy rain at speeds from fully stopped in still air, to 1.5 V_{SR1} with lift and drag devices retracted.

Issued in Renton, Washington, on November 14, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–29909 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 110930606–1640–01]

RIN 0694–AF40

Addition of Certain Persons to the Entity List; and Implementation of Entity List Annual Review Changes

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding fourteen persons under twenty-one entries to the Entity List. The persons who are added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These persons will be listed on the Entity List under the following four destinations: Afghanistan, China, Hong Kong, and Pakistan.

In addition, this rule amends the EAR to implement modifications to the Entity List on the basis of the annual review of the Entity List conducted by the End-User Review Committee (ERC), which the ERC conducts to determine if any entries on the Entity List should be removed or modified. This rule implements the results of the annual review for entities located in Canada.

The Entity List provides notice to the public that certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require a license from the Bureau of Industry and Security and that availability of license exceptions in such transactions is limited.

DATES: *Effective Date:* This rule is effective November 21, 2011.

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, *Phone:* (202) 482–5991, *Fax:* (202) 482–3911, *Email: ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to Part 744) provides notice to the public that certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require a license from the Bureau of Industry and Security (BIS) and that the availability of license exceptions in such transactions is limited. Entities are placed on the Entity List on the basis of certain sections of part 744 (Control Policy: End-User and End-Use Based) of the EAR.

The ERC, composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, when appropriate, the Treasury, makes all decisions regarding additions to, removals from or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

This rule implements decisions of the ERC to add persons to the Entity List and modify existing entries based on the annual review of the Entity List. These changes are described under *Additions to the Entity List* and *Annual Review of the Entity List* below.

Additions to the Entity List

This rule implements the decision of the ERC to add fourteen persons under twenty-one entries to the Entity List on the basis of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The twenty-one entries added to the Entity List consist of eleven entries in Afghanistan, one in the People's Republic of China (China), one in Hong Kong, and eight in Pakistan. Seven of the twenty-one entries cover additional addresses of persons being added to the Entity List—these persons are being listed under multiple countries to account for alternate addresses. Specifically, these seven additional entries cover six persons in Afghanistan who also have addresses in Pakistan (resulting in six additional entries for the Pakistani addresses) and one person in China who also has an address in Hong Kong (resulting in one additional entry for the Hong Kong address).

The ERC reviewed § 744.11(b) (Criteria for revising the Entity List) in making the determination to add these persons to the Entity List. Under that paragraph, persons for which there is reasonable cause to believe, based on specific and articulable facts, that the persons have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such persons may be added to the Entity List pursuant to § 744.11. Paragraphs (b)(1)–(b)(5) of § 44.11 include an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States. Thirteen of the fourteen persons are believed to have been involved in activities described under paragraphs (b)(1) and (b)(2) of § 744.11. Specifically, the thirteen persons in Afghanistan and Pakistan are being added to the Entity List on the basis of their provision of material support to persons engaged against U.S. and Coalition forces in Afghanistan.

Additionally, the U.S. Government has reasons to believe that one person in China, who will also be listed under an alternate address in Hong Kong, has been involved in activities described under paragraph (b)(5) of § 744.11. Specifically, the person in China has obtained items subject to the EAR without the required EAR authorizations. BIS believes that the activities of all fourteen of these persons are contrary to U.S. national security and foreign policy interests.

For the fourteen persons added to the Entity List under twenty-one entries, the ERC specifies a license requirement for all items subject to the EAR and establishes a license application review policy of a presumption of denial. The license requirement applies to any transaction in which items are to be exported, reexported, or transferred (in-country) to such persons or in which such persons act as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no license exceptions are available for exports, reexports, or transfers (in-

country) to those persons being added to the Entity List.

This final rule adds the following fourteen persons under twenty-one entries to the Entity List:

Afghanistan

(1) *Abdul Satar Ghoura,* 501, 5th Floor, Amanullah Sancharaki Market Opp Chaman E Huzuri, Kabul, Afghanistan; and Flat No. 41 Block No. 24 Macroyan 3, Kabul, Afghanistan. (See alternate addresses under Pakistan);

(2) *Assadullah Majed,* 42S WD 18476 22167 Kabul, Afghanistan, and A2 Ground Floor, City Computer Plaza, Shar-e-Naw, Kabul, Afghanistan;

(3) *Fazal Rahim Farid,* a.k.a., the following three aliases:

—Fazel Rahim Farid;

—Farid; and

—Engineer Idris.

Microrayan 3rd Apt. 45, block #21, Kabul, Afghanistan, and A2 Ground Floor, City Computer Plaza, Shar-e-Naw, Kabul, Afghanistan. (See alternate addresses under Pakistan);

(4) *Hanif Computer Zone (HCZ),* Ghazni City, Afghanistan;

(5) *Habib ur Rahman,* a.k.a., the following two aliases:

—Hanif; and

—Habib Rahman.

Ghazni City, Afghanistan;

(6) *Iqra Computer Products,* a.k.a., the following two aliases:

—Iqra IT solutions; and

—Iqra Computer Store.

A2 Ground Floor, City Computer Plaza, Shar-e-Naw, Kabul, Afghanistan;

(7) *Kurshid Ghoura,* a.k.a., the following two aliases:

—Kurshed Ghoura; and

—Kursheed Ghoura.

501, 5th Floor, Amanullah Sancharaki Market Opp Chaman E Huzuri, Kabul, Afghanistan; and Flat No. 41 Block No. 24 Macroyan 3, Kabul, Afghanistan. (See alternate addresses under Pakistan);

(8) *Lapcom Computer Stores,* A2 Ground Floor, City Computer Plaza, Shar-e-Naw, Kabul, Afghanistan. (See alternate address under Pakistan);

(9) *Muhammad Halim Ghoura,* 501, 5th Floor, Amanullah Sancharaki Market Opp Chaman E Huzuri, Kabul, Afghanistan; and Flat No. 41 Block No. 24 Macroyan 3, Kabul, Afghanistan. (See alternate addresses under Pakistan);

(10) *Ologh Beg International Forwarders Ltd.,* 501, 5th Floor, Amanullah Sancharaki Market Opp Chaman E Huzuri, Kabul, Afghanistan. (See alternate address under Pakistan); and

(11) *Qazi Abdallah,* a.k.a., the following four aliases:

—Khan Dilawar;

—Ibrahim Valid Javaid;

—Jawid, Sa'id Jan 'Abd-al-Salam; and

—Ibrahim Walid

Microrayan 3rd Apt. 45, Block No. 21, Kabul, Afghanistan.

China

(1*) Xian Semi Electronic Co., Ltd.,* a.k.a., the following three aliases:

—Semi Electronics Co.;

—Semi Electronics International Co. Limited; and

—Exodus Microelectronics Co., Ltd.

Room 24F, Duhui 100 Building Block B, ZhongHang Road, Futian District, Shenzhen City GuangDong Province, China; Room 1810 Lang Chen Building, No. 13 Gaoxin Road, High Technology Development Zone, Xian, China; Room 24F–27E Duhui B, Zhonghang Road, Futian District, Shenzhen City, China; and Room 1802 Xigema Building No. 25, Gaoxin Road, High-Tech Development Zone, Xian, China. (See alternate address under Hong Kong).

Hong Kong

(1) *Xian Semi Electronic Co., Ltd.,* a.k.a., the following three aliases:

—Semi Electronics Co.;

—Semi Electronics International Co. Limited; and

—Exodus Microelectronics Co., Ltd.

CAMDY, F1, 6/F BR3 Lanzhou Ind., No. 20–30 Jiangyuan, Yantian, Hong Kong; and Room 611 6/F Ricky CTR 36 Chong Yip St., Kwun Tong Kowloon, Hong Kong. (See alternate address under China).

Pakistan

(1) *Abdul Satar Ghoura,* 127–128, Times Center, Saddar Road, Peshawar, Pakistan; and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate addresses under Afghanistan);

(2) *Farzad Fazil Karim,* a.k.a., the following one alias:

—Ahmad Farzad.

E3 Gul Market Street 8, Hayatabad, Pakistan; and 122, First floor, Gul Haji Plaza, Peshawar, Pakistan;

(3) *Fazal Rahim Farid,* a.k.a., the following three aliases:

—Fazel Rahim Farid;

—Farid; and

—Engineer Idris.

122, First Floor, Gul Haji Plaza, Peshawar, Pakistan; and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate addresses under Afghanistan);

(4) *Kurshid Ghoura,* a.k.a., the following two aliases:

—Kurshed Ghoura; and

—Kursheed Ghoura.

127–128, Times Center, Saddar Road, Peshawar, Pakistan; and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate addresses under Afghanistan);

(5) *Lapcom Computer Stores,* 122, First Floor, Gul Haji Plaza, Peshawar, Pakistan. (See alternate address under Afghanistan);

(6) *Muhammad Halim Ghoura,* 127–128, Times Center, Saddar Road, Peshawar, Pakistan; and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate addresses under Afghanistan);

(7) *Ologh Beg International Forwarders Ltd.,* 127–128, Times Center, Saddar Road, Peshawar, Pakistan; and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate address under Afghanistan); and

(8) *Raaziq International (Pvt.) Ltd.,* House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan.

Annual Review of the Entity List

This rule amends the EAR to implement changes to the Entity List (Supplement No. 4 to part 744) on the basis of the annual review of the Entity List conducted by the ERC, in accordance with the procedures outlined in Supplement No. 5 to part 744 (Procedures for End-User Review Committee Entity List Decisions). The changes from the annual review of the Entity List that are approved by the ERC are implemented in stages as the ERC completes its review of entities listed under different destinations on the Entity List. This rule implements the results of the annual review for entities located in Canada.

On the basis of decisions made by the ERC during the annual review, this rule amends two entries currently on the Entity List under Canada by adding alternate addresses, as follows:

Canada

(1) *Ali Bakhshien,* 909–4005 Bayview Ave., Toronto, Canada M2M 3Z9; and HSBC Tower, Suite 502, 3601 Highway 7 East, Markham, Ontario, L3R 0M3, Canada; and

(2) *Kitro Corporation,* 909–4005 Bayview Ave., Toronto, Canada M2M 3Z9; and HSBC Tower, Suite 502, 3601 Highway 7 East, Markham, Ontario, L3R 0M3, Canada.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on November 21, 2011, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR) so long as they are exported or reexported before December 6, 2011. Any such items not actually exported or reexported before midnight, on December 6, 2011, require a license in accordance with the EAR.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 12, 2011, 76 FR 50661 (August 16, 2011), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. 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 determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implements this rule to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in country) to the persons being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, then entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, because these parties may receive notice of the U.S. Government's intention to place these entities on the Entity List once a final rule was published it would create an incentive for these persons to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States and/or to take steps to set up additional aliases, change addresses and take other steps to try to limit the impact of the listing on the Entity List once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011); Notice of November 4, 2010, 75 FR 68673 (November 8, 2010): Notice of January 13, 2011, 76 FR 3009, January 18, 2011.

■ 2. Supplement No. 4 to part 744 is amended:

■ (a) By adding, in alphabetical order, the destination of Afghanistan under the Country column and eleven Afghan entities;

■ (b) By revising under Canada, in alphabetical order, two Canadian entities;

■ (c) By adding under China, in alphabetical order, one Chinese entity;

■ (d) By adding under Hong Kong, in alphabetical order, one Hong Kong entity; and

■ (e) By adding under Pakistan, in alphabetical order, eight Pakistani entities.

The additions and revisions read as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	**Federal Register** citation
AFGHANISTAN	Abdul Satar Ghoura, 501, 5th Floor, Amanullah Sancharaki Market Opp Chaman E Huzuri, Kabul, Afghanistan; and Flat No. 41 Block No. 24 Macroyan 3, Kabul, Afghanistan. (See alternate addresses under Pakistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
	Assadullah Majed, 42S WD 18476 22167 Kabul, Afghanistan; and A2 Ground Floor, City Computer Plaza, Shar-e-Naw, Kabul, Afghanistan	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11
	Fazal Rahim Farid, a.k.a., the following three aliases: —Fazel Rahim Farid; —Farid; and —Engineer Idris. Microrayan 3rd Apt. 45, block #21, Kabul, Afghanistan; and A2 Ground Floor, City Computer Plaza, Shar-e-Naw, Kabul, Afghanistan. (See alternate addresses under Pakistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
	Hanif Computer Zone (HCZ), Ghazni City, Afghanistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
	Habib ur Rahman, a.k.a., the following two aliases: —Hanif; and —Habib Rahman. Ghazni City, Afghanistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
	Iqra Computer Products, a.k.a., the following two aliases: —Iqra IT solutions; and —Iqra Computer Store. A2 Ground Floor, City Computer Plaza, Shar-e-Naw, Kabul, Afghanistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11
	Kurshid Ghoura, a.k.a., the following two aliases: —Kurshed Ghoura; and —Kursheed Ghoura. 501, 5th Floor, Amanullah Sancharaki Market Opp Chaman E Huzuri, Kabul, Afghanistan; and Flat No. 41 Block No. 24 Macroyan 3, Kabul, Afghanistan. (See alternate addresses under Pakistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
	Lapcom Computer Stores, A2 Ground Floor, City Computer Plaza, Shar-e-Naw, Kabul, Afghanistan. (See alternate address under Pakistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE] 11/21/11.
	Muhammad Halim Ghoura, 501, 5th Floor, Amanullah Sancharaki Market Opp Chaman E Huzuri, Kabul, Afghanistan; and Flat No. 41 Block No. 24 Macroyan 3, Kabul, Afghanistan. (See alternate addresses under Pakistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE] 11/21/11.
	Ologh Beg International Forwarders Ltd., 501, 5th Floor, Amanullah Sancharaki Market Opp Chaman E Huzuri, Kabul, Afghanistan. (See alternate address under Pakistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE] 11/21/11.
	Qazi Abdallah, a.k.a., the following four aliases: —Khan Dilawar; —Ibrahim Valid Javaid; —Jawid, Sa'id Jan 'Abd-al-Salam; and —Ibrahim Walid Microrayan 3rd Apt. 45, Block No. 21, Kabul, Afghanistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE] 11/21/11.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
*	* * *	* *	*	*
CANADA	Ali Bakhshien, 909–4005 Bayview Ave., Toronto, Canada M2M 3Z9; and HSBC Tower, Suite 502, 3601 Highway 7 East, Markham, Ontario, L3R 0M3, Canada.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR 54504, 9/22/08. 76 FR [INSERT FR PAGE] 11/21/11.
	Kitro Corporation, 909–4005 Bayview Ave., Toronto, Canada M2M 3Z9; and HSBC Tower, Suite 502, 3601 Highway 7 East, Markham, Ontario, L3R 0M3, Canada.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	73 FR 54504, 9/22/08. 76 FR [INSERT FR PAGE] 11/21/11.
CHINA, PEOPLE'S REPUBLIC OF				
*	* * *	* *	*	*
	Xian Semi Electronic Co., Ltd., a.k.a., the following three aliases: —Semi Electronics Co.; —Semi Electronics International Co. Limited; and —Exodus Microelectronics Co., Ltd. Room 24F, Duhui 100 Building Block B, ZhongHang Road, Futian District, Shenzhen City GuangDong Province, China; Room 1810 Lang Chen Building, No. 13 Gaoxin Road, High Technology Development Zone, Xian, China; Room 24F–27E Duhui B, Zhonghang Road, Futian District, Shenzhen City, China; and Room 1802 Xigema Building No. 25, Gaoxin Road, High-Tech Development Zone, Xian, China. (See alternate address under Hong Kong).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
*	* * *	* *	*	*
HONG KONG				
*	* * *	* *	*	*
	Xian Semi Electronic Co., Ltd., a.k.a., the following three aliases: —Semi Electronics Co.; —Semi Electronics International Co. Limited; and —Exodus Microelectronics Co., Ltd. CAMDY, F1, 6/F BR3 Lanzhou Ind., No. 20–30 Jiangyuan, Yantian, Hong Kong; and Room 611 6/F Ricky CTR 36 Chong Yip St., Kwun Tong Kowloon, Hong Kong (See alternate address under China).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
*	* * *	* *	*	*
PAKISTAN				
	Abdul Satar Ghoura, 127–128, Times Center, Saddar Road, Peshawar, Pakistan; and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate addresses under Afghanistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
*	* * *	* *	*	*
	Farzad Fazil Karim, a.k.a., the following one alias: —Ahmad Farzad. E3 Gul market Street 8, Hayatabad, Pakistan; and 122, First floor, Gul Haji Plaza, Peshawar, Pakistan;	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Fazal Rahim Farid, a.k.a., the following three aliases: —Fazel Rahim Farid; —Farid; and —Engineer Idris. 122, First Floor, Gul Haji Plaza, Peshawar, Pakistan; and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate addresses under Afghanistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
*	* * * * *	*	*	*
	Kurshid Ghoura, a.k.a., the following two aliases: —Kurshed Ghoura; and —Kursheed Ghoura. 127–128, Times Center, Saddar Road, Peshawar, Pakistan; and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate addresses under Afghanistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
	Lapcom Computer Stores, 122, First Floor, Gul Haji Plaza, Peshawar, Pakistan. (See alternate address under Afghanistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
*	* * * * *	*	*	*
	Muhammad Halim Ghoura, 127–128, Times Center, Saddar Road, Peshawar, Pakistan, and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate addresses under Afghanistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
	Ologh Beg International Forwarders Ltd., 127–128, Times Center, Saddar Road, Peshawar, Pakistan; and House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan. (See alternate address under Afghanistan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
*	* * * * *	*	*	*
	Raaziq International (Pvt.) Ltd., House Number 32, F–2, Khusal Khan Khattak Road, University Town, Peshawar, Pakistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	76 FR [INSERT FR PAGE NUMBER] 11/21/11.
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Dated: November 15, 2011.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2011–29982 Filed 11–18–11; 8:45 am]

BILLING CODE 3510–33–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 201, 202, 210, 229, 230, 232, 239, 240, 243, 249, 250, 251, 256, 257, 259, 260, 270, 274 and 275

[Release Nos. 33–9273, 34–65686, 39–2480, IA–3310 and IC–29855]

Rescission of Outdated Rules and Forms, and Amendments To Correct References

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is adopting amendments to Commission rules and forms to correct references and remove certain rules, forms, and interpretive releases, to conform to changes in federal securities laws.

DATES: Effective Date: November 21, 2011.

FOR FURTHER INFORMATION CONTACT: Daniel K. Chang, Senior Counsel, at (202) 551–6792, Office of Regulatory Policy, Division of Investment Management, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is rescinding rules and forms adopted under the Public Utility

Holding Company Act (''PUHCA''),[1] and revising other rules and forms to correct outdated references to PUHCA, correct outdated references due to enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 [2] (''Dodd-Frank Act''), and make other ministerial corrections.[3] Congress repealed PUHCA effective 2006,[4] and the Dodd-Frank Act amended various provisions of the federal securities laws and removed references to PUHCA from those laws.

The Commission is amending: Organizational Rules 1, 2, 20b, 30–5, 30–6, 30–7, 30–14, 43, 80, 80a, 80c, 80f, 304, 307, 308, 551, and 800; Rules of Practice 190 and 210; Informal and Other Procedures Rules 1, 2, 3, 6, and 9; Regulation S–X, Items 1–01, 3–18, and 3A–05; Regulation S–K, Item 405; Regulation C, Items 400, 404, 412, 414, 421, 423, 427, 430, 431, 436, 460, 470, 471, and 479; and Regulation S–T, Items 11, 101, 102, 104, 201, 202, 306, 311, 402, and 501, and rules 122 and 176 under the Securities Act of 1933 (the ''Securities Act''); rules 0–4, 11d1–1, 13f–1, 14d–4, 14d–7, 16a–1, 16a–2, 16a–3, and 16b–1 under the Securities Exchange Act of 1934 (the ''Exchange Act''); Regulation FD, Item 100; rules 0–4, 0–6, 7a–29, and 19a–1 under the Trust Indenture Act of 1939; rules 0–4 and 8b–32 under the Investment Company Act of 1940 (''Investment Company Act''); rule 0–4 under the Investment Advisers Act of 1940 (''Investment Advisers Act''); the General Instructions to Forms 3, 4 and 5; and the General Instructions to Form SE. The Commission is removing and reserving 17 CFR part 250, 17 CFR part 251, 17 CFR part 256, 17 CFR part 257, and 17 CFR part 259 because each solely contains rules, forms, or interpretive releases that applied exclusively under PUHCA.

Procedural and Other Matters

Section 553 of the Administrative Procedure Act (''APA'') provides that when an agency for good cause finds that notice and public comment are inapplicable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and opportunity for public comment.[5] The Commission has determined that there is good cause for making today's action final without prior proposal and opportunity for comment.[6] Because Congress repealed PUHCA, the Commission's action to amend rules to correct outdated references and to eliminate rules, forms, and interpretive releases concerning, and authorized by, statutory provisions that are no longer in effect is ministerial in nature. Similarly, other changes to the Commission's rules to correct outdated or inaccurate references are also ministerial in nature. Therefore the Commission is adopting the rule amendments without prior notice and comment. For the same reasons, the Commission finds good cause for making the rule changes effective upon publication in the **Federal Register**.[7]

The amendments the Commission is adopting do not make substantive or material modifications to any collection of information requirements as defined by the Paperwork Reduction Act of 1995, as amended.[8]

The Commission is sensitive to the costs and benefits of its rules. The rule amendments the Commission is adopting today are ministerial actions that correct or eliminate outdated references and therefore will have no separate economic effect, including no effect on competition.

Statutory Authority

We are adopting these amendments consistent with the repeal of PUHCA in section 1263 of the Energy Policy Act of 2005 and pursuant to the Securities Act, 15 U.S.C. 77a *et seq.;* the Exchange Act, 15 U.S.C. 78a *et seq.;* the Trust Indenture Act, 15 U.S.C. 77aaa *et seq.;* the Investment Company Act, 15 U.S.C. 80a; and the Investment Advisers Act, 15 U.S.C. 80b.

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies), Classified information, Conflicts of interest, Government employees, Organization and functions (Government agencies).

17 CFR Part 201

Administrative practice and procedure.

17 CFR Part 202

Administrative practice and procedure, Securities.

17 CFR Part 210

Accountants, Accounting, Securities.

17 CFR Parts 229, 230, 232, 239, 240, 243, and 249

Reporting and recordkeeping requirements, Securities.

17 CFR Part 250

Confidential business information, Electric utilities, Holding companies, Natural gas, Reporting and recordkeeping requirements, Securities.

17 CFR Part 251

Electric utilities, Holding companies, Natural gas, Securities.

17 CFR Part 256

Electric utilities, Holding companies, Natural gas, Reporting and recordkeeping requirements, Securities, Uniform System of Accounts.

17 CFR Part 257

Electric utilities, Holding companies, Natural gas, Reporting and recordkeeping requirements, Securities, Uniform System of Accounts.

17 CFR Part 259

Electric utilities, Holding companies, Natural gas, Reporting and recordkeeping requirements, Securities.

17 CFR Part 260

Reporting and recordkeeping requirements, Securities, Trusts and trustees.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 275

Reporting and recordkeeping requirements, Securities.

Text of the Amendments

For reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

[1] 15 U.S.C. 79 (repealed effective 2006).

[2] Public Law 111–203, 124 Stat. 1376 (2010).

[3] These ministerial corrections consist of removal of references to rescinded Form ET and correction of an erroneous reference to 15 U.S.C. 77nn that should refer to 15 U.S.C. 77nnn.

[4] Public Law 109–58, 119 Stat. 594 (2005).

[5] 5 U.S.C. 553(b)(B).

[6] Because the Commission is not publishing the rule and form amendments in a notice of proposed rulemaking, no analysis is required under the Regulatory Flexibility Act. *See* 5 U.S.C. 601(2) (for purposes of the Regulatory Flexibility Act, the term ''rule'' means any rule for which the agency publishes a general notice of proposed rulemaking).

[7] *See* 5 U.S.C. 553(d) (permitting the publication of a rule to be less than 30 days before its effective date, if good cause is found).

[8] 44 U.S.C. 3501, 3507. Following the repeal of PUHCA, the Commission discontinued the Paperwork Reduction Act information collections relating exclusively to PUHCA and rules and forms issued thereunder.

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

■ 1. The authority citation for Part 200, subpart A, continues to read, in part, as follows:

Authority: 15 U.S.C. 77o, 77s, 77sss, 78d, 78d–1, 78d–2, 78w, 78*ll*(d), 78mm, 80a–37, 80b–11, and 7202, unless otherwise noted.

* * * * *

§ 200.1 [Amended]

■ 2. Section 200.1 is amended by:
■ a. Removing the phrase ''Public Utility Holding Company Act of 1935,'' from the third sentence of the introductory text;
■ b. Removing the phrase ''public utility holding companies,'' from paragraph (b);
■ c. Removing paragraph (h);
■ d. Redesignating paragraphs (i) and (j) as paragraphs (h) and (i); and
■ e. Removing the authority citation at the end of the section.

§ 200.2 [Amended]

■ 3. Section 200.2 is amended by removing paragraph (c) and redesignating paragraphs (d) through (g) as paragraphs (c) through (f).

§ 200.20b [Amended]

■ 4. Section 200.20b is amended by removing the phrase ''the administration and execution of the Public Utility Holding Company Act of 1935,'' from the first sentence of the introductory text and removing paragraph (f).

§ 200.30–5 [Amended]

■ 5. Section 200.30–5 is amended by:
■ a. Removing paragraph (f);
■ b. Redesignating paragraphs (g) through (m) as paragraphs (f) through (l); and
■ c. Removing the phrase ''the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a *et seq.*) and'' from newly redesignated paragraphs (k) and (l).

§ 200.30–6 [Amended]

■ 6. Section 200.30–6 is amended by removing the authority citation at the end of the section.

§ 200.30–7 [Amended]

■ 7. Section 200.30–7 is amended by removing the phrase ''the Public Utility Holding Company Act of 1935, 15 U.S.C. 79a *et seq.,*'' from the introductory text of paragraph (a) and removing the phrase ''section 24 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79x,'' from paragraph (a)(6).

§ 200.30–14 [Amended]

■ 8. Section 200.30–14 is amended by removing the phrase, ''the Public Utility Holding Company Act of 1935, 15 U.S.C. 79a *et seq.,*'' from the introductory text of paragraph (g)(1).

Subpart B—Disposition of Commission Business

■ 9. The authority citation for Part 200, subpart B, continues to read as follows:

Authority: 5 U.S.C. 552b; 15 U.S.C. 78d–1 and 78w.

§ 200.43 [Amended]

■ 10. Section 200.43 is amended by removing the phrase ''section 18(c) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r(c)),'' from the first sentence of paragraph (b)(2).

Subpart C—Canons of Ethics

■ 11. The authority citation for Part 200, subpart C, is revised to read as follows:

Authority: Secs. 19, 28, 48 Stat. 85, 901, as amended, sec. 319, 53 Stat. 1173; secs. 38, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 77sss, 78w, 80a–37, and 80b–11.

Subpart D—Information and Requests

■ 12. The general authority citation for Part 200, subpart D, continues to read, in part, as follows:

Authority: 5 U.S.C. 552, as amended, 15 U.S.C. 77f(d), 77s, 77ggg(a), 77sss, 78m(F)(3), 78w, 80a–37, 80a–44(a), 80a–44(b), 80b–10(a), and 80b–11.

* * * * *

§ 200.80 [Amended]

■ 13. Section 200.80 is amended by removing the phrase ''78m(f)(3), the Public Utility Holding Company Act of 1935, 15 U.S.C. 79v(a)'' from the third sentence of paragraph (a)(4) and adding in its place the phrase ''78m(f)(4)''.

§ 200.80a [Amended]

■ 14. Section 200.80a is amended by removing the table labeled ''Public Utility Holding Company Act of 1935''.

§ 200.80c [Amended]

■ 15. Section 200.80c is amended by removing the phrase ''the Public Utility Holding Company Act of 1935,'' from paragraph (b)2, Official Summary.

§ 200.80f [Amended]

■ 16. Section 200.80f is amended by removing the heading and entries in the table labeled ''Public Utility Holding Company Act of 1935''.

Subpart F—Code of Behavior Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees

■ 17. The authority citation for Part 200, subpart F, is revised to read as follows:

Authority: 15 U.S.C. 77s, 77sss, 78w, 80a–37, 80b–11, and 7202; and 5 U.S.C. 557.

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

■ 18. The authority citation for Part 200, subpart H, continues to read, in part, as follows:

Authority: 5 U.S.C. 552a(f), unless otherwise noted.

§§ 200.304, 200.307, 200.308 [Amended]

■ 19. Sections 200.304, 200.307 and 200.308 are amended by removing the authority citations following the sections.

* * * * *

Subpart K—Regulations Pertaining to the Protection of the Environment

■ 20. The authority citation for Part 200, subpart K, continues to read as follows:

Authority: 15 U.S.C. 78w(a)(2).

■ 21. Section 200.551 is revised to read as follows:

§ 200.551 Applicability.

In the event of extraordinary circumstances in which a Commission action may involve major Federal action significantly affecting the quality of the human environment, the Commission shall follow the procedures set forth in §§ 200.552 through 200.554 of this part, unless doing so would be inconsistent with its statutory authority under the Federal securities laws.

Subpart M—Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission

■ 22. The authority citation for Part 200, subpart M, continues to read as follows:

Authority: 15 U.S.C. 77s, 77sss, 78w, 80a–37, 80b–11; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 36; 5 CFR 735.104; 5 CFR 2634; and 5 CFR 2635, unless otherwise noted.

■ 23. In § 200.80(b), in the table, remove the following entries: Form ET, wherever it appears; Rule 1(a); Rule 1(b); Rule 1(c); Rule 2; Rule 3; Rule 7; Rule 7(d); Rule 20(b); Rule 20(c); Rule 20(d); Rule 23; Rule 24; Rule 26; Rule 29; Rule 44; Rule 45; Rule 47(b); Rule

52; Form 53; Rule 54; Rule 57(a); Rule 57(b); Rule 58; Rule 62; Rule 71(a); Rule 72; Rule 83; Rule 87; Rule 88; Rule 93; Rule 94; Rule 95; Rule 100(a); Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies, Public Utility Holding Company Act of 1935; Preservation and Destruction of Records of Registered Public Utility Holding Companies and of Mutual and Subsidiary Service Companies; Form U5A; Form U5B; Form U5S; Form U–1; Form U–13–1; Form U–6B–2; Form U–57; Form U–9C–3; Form U–12(I)–A; Form U–12(I)–B; Form U–13E–1; Form U–R–1; Form U–13–60; Form U–3A–2; Form U–3A3–1; Form U–7D; Form U–33–S; Form ID, 259.602, 3235–0328; and Form SE, 259.603, 3235–0327.

PART 201—RULES OF PRACTICE

Subpart D—Rules of Practice

■ 24. The authority citation for part 201, subpart D, is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77h–1, 77j, 77s, 77u, 77sss, 77ttt, 78c(b), 78d–1, 78d–2, 78*l,* 78m, 78n, 78o(d), 78o–3, 78s, 78u–2, 78u–3, 78v, 78w, 80a–8, 80a–9, 80a–37, 80a–38, 80a–39, 80a–40, 80a–41, 80a–44, 80b–3, 80b–9, 80b–11, 80b–12, 7202, 7215, and 7217.

§ 201.190 [Amended]

■ 25. Section 201.190 is amended by removing the phrase ''Section 22(b) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79v(b), and Rule 104 thereunder, 17 CFR 250.104;'' from the first sentence of paragraph (a).

■ 26. Section 201.210 is amended by revising paragraph (b) to read as follows:

§ 201.210 Parties, limited participants and amici curiae.

* * * * *

(b) *Intervention as a party*—(1) *Generally*. In any proceeding, other than an enforcement proceeding, a disciplinary proceeding, a proceeding to review a self-regulatory determination, or a proceeding to review a Board determination, any person may seek leave to intervene as a party by filing a motion setting forth the person's interest in the proceeding. No person, however, shall be admitted as a party to a proceeding by intervention unless it is determined that leave to participate pursuant to paragraph (c) of this section would be inadequate for the protection of the person's interests. In a proceeding under the Investment Company Act of 1940, any representative of interested security holders, or any other person whose participation in the proceeding may be in the public interest or for the protection of investors, may be admitted as a party upon the filing of a written motion setting forth the person's interest in the proceeding.

(2) *Intervention as of right.* In proceedings under the Investment Company Act of 1940, any interested State or State agency shall be admitted as a party to any proceeding upon the filing of a written motion requesting leave to be admitted.

* * * * *

PART 202—INFORMAL AND OTHER PROCEDURES

■ 27. The general authority citation for Part 202 is revised and the specific authority for § 202.5 is removed to read, in part, as follows:

Authority: 15 U.S.C. 77s, 77t, 77sss, 77uuu, 78d–1, 78u, 78w, 78*ll*(d), 80a–37, 80a–41, 80b–9, 80b–11, 7201 *et seq.,* unless otherwise noted.

* * * * *

§ 202.1 [Amended]

■ 28. Section 202.1 is amended by removing the phrase ''250,'' from paragraph (b).

§ 202.2 [Amended]

■ 29. Section 202.2 is amended by removing the phrase ''matters under the Public Utility Holding Company Act of 1935 and'' in the last sentence.

§ 202.3 [Amended]

■ 30. Section 202.3 is amended by:

■ a. Removing the phrase ''and the Public Utility Holding Company Act of 1935'' from the first sentence of paragraph (a);

■ b. Removing the phrase '', and filings under the Public Utility Holding Company Act of 1935 which are also routed to the Division of Investment Management.'' from the seventh sentence of paragraph (a); and

■ c. Removing the phrase ''the Public Utility Holding Company Act of 1935,'' from the last sentence of paragraph (b)(1).

§ 202.6 [Amended]

■ 31. Section 202.6 is amended by removing the authority citation at the end of the section.

§ 202.9 [Amended]

■ 32. Section 202.9 is amended by removing the phrase ''250.110,'' from the first sentence of footnote 1.

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, INVESTMENT COMPANY ACT OF 1940, INVESTMENT ADVISERS ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

■ 33. The authority citation for Part 210 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77nn(25), 77nn(26), 78c, 78j–1, 78*l,* 78m, 78n, 78o(d), 78q, 78u–5, 78w, 78*ll,* 78mm, 80a–8, 80a–20, 80a–29, 80a–30, 80a–31, 80a–37(a), 80b–3, 80b–11, 7202 and 7262, unless otherwise noted.

§ 210.1–01 [Amended]

■ 34. Section 210.1–01 is amended by adding the word ''and'' at the end of paragraph (a)(2), removing paragraph (a)(3), and redesignating paragraph (a)(4) as paragraph (a)(3).

§ 210.3–18 [Amended]

■ 35. Section 210.3–18 is amended by removing the authority citation following the section.

210.3A–05 [Removed]

■ 36. Section 210.3A–05 is removed in its entirety.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 37. The authority citation for Part 229 continues to read, in part, as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l,* 78m, 78n, 78n–1, 78o, 78u–5, 78w, 78*ll,* 78mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11, and 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 38. Section 229.405 is amended by revising the introductory text and removing the phrase ''or section 17 of the Public Utility Holding Company Act'' from paragraph (a)(1).

The revision reads as follows:

§ 229.405 (Item 405) Compliance with section 16(a) of the Exchange Act.

Every registrant having a class of equity securities registered pursuant to section 12 of the Exchange Act (15 U.S.C. 78*l*) and every closed-end investment company registered under

the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) shall:

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 39. The authority citation for Part 230 is revised by removing the specific authority for § 230.473 to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l,* 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

§§ 230.122 and 230.176 [Amended]

■ 40. Sections 230.122 and 230.176 are amended by removing the authority citations at the end of the sections.

PART 230—REGULATION C—REGISTRATION

■ 41. The authority citation for Part 230, Regulation C, Registration, is revised by removing the specific authority for § 230.499 to read, in part, as follows:

Authority: Sections 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, and 85, as amended (15 U.S.C. 77f, 77h, 77j, 77s).

* * * * *

■ 42. Sections 230.400, 230.404, 230.414, 230.421, 230.423, 230.427, 230.430, 230.431, 230.436, 230.460, 230.470, 230.471, and 230.479 are amended by removing the authority citations following the sections.

§ 230.412 [Amended]

■ 43. Section 230.412 is amended by removing the phrase ''the Public Utility Holding Company Act of 1935,'' from the second sentence in paragraph (b).

PART 230—INVESTMENT COMPANIES; BUSINESS DEVELOPMENT COMPANIES

■ 44. The authority citation for Part 230, Investment Companies; Business Development Companies, §§ 230.480 through 230.485 is removed. The source and note remain unchanged.

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 45. The authority citation for Part 232 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.;* and 18 U.S.C. 1350.

* * * * *

§ 232.11 [Amended]

■ 46. Section 232.11 is amended by removing the definition of the term ''Public Utility Act.''

§ 232.101 [Amended]

■ 47. Section 232.101 is amended by removing and reserving paragraphs (c)(12), (c)(13), and (c)(14).

§ 232.102 [Amended]

■ 48. Section 232.102 is amended by removing the phrase ''Rule 22 under the Public Utility Holding Company Act (§ 250.22 of this chapter),'' from the second sentence of paragraph (a) and removing paragraph (f).

§ 232.104 [Amended]

■ 49. Section 232.104 is amended by removing the phrase ''section 16 of the Public Utility Act (15 U.S.C. 79p),'' from the first sentence of paragraph (d).

§ 232.201 [Amended]

■ 50. Section 232.201 is amended by removing the phrases ''259.604,'' and ''259.601,'' from note 1 to paragraph (a).

§ 232.202 [Amended]

■ 51. Section 232.202 is amended by removing the phrase ''259.603,'' from note 1 to § 232.202.

§ 232.306 [Amended]

■ 52. Section 232.306 is amended by removing the phrase ''259.603,'' from paragraphs (b) and (c).

§ 232.311 [Amended]

■ 53. Section 232.311 is amended by:

■ a. Removing paragraphs (c), (d), and (e); and redesignating paragraphs (f) through (i) as paragraphs (c) through (f);

■ b. In newly redesignated paragraph (e)(1), removing the phrases ''259.604,'' and ''259.601,''; and

■ c. In newly redesignated paragraph (e)(2), removing the phrase ''(a) through (g)'' and adding in its place the phrase ''(a) through (d)''.

§ 232.501 [Amended]

■ 54. Section 232.501 is amended by removing the phrase ''Public Utility Act section 16 (15 U.S.C. 79p),'' from paragraph (c)(2); and removing the phrase ''the Public Utility Act'' from the second sentence of paragraph (c)(3).

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 55. The authority for Part 239 is amended by revising the specific authority for §§ 239.63 and 239.64 to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l,* 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll,* 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80–37, unless otherwise noted.

* * * * *

Sections 239.63 and 239.64 are also issued under 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 80a–8, 80a–24, 80a–29, and 80a–37.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 56. The authority for Part 240 is amended by revising the specific authorities for § 240.14d–1 and § 240.14e–2 to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78o, 78o–4, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.;* 18 U.S.C. 1350; 12 U.S.C. 5221(e)(3); and Pub. L. 111–203, § 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

Section 240.14d–1 is also issued under 15 U.S.C. 77g, 77j, 77s(a), 77ttt(a), 80a–37.

Section 240.14e–2 is also issued under 15 U.S.C. 77g, 77h, 77s(a), 77sss, 80a–37(a).

* * * * *

§ 240.0–4 [Amended]

■ 57. Section 240.0–4 is amended by removing the authority citation at the end of the section.

§ 240.11d1–1 [Amended]

■ 58. Section 240.11d1–1 is amended by removing the phrase '', or as a stockholder of a company distributing such security in order to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935'' from the first sentence of paragraph (d) and by removing the authority citation at the end of the section.

§ 240.13f–1 [Amended]

■ 59. Section 240.13f–1 is amended by removing the phrase ''13(f)(3) of the Act (15 U.S.C. 78m(f)(3))'' from the second sentence of paragraph (c) and adding in its place the phrase ''13(f)(4) of the Act (15 U.S.C. 78m(f)(4))''.

§§ 240.14d–4 and 240.14d–7 [Amended]

■ 60. Sections 240.14d–4 and 240.14d–7 are amended by removing the authority citations following the end of each section.

§ 240.16a–1 [Amended]

■ 61. Section 240.16a–1 is amended by removing paragraph (a)(5)(i) and redesignating paragraphs (a)(5)(ii) and (a)(5)(iii) as paragraphs (a)(5)(i) and (a)(5)(ii).

§ 240.16a–2 [Amended]

■ 62. Section 240.16a–2 is amended by removing the phrase ''section 17(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79q(a)) or'' from the first sentence of the introductory text; and removing the phrase ''Public Utility Holding Company Act of 1935 and the'' from the third sentence of the introductory text.

§ 240.16a–3 [Amended]

■ 63. Section 240.16a–3 is amended by removing the phrase ''either section 17(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79q(a)) or'' from paragraph (d).

§ 240.16–1 [Amended]

■ 64. Section 240.16b–1 is amended by removing the designation ''(a)'' from paragraph (a) and removing paragraph (b).

PART 243—REGULATION FD

■ 65. The authority for Part 243 continues to read as follows:

Authority: 15 U.S.C. 78c, 78i, 78j, 78o, 78w, 78mm, and 80a–29, unless otherwise noted.

§ 243.100 [Amended]

■ 66. Section 243.100 is amended by removing the phrase ''13(f)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)(5))'' from paragraph (b)(1)(ii) and adding in its place the phrase ''13(f)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)(6))''.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 67. The authority for Part 249 continues to read, in part, as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 68. Amend Form 5 (referenced in § 249.105) by:

■ a. Removing '', except that a single statement shall be filed with respect to the securities of a registered public utility holding company and all of its subsidiary companies'' from General Instruction 1(c).

■ b. Removing and reserving General Instruction 3(a)(ii).

Note— The text of Form 5 does not and this amendment will not appear in the Code of Federal Regulations.

PART 250—[REMOVED AND RESERVED]

■ 69. Part 250 is removed and reserved.

PART 251—[REMOVED AND RESERVED]

■ 70. Part 251 is removed and reserved.

PART 256—[REMOVED AND RESERVED]

■ 71. Part 256 is removed and reserved.

PART 257—[REMOVED AND RESERVED]

■ 72. Part 257 is removed and reserved.

PART 259—[REMOVED AND RESERVED]

■ 73. Part 259 is removed and reserved.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

■ 74. The authority citation for part 260 continues to read as follows:

Authority: 15 U.S.C. 77eee, 77ggg, 77nnn, 77sss, 77*ll*(d), 80b–3, 80b–4, and 80b–11.

■ 75. Sections 260.0–4, 260.0–6 and 260.7a–29 are amended by removing the authority citations at the end of the sections.

§ 260.19a–1 [Amended]

■ 76. Section 260.19a–1 is amended by:

■ a. Removing the quotation marks before and after the phrase ''file with the indenture trustee all reports required to be filed with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934.''

■ b. Removing the phrase ''77nn(a)(1)'' and adding in its place the phrase ''77nnn(a)(1)''.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 77. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.,* 80a–34(d), 80a–37, and 80a–39, unless otherwise noted.

* * * * *

§§ 270.0–4 and 270.8b–32 [Amended]

■ 78. Sections 270.0–4 and 270.8b–32 are amended by removing the authority citations at the end of the sections.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 79. The general authority for Part 274 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

* * * * *

■ 80. Amend Form 3 (referenced in §§ 249.103 and 274.202) by:

Note— The text of Form 3 does not and this amendment will not appear in the Code of Federal Regulations.

■ a. Removing and reserving General Instructions 1(a)(iii) and 4(a)(ii).

■ b. Removing the phrase '', except that a single statement shall be filed with respect to the securities of a registered public utility holding company and all of its subsidiary companies'' from General Instruction 2(c).

■ 81. Amend Form 4 (referenced in §§ 249.104 and 274.203) by:

Note— The text of Form 4 does not and this amendment will not appear in the Code of Federal Regulations.

■ a. Removing the phrase '', except that a single statement shall be filed with respect to the securities of a registered public utility holding company and all of its subsidiary companies'' from General Instruction 1(c).

■ b. Removing and reserving General Instruction 3(a)(ii).

■ 82. Amend the Form SE (referenced in §§ 239.64, 249.444, 269.8 and 274.403) by removing the phrase ''the Public Utility Holding Company Act of 1935,'' from Form SE General Instruction 1.A. and from the second sentence of Form SE General Instruction 1.B.

Note: The text of Form SE does not and this amendment will not appear in the Code of Federal Regulations.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 83. The authority citation for part 275 continues to read, in part, as follows:

Authority: 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(11)(H), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, and 80b–11, unless otherwise noted.

* * * * *

§ 275.0–4 [Amended]

■ 84. Section 275.0–4 is amended by removing the authority citation at the end of the section.

Dated: November 4, 2011.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–29096 Filed 11–18–11; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9558]

RIN 1545–BJ21

Corporate Reorganizations; Allocation of Basis in ''All Cash D'' Reorganizations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations regarding the determination of the basis of stock or securities in a reorganization where no stock or securities of the issuing corporation is issued and distributed in the transaction. These temporary regulations clarify that, in certain reorganizations where no stock or securities of the issuing corporation is issued and distributed in the transaction, the ability to designate the share of stock of the issuing corporation to which the basis, if any, of the stock or securities surrendered will attach applies only to a shareholder that owns actual shares in the issuing corporation. These temporary regulations affect corporations engaging in such transactions and their shareholders. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on November 21, 2011.

Applicability Date: For dates of applicability, see § 1.358–2T(d).

FOR FURTHER INFORMATION CONTACT: Lisa A. Fuller at (202) 622–7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 19, 2006, the IRS and the Treasury Department published a notice of proposed rulemaking (REG–125632–06) in the **Federal Register** (71 FR 75898) that included regulations under section 368 (the Temporary Regulations). These regulations provided guidance regarding whether the distribution requirement under sections 368(a)(1)(D) and 354(b)(1)(B) is satisfied if there is no actual distribution of stock or securities. On December 18, 2009, the IRS and the Treasury Department published final regulations (TD 9475) in the **Federal Register** (71 FR 75879) that, in addition to providing guidance regarding the qualification of certain transactions as reorganizations described in section 368(a)(1)(D), amended the regulations under § 1.358–2(a)(2)(iii) to provide that in the case of a reorganization in which the property received consists solely of non-qualifying property equal to the value of the assets transferred (as well as a nominal share described in the final regulations), the shareholder or security holder may designate the share of stock of the issuing corporation to which the basis, if any, of the stock or securities surrendered will attach. The IRS and the Treasury Department issued these regulations in response to comments that, in a transaction where the consideration received consists solely of cash and a nominal share, the mechanics of preserving basis, if any, in the shares of the stock or securities surrendered in the basis of the stock of the issuing corporation were unclear under current law.

The IRS and the Treasury Department have become aware that some maintain these rules, as written, could be interpreted to allow an inappropriate allocation of basis by persons that do not own actual shares of stock in the issuing corporation. This interpretation would most likely be asserted in the context of a lower-tier reorganization transaction involving corporations in two different ownership chains that have the same ultimate indirect shareholder(s). Specifically, the argument is that the rules could be interpreted to allow persons who do not own actual shares of stock of the issuing corporation to allocate the adjusted basis of the nominal share to an actual share of stock of the issuing corporation directly owned by someone else before the nominal share is deemed to be further transferred through the chains of ownership to reflect the actual ownership of the target and issuing corporations. Under this interpretation of the rules, the actual share to which the basis was allocated could then be sold to recognize a loss, and taxpayers would avoid losing the nominal share's basis, which would otherwise be zero following its deemed transfer through the chains of ownership to the actual shareholder of the issuing corporation.

For example, assume that J owns all the stock of corporations X and Y, and X owns all of the stock of corporation T. X has a $150 basis in the T stock. The corporations do not join in the filing of a consolidated return. T sells all of its assets to Y for $100 cash, their fair market value, and liquidates. Pursuant to § 1.368–2(l), Y will be deemed to issue a nominal share of Y stock to T in addition to the $100 actually exchanged for the T assets, and T will be deemed to distribute the nominal share of Y stock to X. X will have a basis of $50 in the nominal share of Y stock under section 358(a). Pursuant to § 1.368–2(l), the nominal share of Y stock is deemed to be further transferred to J in order to reflect the actual ownership of Y. J's basis in the nominal share of Y stock would be zero under section 301(d). However, some argue that the rule, as currently written, could be interpreted as allowing X to allocate the $50 of basis in the nominal share to an actual share of Y stock owned by J prior to the nominal share of Y stock being deemed to be further distributed to J.

The IRS and the Treasury Department did not intend for the final regulations to allow such an inappropriate allocation of basis and do not believe the current regulations support such an allocation. Accordingly, the IRS and the Treasury Department are proposing rules in the Proposed Rules section in this issue of the **Federal Register**, to clarify that, in certain reorganizations where no stock or securities of the issuing corporation is issued and distributed in the transaction, the ability to designate the share of stock of the issuing corporation to which the basis, if any, of the stock or securities surrendered will attach applies only to a shareholder that owns actual shares in the issuing corporation.

Explanation of Provisions

The preamble to the final regulation noted that the IRS and the Treasury Department believe the ability to designate any remaining basis is consistent with current law regarding basis determination, as a similar result would occur under § 1.358–2 if an amount of issuing corporation stock was actually issued in the transaction (74 FR 67053; 74 FR 67056; TD 9475). To complete the analogy, however, in the case where stock is actually issued in a lower-tier transfer, such stock would then be transferred through chains of ownership, and in the process, if basis in the stock exceeded value, the basis in the shares would be reduced to the fair market value of the shares in the hands of the distributee, under section 301(d). Accordingly, in such a case, basis in excess of the value of the issuing corporation shares would generally be preserved only where the shareholder of the transferor corporation does not further distribute the stock of the issuing corporation in a transaction to which section 301 applies.

Consistent with this view, these temporary regulations clarify and amend the final regulations (TD 9475)

under § 1.358–2(a)(2)(iii) by providing that if an actual shareholder of the issuing corporation is deemed to receive a nominal share of stock of the issuing corporation described in § 1.368–2(l), such shareholder must, after allocating and adjusting the basis of the nominal share in accordance with the rules of this section and § 1.358–1, and after adjusting the basis in the nominal share for any transfers described in § 1.358–1, designate the share of stock of the issuing corporation to which the basis, if any, of the nominal share will attach.

The IRS and the Treasury Department also are clarifying the effective date for a 2009 amendment to the regulations under § 1.358–2(a)(iii).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this **Federal Register.** Pursuant to section 7805(f) of the Internal Revenue Code, these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Lisa A. Fuller of the Office of the Associate Chief Counsel (Corporate). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.358–2 also issued under 26 U.S.C. 358(b)(1).

■ **Par. 2.** Section 1.358–2 is amended by:

■ 1. Revising paragraph (a)(2)(iii).

■ 2. Revising paragraph (d).

The revisions read as follows:

§ 1.358–2 Allocation of basis among nonrecognition property.

(a) * * *

(2) * * *

(iii) [Reserved]. For further guidance, see § 1.358–2T(a)(2)(iii).

* * * * *

(d) *Effective/applicability date.* This section generally applies to exchanges and distributions of stock and securities occurring on or after January 23, 2006. However, paragraph (a)(2)(iii) of this section applies to exchanges and distributions of stock and securities occurring on or after November 21, 2011. See § 1.358–2(a)(2)(iii), as contained in 26 CFR part 1 revised as of April 1, 2010, for exchanges and distributions of stock and securities occurring on or after January 23, 2006, and before November 21, 2011.

■ **Par. 3.** Section 1.358–2T is added to read as follows:

§ 1.358–2T Allocation of basis among nonrecognition property (temporary).

(a)(1) through (a)(2)(ii) [Reserved]. For further guidance, see § 1.358–2(a)(1) through (a)(2)(ii).

(iii) For purposes of this section, if a shareholder or security holder surrenders a share of stock or a security in a transaction under the terms of section 354 (or so much of section 356 as relates to section 354) in which such shareholder or security holder receives no property or property (including property permitted by section 354 to be received without the recognition of gain or ''other property'' or money) with a fair market value less than that of the stock or securities surrendered in the transaction, such shareholder or security holder shall be treated as follows.

(A) First, the shareholder or security holder shall be treated as receiving the stock, securities, other property, and money actually received by the shareholder or security holder in the transaction and an amount of stock of the issuing corporation (as defined in § 1.368–1(b)) that has a value equal to the excess of the value of the stock or securities the shareholder or security holder surrendered in the transaction over the value of the stock, securities, other property, and money the shareholder or security holder actually received in the transaction. If the shareholder owns only one class of stock of the issuing corporation the receipt of which would be consistent with the economic rights associated with each class of stock of the issuing corporation, the stock deemed received by the shareholder pursuant to the previous sentence shall be stock of such class. If the shareholder owns multiple classes of stock of the issuing corporation the receipt of which would be consistent with the economic rights associated with each class of stock of the issuing corporation, the stock deemed received by the shareholder shall be stock of each such class owned by the shareholder immediately prior to the transaction, in proportion to the value of the stock of each such class owned by the shareholder immediately prior to the transaction. The basis of each share of stock or security deemed received and actually received shall be determined under the rules of this section.

(B) Second, the shareholder or security holder shall then be treated as surrendering all of its shares of stock and securities in the issuing corporation, including those shares of stock or securities held immediately prior to the transaction, those shares of stock or securities actually received in the transaction, and those shares of stock deemed received pursuant to the previous sentence, in a reorganization under section 368(a)(1)(E) in exchange for the shares of stock and securities of the issuing corporation that the shareholder or security holder actually holds immediately after the transaction. The basis of each share of stock and security deemed received in the reorganization under section 368(a)(1)(E) shall be determined under the rules of this section.

(C) If an actual shareholder of the issuing corporation is deemed to receive a nominal share of stock of the issuing corporation described in § 1.368–2(l), such shareholder must, after allocating and adjusting the basis of the nominal share in accordance with the rules of this section and § 1.358–1, and after adjusting the basis in the nominal share for any transfers described in § 1.368–2(l), designate the share of stock of the issuing corporation to which the basis, if any, of the nominal share will attach.

(a)(2)(iv) through (c), *Example 14* [Reserved]. For further guidance, see § 1.358–2(a)(2)(iv) through (c), *Example 14.*

Example 15. (i) *Facts.* Each of Corporation X and Corporation Y has a single class of stock outstanding, all of which is owned by J, an individual. J acquired 100 shares of Corporation X stock on Date 1 for $1.50 each. On Date 2, Corporation Y acquires the assets of Corporation X for $100 of cash, their fair market value, in a transaction described in § 1.368–2(l). Pursuant to the terms of the exchange, Corporation X does not receive any Corporation Y stock. Corporation X

distributes the $100 of cash to J in liquidation. Pursuant to § 1.368–2(l), Corporation Y will be deemed to issue a nominal share of Corporation Y stock to Corporation X in addition to the $100 of cash actually exchanged for the Corporation X assets, and Corporation X will be deemed to distribute all of the consideration to J. J will have a basis of $50 in the nominal share of Corporation Y stock under section 358(a).

(ii) *Analysis.* Under paragraph (a)(2)(iii) of this section, J is the actual shareholder of Corporation Y, the issuing corporation, deemed to receive the nominal share of Corporation Y stock described in § 1.368–2(l). Therefore, J must designate any share of Corporation Y stock to which the basis of $50 in the nominal share of Corporation Y stock will attach.

Example 16. (i) *Facts.* Each of Corporation X and Corporation Y has a single class of stock outstanding, all of which is owned by Corporation P. Corporation T has a single class of stock outstanding, all of which is owned by Corporation X. The corporations do not join in the filing of a consolidated return. Corporation X acquired 100 shares of Corporation T stock on Date 1 for $1.50 each. On Date 2, Corporation Y acquires the assets of Corporation T for $100 of cash, their fair market value, in a transaction described in § 1.368–2(l). Pursuant to the terms of the exchange, Corporation T does not receive any Corporation Y stock. Corporation T distributes the $100 of cash to Corporation X in liquidation. Pursuant to § 1.368–2(l), Corporation Y will be deemed to issue a nominal share of Corporation Y stock to Corporation T in addition to the $100 of cash actually exchanged for the Corporation T assets, and Corporation T will be deemed to distribute all of the consideration to Corporation X. Corporation X will have a basis of $50 in the nominal share of Corporation Y stock under section 358(a). Corporation X will be deemed to distribute the nominal share of Corporation Y stock to Corporation P. Corporation X does not recognize the loss on the deemed distribution of the nominal share to Corporation P under section 311(a). Corporation P's basis in the nominal share is zero, its fair market value, under section 301(d).

(ii) *Analysis.* Corporation X is deemed to receive the nominal share of Corporation Y stock described in § 1.368–2(l). However, under paragraph (a)(2)(iii) of this section, Corporation X is not an actual shareholder of Corporation Y, the issuing corporation. Therefore, Corporation X cannot designate any share of Corporation Y stock to which the basis, if any, of the nominal share of Corporation Y stock will attach. Furthermore, Corporation P cannot designate a share of Corporation Y stock to which basis will attach because Corporation P receives the nominal share with a basis of zero.

(d) *Effective/applicability date.* This section applies to exchanges and distributions of stock and securities occurring on or after November 21, 2011.

(e) *Expiration date.* This section expires on or before November 18, 2014.

Approved: November 1, 2011.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Emily S. McMahon,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2011–29799 Filed 11–18–11; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 26

[EPA–HQ–OPP–2010–0785; FRL–9325–5]

RIN 2070–AJ76

Protections for Subjects in Human Research Involving Pesticides; Notification of Submission to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of submission to the Secretary of Agriculture.

SUMMARY: This document notifies the public that the Administrator of EPA has forwarded to the Secretary of the United States Department of Agriculture (USDA) a draft final rule as required by section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0785. All documents in the docket are listed in the docket index available in *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kelly Sherman, Immediate Office of the Director (7501P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–8401; email address: *sherman.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

This action is directed to the public in general. It simply announces the submission of a draft final rule to the Secretary of USDA and does not otherwise affect any specific entities. This action may, however, be of particular interest to pesticide registrants (NAICS code 325320) who sponsor or conduct human research for pesticides, and to other entities that sponsor or conduct human research for pesticides (NAICS code 541710). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What action is EPA taking?

As described in the Agency's semi-annual Regulatory Agenda, the draft final rule would take final action with regard to the proposed rule issued on February 2, 2011 (76 FR 5735). The amendments would make no changes to the Common Rule or EPA's codification of the Common Rule. EPA proposed these amendments as a result of a settlement agreement.

Section 25(a)(2)(B) of FIFRA requires the EPA Administrator to provide the Secretary of USDA with a copy of any draft final rule at least 30 days before signing it in final form for publication in the **Federal Register**. The draft final rule is not available to the public until after it has been signed by EPA. If the Secretary of USDA comments in writing regarding the draft final rule within 15 days after receiving it, the EPA Administrator shall include in the final rule, when published in the **Federal Register**, the comments of the Secretary of USDA, if requested by the Secretary of USDA, and the EPA Administrator's response to those comments. If the Secretary of USDA does not comment in writing within 15 days after receiving the draft final rule, the EPA Administrator may sign the final rule for publication in the **Federal Register** any time after the 15-day period.

III. Do any statutory and Executive Order reviews apply to this notification?

No. This document is not a rule. It is merely a notification of submission to the Secretary of USDA. As such, none

of the regulatory assessment requirements apply to this document.

IV. Will this notification be subject to the Congressional Review Act?

No. This action is not a rule for purposes of the Congressional Review Act (CRA), 5 U.S.C. 804(3), and will not be submitted to Congress and the Comptroller General. EPA will submit the final rule to Congress and the Comptroller General as required by CRA.

List of Subjects in 40 CFR Part 26

Environmental protection, Human research, Pesticides.

Dated: November 4, 2011.

Steven Bradbury,

Director, Office of Pesticide Programs.

[FR Doc. 2011–29910 Filed 11–18–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA202–5203; FRL–9490–3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: EPA is updating the materials that are incorporated by reference (IBR) into the Virginia State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the Virginia Department of Environmental Quality (VA DEQ) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office.

DATES: *Effective Date:* This action is effective November 21, 2011.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW., Room Number 3334, EPA West Building, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108 or by email at *frankford.harold@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which the State revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On April 21, 2000 (65 FR 21315), EPA published a **Federal Register** action beginning the new IBR procedure for Virginia. On September 8, 2004 (69 FR 54216), November 3, 2005 (70 FR 66769), July 16, 2007 (72 FR 38920), and July 13, 2009 (74 FR 33332) as corrected on December 18, 2009 (74 FR 67077), EPA published updates to the IBR material for Virginia.

Since the publication of the last IBR update, EPA has approved the following regulatory changes to the following Virginia regulations:

A. Added Regulations

1. 9VAC5 Chapter 30 (Ambient Air Quality Standards), Sections 5–30–15, 5–30–56, and 5–30–66.
2. 9VAC5 Chapter 40 (Existing Stationary Sources), Part II (Emission Standards), Article 51 (Stationary Sources Subject to Case-by-Case Control Technology Determinations).
3. 9VAC5 Chapter 85 (Permits for Stationary Sources of Pollutants Subject to Regulation), Parts I (Applicability), III (Prevention of Significant Deterioration Permit Actions), and IV (State Operating Permit Actions).
4. 9VAC5 Chapter 130 (Regulation for Open Burning), Part I (General Provisions), Sections 5–130–10 through 5–130–50.
5. 9VAC5 Chapter 151 (Transportation Conformity).
6. 9VAC5 Chapter 220 (Opacity Variance for Rocket Testing Operations Atlantic Research Corporation's Orange County Facility).

B. Revised Regulations

1. 9VAC5 Chapter 10 (General Definitions), Section 5–10–20.
2. 9VAC5 Chapter 30 (Ambient Air Quality Standards), Sections 5–30–15, 5–30–55, 5–30–60, 5–30–70, and 5–30–80.
3. 9VAC5 Chapter 40 (Existing Stationary Sources), Part I (Special Provisions), Section 5–40–20.
4. 9VAC5 Chapter 40, Part II (Emission Standards), Article 4 (Emission Standards for General Process Operations), Section 5–40–250.
5. 9VAC5 Chapter 50 (New and Modified Stationary Sources), Part I (Special Provisions), section 5–50–20.
6. 9VAC5 Chapter 80 (Permits for Stationary Sources), Article 8 (Permits-Major Stationary Sources and Major Modifications Located in Prevention of Significant Deterioration Areas), Sections 5–80–1615 and 5–80–1665.
7. The following regulations in 9VAC5 Chapter 140 (Regulation for Emission Trading):

a. Part I (NO_X Budget Trading Program), Article 1 (NO_X Budget Trading Program General Provisions), Sections 5–140–1010, 5–140–1020, and 5–140–1060.

b. Part II (NO_X Annual Trading Program), Article 1 (CAIR NO_X Annual Trading Program General Provisions), Sections 5–140–2010 and 5–140–2020.

c. Part III (NO_X Ozone Season Trading Program), Article 1 (NO_X Ozone Season Trading Program General Provisions), Sections 5–140–3010 and 5–140–3020.

d. Part IV (SO_2 Annual Trading Program), Article 5 (CAIR SO_2 Allowance Allocations), Section 5–140–3400.

C. Removed Regulations

1. 9VAC5 Chapter 40 (Existing Stationary Sources), Part II (Emission Standards), Article 4 (Emission Standards for General Process Operations), Sections 5–40–300, 5–40–310A.–E., and 5–40–311.
2. 9VAC5 Chapter 40, Part II, Article 40 (Emission Standards for Open Burning)-entire article.

II. EPA Action

In this action, EPA is doing the following:

A. In Paragraph 52.2420(b)

Announcing the update to the IBR material as of October 15, 2011.

B. In Paragraph 40 CFR 52.2420(c)

1. Consolidating Section 5–10–20 by reducing the number of entries from seven to two.

2. Placing the entries for 9VAC5 Chapter 220 before those of 9VAC5 Chapter 230.

3. Correcting a typographical error in the title heading entry for Section 5–40–20.

4. Correcting typographical errors in the ''Title/subject'' column for Sections 5–30–70 and 5–140–3400.

5. Correcting the date in the ''State effective date'' column for Sections 5–4–7410 and 5–40–7420,

6. Correcting in the ''EPA effective date'' column:

a. The date in Sections 5–40–7070 and 5–50–20.

b. The **Federal Register** citation for all of the entries in 9VAC5 Chapter 230.

7. Correcting the text in the ''Explanation [former SIP citation]'' column for Section 5–130–10.

C. In Paragraph 52.2420(d)

Correcting the date format in the ''State effective date'' column for Global Stone Chemstone Corporation.

D. In Paragraph 52.2420(e)

1. Restoring the entry for Documents Incorporated by Reference (9VAC5–20–21, Sections B. and E.1.)., which had been inadvertently removed from the paragraph (e) table. EPA had approved this entry as a revision to the Virginia SIP on January 18, 2011 (76 FR 2829), with a SIP effective date of March 21, 2011.

2. Correcting the date format for the following entries:

a. Documents Incorporated by Reference (9VAC5–20–21, Paragraphs E.4.a. (21) and (22)).

b. Carbon Monoxide Maintenance Plan for Arlington County & Alexandria City.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

III. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act (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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Maryland SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Virginia.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and record keeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 26, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

■ 2. Section 52.2420 is amended by:
■ a. Revising paragraph (b).
■ b. In paragraph (c),
■ i. Removing the first five entries for Section 5–10–20.
■ ii. Revising the existing entries for Sections 5–30–70, 5–40–20, 5–40–7070, 5–40–7410, 5–40–7420, 5–50–20, 5–130–10, and 5–140–3400.
■ iii. Removing the existing entry for 9 VAC 5 Chapter 230, and adding a new entry for 9 VAC 5 Chapter 230 after the existing entry for Section 5–220–60.
■ c. In paragraph (d), revising the entry for Global Stone Chemstone Corporation.
■ d. In paragraph (e),
■ i. Adding an entry for Documents Incorporated by Reference (9 VAC 5–20–21, Sections B and E.1.) after the existing entry for Documents Incorporated by Reference (9 VAC 5–20–21, Section B).
■ ii. Revising the entries for Documents Incorporated by Reference (9 VAC 5–20–21, Paragraphs E.4.a. (21) and (22)); and Carbon Monoxide Maintenance Plan-Arlington County & Alexandria City.

The amendments read as follows:

§ 52.2420 Identification of plan.

* * * * *

(b) *Incorporation by reference.*

(1) Material listed as incorporated by reference in paragraphs (c) and (d) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material incorporated is as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after October 15, 2011 will be incorporated by reference in the next update to the SIP compilation.

(2)(i) EPA Region III certifies that the rules and regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules and regulations which have been approved as part of the State implementation plan as of October 15, 2011.

(ii) EPA Region III certifies that the source-specific requirements provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated source-specific requirements which have been approved in the notebook ''40 CFR 52.2420(d)—Source-Specific Requirements'' as part of the State implementation plan as of June 1, 2009. No additional revisions were made since between June 1, 2009 and October 15, 2011.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103. For further information, call (215) 814–2108; the EPA, Air and Radiation Docket and Information Center, Room Number 3334, EPA West Building, 1301 Constitution Avenue NW., Washington, DC 20460. For further information, call (202) 566–1742; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) *EPA-approved regulations.*

EPA-APPROVED REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
9 VAC 5, Chapter 30 Ambient Air Quality Standards [Part III]				
*	*	*	*	*
5–30–70	Oxides of nitrogen with nitrogen oxide as the indicator.	8/18/10	6/22/11, 76 FR 36326 ...	Sections A., D., and E. are modified. Sections B., C., F., and G. are added.
*	*	*	*	*
9 VAC 5, Chapter 40 Existing Stationary Sources [Part IV]				
Part I Special Provisions				
*	*	*	*	*
5–40–20 (except paragraph A.4.).	Compliance	12/12/07	2/24/10, 75 FR 8249	Revisions to paragraph A.3.
*	*	*	*	*
Part II Emission Standards				

EPA-APPROVED REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
Article 48 Emission Standards for Mobile Equipment Repair and Refinishing (Rule 4–48)				
*	*	*	*	*
5–40–7070	Monitoring	3/24/04	6/24/04, 69 FR 35253.	
Article 51 Stationary Sources Subject to Case-by-Case Control Technology Determinations (Rule 4–51)				
*	*	*	*	*
5–40–7410	Standard for nitrogen oxides (1-hour ozone standard) Subsection F.	12/15/06 1/20/10	1/19/11, 76 FR 3023	Added Regulation.
5–40–7420	Standard for nitrogen oxides (8-hour ozone standard).	12/15/06 1/20/10	1/19/11, 76 FR 3023	Added Regulation.
*	*	*	*	*
9 VAC 5, Chapter 50 New and Modified Stationary Sources [Part V]				
Part I Special Provisions				
*	*	*	*	*
5–50–20	Compliance	12/12/07	2/24/10, 75 FR 8249	Revisions to paragraph A.3 .
*	*	*	*	*
9 VAC5, Chapter 130 Regulations for Open Burning [Formerly 9 VAC 5 Chapter 40, Part II, Article 40]				
Part I General Provisions				
5–130–10	Applicability	3/18/09	3/14/11, 76 FR 13511	Formerly 5–40–5600—Provisions of this Chapter are applicable only in the Northern Virginia and Richmond Emissions Control Areas as defined in 9 VAC 5–20–206.
*	*	*	*	*
9 VAC 5, Chapter 140 Regulation for Emissions Trading				
*	*	*	*	*
Part IV SO_2 Annual Trading Program				
*	*	*	*	*
Article 5 CAIR SO_2 Allowance Allocations				
5–140–3400	CAIR SO_2 Annual trading budgets	12/12/07	3/12/10, 75 FR 11738	1. In section title, replace ''State'' with ''CAIR SO_2 Annual'' 2. In paragraph 1, replace 2009 with 2010.
*	*	*	*	*
9 VAC 5, Chapter 220 Opacity Variance for Rocket Testing Operations Atlantic Research Corporation's Orange County Facility				
5–220–10	Applicability and designation of affected facility.	12/1/02	9/4/09, 74 FR 45766.	
5–220–20	Definitions	12/1/02	9/4/09, 74 FR 45766.	
5–220–30	Applicability of standard for visible emissions and standard for particulate matter.	12/1/02	9/4/09, 74 FR 45766.	

EPA-APPROVED REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–220–40	Compliance determination, monitoring, recordkeeping, and reporting.	12/1/02	9/4/09, 74 FR 45766.	
5–220–50	Transfer of ownership	12/1/02	9/4/09, 74 FR 45766.	
5–220–60	Applicability of future regulations	12/1/02	9/4/09, 74 FR 45766.	
9 VAC 5, Chapter 230 Variance for International Paper Franklin Paper Mill				
5–230–10	Applicability and designation of affected facility.	9/7/05	8/13/07, 72 FR 45165.	
5–230–20	Definitions	9/7/05	8/13/07, 72 FR 45165.	
5–230–30	Authority to operate under this chapter and FESOP.	9/7/05	8/13/07, 72 FR 45165.	
5–230–40 (Except A.7., A.9., A.10., and B.2.).	Sitewide Emissions Caps	9/7/05	8/13/07, 72 FR 45165.	
5–230–50	New Source Review program and registration requirements.	9/7/05	8/13/07, 72 FR 45165.	
5–230–60 (Except A.1.)	Other regulatory requirements	9/7/05	8/13/07, 72 FR 45165.	
5–230–70	Federal Operating Permits	9/7/05	8/13/07, 72 FR 45165.	
5–230–80	FESOP issuance and amendments	9/7/05	8/13/07, 72 FR 45165.	
5–230–90	Transfer of ownership	9/7/05	8/13/07, 72 FR 45165.	
5–230–110	Termination of authority to operate under this chapter and FESOP.	9/7/05	8/13/07, 72 FR 45165.	
5–230–120	Review and confirmation of this chapter by Board.	9/7/05	8/13/07, 72 FR 45165.	
*	*	*	*	*

(d) *EPA-Approved State Source-Specific Requirements*

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
*	*	*	*	*
Global Stone Chemstone Corporation	Registration No. 80504	2/9/05	4/27/05, 70 FR 21621	52. 2420(d)(7).

(e) EPA-approved nonregulatory and quasi-regulatory material.

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Documents Incorporated by Reference (9 VAC 5–20–21, Sections B and E.1.).	Statewide	6/24/09	1/18/11, 76 FR 2829	Revised sections.
*	*	*	*	*
Documents Incorporated by Reference (9 VAC 5–20–21, Paragraphs E.4.a. (21) and (22)).	Fredericksburg VOC Emissions Control Area Designated in 9 VAC 5–20–206.	5/14/07	12/5/07, 72 FR 68511	State effective date is 10/4/06.
*	*	*	*	*
Carbon Monoxide Maintenance Plan.	Arlington County & Alexandria City.	10/4/95	1/30/96, 61 FR 2931	52.2465(c)(107).
		3/22/04	4/4/05, 70 FR 16958	Revised Carbon Monoxide Maintenance Plan Base Year Emissions Inventory using MOBILE6.
*	*	*	*	*

[FR Doc. 2011–29904 Filed 11–16–11; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0845; FRL–9492–2]

Revisions to the California State Implementation Plan, Placer County Air Pollution Control District and Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Placer County Air Pollution Control District (PCAPCD) and Sacramento Metropolitan Air Quality Management District (SMAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from coatings and strippers used on wood products, wood paneling, and miscellaneous metal parts and products. We are approving these local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on January 20, 2012 without further notice, unless EPA receives adverse comments by December 21, 2011. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0845, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or email. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, *law.nicole@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
PCAPCD	236	Wood Products and Coating Operations	10/14/10	04/05/11
PCAPCD	238	Factory Coating of Flat Wood Paneling	10/14/10	04/05/11
SMAQMD	451	Surface Coating of Miscellaneous Metal Parts and Products.	10/28/10	04/05/11

On May 6, 2011, EPA determined that the submittal for PCAPCD 236, PCAPCD 238, and SMAQMD 451 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

We approved earlier versions of PCAPCD 236, PCAPCD 238, and SMAQMD 451 into the SIP on April 30, 1996 (61 FR 18962), February 12, 1996 (61 FR 5288), and January 24, 1985 (50 FR 3338), respectively. The PCAPCD adopted revisions to the SIP-approved versions on October 14, 2010 and CARB submitted them to us on April 5, 2011. There are no subsequent submittals of the PCAPCD rules. The SMAQMD adopted revisions to the SIP-approved version of Rule 451 on October 28, 2010 and CARB submitted them to us on April 5, 2011. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. What is the purpose of the submitted rule revisions?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The submitted rules control emissions from coatings and strippers used on wood products, wood paneling, and miscellaneous metal parts and products. EPA's technical support documents (TSDs) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), and must not relax existing requirements (see sections 110(l) and 193). The PCAPCD and SMAQMD regulate an ozone nonattainment area (see 40 CFR part 81), so the rules must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).
2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
3. ''Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations,'' EPA–453/R–96–007, April 1996.
4. ''Control of Volatile Organic Compound Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling,'' EPA–450/2–78–032, June 1978.
5. ''Control Techniques Guidelines for Flat Wood Paneling Coatings,'' EPA–453-/R–06–004, September 2006.
6. ''Control Technique Guidelines for Miscellaneous Metal and Plastic Parts Coatings,'' EPA–453/R–08–003, September 2008.
7. ''Control Techniques Guidelines for Metal Furniture Coatings,'' EPA–453/R–07–005, September 2007.
8. ''Control of Volatile Organic Emissions from Existing Stationary Sources Volume III: Surface Coating of Metal Furniture,'' EPA–450/2–77–032, December 1977.
9. ''Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products,'' EPA–450/2–78–015, June 1978.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. PCAPCD 236, PCAPCD 238, and SMAQMD 451 have a few rule relaxation concerns, but we do not consider them deficiencies. The TSDs have more information on our evaluation.

C. EPA Recommendations to Further Improve the Rules

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by December 21, 2011, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on January 20, 2012. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 20, 2012. Filing a petition for reconsideration by

the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: October 24, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220, is amended by adding paragraphs (c)(388) (i)(D)(*3*) and (E) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(388) * * *

(i) * * *

(D) * * *

(*3*) Rule 451, ''Surface Coating of Miscellaneous Metal Parts and Products,'' amended October 28, 2010.

(E) Placer County Air Pollution Control District.

(*1*) Rule 236, ''Wood Products and Coating Operations,'' amended October 14, 2010, effective July 1, 2011.

(*2*) Rule 238, ''Factory Coating of Flat Wood Paneling,'' amended October 14, 2010, effective July 1, 2011.

* * * * *

[FR Doc. 2011–29906 Filed 11–18–11; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 302–3 and 302–9

[FTR Amendment 2011–06; FTR Case 2011–307; Docket Number 2011–0025, sequence 1]

RIN 3090–AJ18

Federal Travel Regulation (FTR); Storage of a Privately Owned Vehicle When Assigned a Temporary Change of Station in Support of a Contingency Operation

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR), and allows agencies to establish internal policy and procedures for storage of a privately owned vehicle (POV) when an employee is assigned a temporary change of station (TCS) in support of a contingency operation.

DATES: *Effective date:* This final rule is effective December 21, 2011.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Rick Miller, Office of Governmentwide Policy, Travel Management Policy, at (202) 501–3822 or email at *rodney.miller@gsa.gov.* The Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, (202) 501–4755, for information pertaining to status or publication schedules. Please cite FTR Amendment 2011–06 FTR case 2011–307.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to 5 U.S.C. 5738 the Administrator of General Services is authorized to prescribe necessary regulations to implement laws regarding Federal employees when assigned a TCS or when otherwise officially relocated. The overall implementing authority is the Federal Travel Regulation (FTR) (41 CFR chapters 300–304).

This final rule incorporates language based on Public Law 110–181, the National Defense Authorization Act for Fiscal Year 2008, section 1104, and 5 U.S.C. 5737a, to allow agencies to establish policies to provide for the storage, without charge, or for the reimbursement of the cost of storage, of a POV that is owned or leased by a covered employee of that agency (or by a dependent of such an employee), when the employee is assigned a TCS in support of a contingency operation. The term ''contingency operation'' has the meaning given such term in 10 U.S.C. 1482a(c)(2) to include humanitarian operations, peacekeeping operations, and similar operations.

This final rule also amends and clarifies other clerical issues pertaining to FTR Part 302–3, (Subpart B—Transferred Employees—Table H—Temporary Change of Station (TCS), and Subpart E—Employee's Temporary Change of Station) and Part 302–9 (Allowances for Transportation and Emergency Storage of a Privately Owned Vehicle).

B. Executive Order 12866 and 13563

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

C. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the revisions are not considered substantive. This final rule is also exempt from the Regulatory Flexibility Act per 5 U.S.C. 553 (a)(2) because it applies to agency management or personnel. However, this final rule is being published to provide transparency in the promulgation of Federal policies.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 302–3 and 302–9

Government employees, Relocation travel, and transportation expenses.

Dated: July 20, 2011.

Martha Johnson,

Administrator of General Services.

For the reasons set forth in the preamble, under 5 U.S.C. 5721–5738, 41 CFR parts 302–3 and 302–9 are amended to read as follows:

PART 302–3—RELOCATION ALLOWANCE BY SPECIFIC TYPE

■ 1. The authority citation for 41 CFR part 302–3 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

■ 2. Amend § 302–3.101—

■ (a) By revising the section heading to read as set forth below;

■ (b) In Table H—

■ (i) By revising entries three and four;

■ (ii) In the first column, in the fifth entry, by removing ‘‘, subpart B’’; and

■ (iii) By removing the seventh entry.

The revised text reads as follows:

§ 302–3.101 As a transferred employee what relocation allowances must my agency pay or reimburse to me?

* * * * *

TABLE H—TEMPORARY CHANGE OF STATION (TCS)

Column 1—Relocation	Column 2—Relocation
Allowances that agency must pay or reimburse	Allowances that agency has discretionary authority to pay or reimburse.
* * * *	* * *
3. Transportation & temporary or extended storage of household goods (parts 302–7 and 302–8 of this chapter).	3. Storage of one privately owned vehicle (POV) when assigned in support of a contingency operation as defined in 10 U.S.C. 1482a (c)(2) (part 302–9 of this chapter).
4. Transportation of a mobile home or boat used as a primary residence in lieu of the transportation of household goods (part 302–10 of this chapter).	4. Property management services (part 302–15 of this chapter).
* * * *	* * *

* * * * *

■ 3. Amend § 302–3.413 by—

■ (a) Removing the word ‘‘and’’ at the end of paragraph (b);

■ (b) Removing the period at the end of paragraph (c) and adding ‘‘; and’’ in its place; and

■ (c) Adding paragraph (d) to read as follows:

§ 302–3.413 Are there other expenses that my agency may pay?

* * * * *

(d) Reimbursement for the cost of storing, or providing for the storage without charge, of one POV when assigned a TCS in support of a contingency operation as defined in 10 U.S.C. 1482a(c)(2) and under part 302–9 of this chapter.

■ 4. Amend § 302–3.418 by—

■ a. Revising the section heading; and

■ b. Removing from the first sentence ‘‘Yes, your agency will’’ and adding ‘‘Your agency may’’ in its place.

The revised section heading reads as follows:

§ 302–3.418 May my agency pay for property management services when I am authorized a TCS?

* * * * *

§ 302–3.419 [Amended]

■ 5. Amend § 302–3.419, by removing ‘‘will’’ and adding ‘‘may’’ in its place in the section heading and text.

§ 302–3.420 [Amended]

■ 6. Amend § 302–3.420, by removing the word ‘‘will’’ and adding the word ‘‘may’’ in its place in the section text and heading.

■ 7. Amend § 302–3.421, by revising the section heading to read as follows:

§ 302–3.421 What are the income tax consequences if my agency pays for property management services?

* * * * *

■ 8. Amend § 302–3.422 by—

■ (a) Adding in paragraph (b) ‘‘or extended’’ before the word ‘‘storage’’, and removing ‘‘good under part 302–7’’ and adding ‘‘goods under parts 302–7 and 302–8’’ in its place;

■ (b) Removing paragraph (d);

■ (c) Redesignating paragraphs (e), (f), and (g), as paragraphs (d), (e), (f) respectively; and

■ (d) Adding a note at the end of the section to read as follows:

§ 302–3.422 What expenses will my agency pay when I complete my TCS?

* * * * *

Note to § 302–3.422:

Your agency may pay temporary quarters subsistence expenses under part 302–6 of this chapter.

§ 302–3.427 [Amended]

■ 9. Amend § 302–3.427, paragraph (g), by removing ‘‘§ 302–9.6’’ and adding ‘‘§ 302–9.7’’ in its place.

■ 10. Amend § 302–3.500 by—

■ (a) Removing the word ‘‘and’’ at the end of paragraph (g);

■ (b) Removing the period at the end of paragraph (h) and adding ‘‘; and’’ in its place; and

■ (c) Adding paragraph (i) to read as follows:

§ 302–3.500 What governing policies and procedures must we establish for paying a relocation allowance under this part 302–3?

* * * * *

(i) When you will pay for the cost of storing, or provide for the storage without charge, of one POV when an employee is assigned a TCS in support of a contingency operation as defined in 10 U.S.C. 1482a(c)(2) and under part 302–9 of this chapter.

PART 302–9—ALLOWANCES FOR TRANSPORTATION AND EMERGENCY OR TEMPORARY STORAGE OF A PRIVATELY OWNED VEHICLE

■ 11. The authority citation for 41 CFR part 302–9 is revised to read as follows:

Authority: 5 U.S.C. 5737a; 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

■ 12. Revise the heading to part 302–9 to read as set forth above.

§§ 302–9.5 through 302–9.12 [Redesignated as §§ 302–9.6 through 302–9.13]

■ 13. Redesignate §§ 302–9.5 through 302–9.12 as §§ 302–9.6 through 302–9.13 respectively.

■ 14. Add § 302–9.5 to read as follows:

§ 302–9.5 What expenses may I be allowed for storage of a POV when on a permanent or temporary assignment?

There is no authority for non-emergency storage of a POV when on a permanent or temporary assignment; however, an agency may approve storage for a POV when an employee is assigned a temporary change of station in support of a contingency operation as defined in 10 U.S.C. 1482a(c)(2).

■ 15. Amend newly-designated § 302–9.6 by—

■ a. Revising the section heading;

■ b. Adding ''or temporary'' before the word ''storage''; and

■ c. Removing the period at end of sentence and adding '', or when the employee is not authorized to have a POV at the TCS location under subpart F of this part.'' in its place.

The revised section heading reads as follows:

§ 302–9.6 What is the purpose of the allowance for emergency or temporary storage of a POV?

* * * * *

■ 16. Amend newly-designated § 302–9.7 by—

■ a. Revising the section heading;

■ b. Adding in the introductory text ''or temporary'' before the word ''storage''; and

■ c. Adding paragraph (e).

The revised and added text reads as follows:

§ 302–9.7 What POV transportation and emergency or temporary storage may my agency authorize at Government expense?

* * * * *

(e) Storage of a POV during a TCS in support of a contingency operation.

■ 17. Amend newly-designated § 302–9.8 by—

■ a. Revising the section heading;

■ b. Adding in the second sentence ''or temporary'' before the word ''storage''; and

■ c. Removing the word ''transferred'' before the word ''employee''.

The revised section heading reads as follows:

§ 302–9.8 Must my agency authorize transportation or emergency or temporary storage of my POV?

* * * * *

■ 18. Amend newly-designated § 302–9.9 by—

■ a. Revising the section heading; and

■ b. Adding in the first sentence ''or temporary'' before the word ''circumstances''.

The revised section heading reads as follows:

§ 302–9.9 What type of POV may I be authorized to transport, and if necessary, store under emergency or temporary circumstances?

* * * * *

■ 19. Amend newly-designated § 302–9.11 by revising the section heading to read as follows:

§ 302–9.11 For what POV emergency or temporary storage expenses will my agency pay?

* * * * *

§ 302–9.12 [Amended]

■ 20. Amend newly-designated § 302–9.12 by adding ''or temporary'' before the word ''storage'' in the section heading, and in the paragraph.

§ 302–9.140 [Amended]

■ 21. Amend § 302–9.140, paragraph (a), by removing ''§ 302–9.504'' and adding ''§ 302–9.604'' in its place.

§ 302–9.170 [Amended]

■ 22. Amend § 302–9.170, paragraph (d), by removing ''§ 302–9.504'' and adding ''§ 302–9.604'' in its place.

Subpart F—[Redesignated as Subpart G]

■ 23. Redesignate subpart F, consisting of §§ 302–9.500 through 302–9.506, as subpart G.

Subpart G—[Amended]

■ 24. Amend the note below the heading to newly-designated subpart G by removing ''Note to Subpart F:'' and adding ''Note to Subpart G:'' in its place.

§§ 302–9.500 through 302–9.506 [Redesignated]

■ 25. Redesignate §§ 302–9.500 through 302–9.506 as §§ 302–9.600 through 302–9.606 respectively.

Subpart F—[Added]

■ 26. Amend part 302–9 by adding a new Subpart F, consisting of §§ 302–9.500 through 302–9.502 to read as follows:

Subpart F—Temporary Storage of a POV

Sec.

302–9.500 When am I eligible for temporary storage of a POV?
302–9.501 How many POVs will be eligible for storage and for how long will my agency authorize the storage?
302–9.502 What expenses may my agency authorize for temporary storage of my POV?

Subpart F— Temporary Storage of a POV

§ 302–9.500 When am I eligible for temporary storage of a POV?

You may be eligible for temporary storage of your POV when:

(a) You are assigned a TCS in support of a contingency operation (humanitarian operations, peacekeeping operations, and similar operations) as defined in 10 U.S.C. 1482a(c)(2);

(b) You are eligible for expenses as authorized in part 302–3, subpart E; and

(c) The head of your agency determines it would be more advantageous, cost and other factors considered, to authorize a temporary storage of a POV.

§ 302–9.501 How many POVs will be eligible for storage and for how long will my agency authorize the storage?

You may be authorized to store not more than one POV at any given time during the period of the TCS assignment, subject to this subpart. A POV may be stored for the duration of the TCS.

§ 302–9.502 What expenses may my agency authorize for temporary storage of my POV?

Your agency may provide for storage, without charge, or for the reimbursement of the cost of storage, of one POV that is owned or leased by an employee of that agency (or by a dependent of such an employee) and that is for the personal use of the employee.

§ 302–9.604 [Amended]

■ 27. Amend newly designated § 302–9.604 by removing ''§ 302–9.505'' and adding ''§ 302–9.605'' in its place.

[FR Doc. 2011–29565 Filed 11–18–11; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 303–70

[FTR Amendment 2011–07; FTR Case 2011–308; Docket Number 2011–0022, Sequence 1]

RIN 3090–AJ21

Federal Travel Regulation (FTR); Payment of Expenses Connected With the Death of Certain Employees

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Interim rule with request for comments.

SUMMARY: GSA is amending the Federal Travel Regulation (FTR) to establish policy for the transportation of the immediate family, household goods, personal effects, and one privately owned vehicle of a covered employee whose death occurred as a result of personal injury sustained while in the performance of the employee's duty as defined by the agency.

DATES: *Effective date:* This interim rule is effective November 21, 2011.

Applicability date: This interim rule applies to travel relating to employees who died on and after June 9, 2010.

Comment due date: Interested parties should submit written comments to the Regulatory Secretariat on or before January 20, 2012 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FTR Amendment 2011–07, FTR case 2011–308 by any of the following methods:

- *Federal eRulemaking Portals: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''FTR Case 2011–308'' under the heading ''Enter Keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''FTR Case 2011–308.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FTR Case 2011–308'' on your attached document.
- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FTR Amendment 2011–07, FTR case 2011–308 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Rick Miller, Office of Governmentwide Policy, Travel Management Policy, at (202) 501–3822 or email at *rodney.miller@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules contact the Regulatory Secretariat (MVCB) at (202) 501–4755. Please cite FTR Amendment 2011–07, FTR case 2011–308.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to 5 U.S.C. 5707, the Administrator of General Services is authorized to prescribe necessary regulations to implement laws regarding Federal employees who travel in the performance of official business away from their official stations. Similarly, 5 U.S.C. 5738 mandates that the Administrator of General Services prescribe regulations relating to official relocation. In addition, the Presidential Memorandum ''Delegation Under Section 2(a) of the Special Agent Samuel Hicks Families of Fallen Heroes Act'', dated September 12, 2011, published in the **Federal Register** on September 15, 2011 (76 FR 57621), delegates to the Administrator of General Services the authority to issues regulations under Public Law 111–178, the Special Agent Samuel Hicks Families of Fallen Heroes Act, codified at 5 U.S.C. 5724d, relating to the payment of certain expenses when a covered employee dies as a result of injuries sustained in the performance of his or her official duties. The overall implementing authority is the Federal Travel Regulation (FTR), codified in Title 41 of the Code of Federal Regulations, Chapters 300–304 (41 CFR Chapters 300–304).

This interim rule incorporates language based on Public Law 111–178, the Special Agent Samuel Hicks Families of Fallen Heroes Act, codified at 5 U.S.C. 5724d, to allow agencies to provide for relocation of dependents and the household effects of a ''covered employee'' whose death occurred as a result of personal injury sustained while in the performance of the employee's duty as defined by the agency. The term ''covered employees'' means: (A) A law enforcement officer, as defined in 5 U.S.C. 5541; (B) an employee in or under the Federal Bureau of Investigation who is not described in subparagraph (A); and (C) a Customs and Border Protection officer, as defined in 5 U.S.C. 8331(31).

B. Executive Orders 12866 and 13563

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

C. Regulatory Flexibility Act

This interim rule will not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the revisions are not considered substantive. This interim rule is also exempt from Regulatory Flexibility Act per 5 U.S.C. 553(a)(2), because it applies to agency management or personnel. However, this interim rule is being published to provide transparency in the promulgation of Federal policies.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This interim rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 303–70

Government employees, Relocation, Transportation expenses, and Travel.

Dated: November 2, 2011.

Martha Johnson,

Administrator of General Services.

For the reasons set forth in the preamble, GSA amends 41 CFR part 303–70 as set forth below:

PART 303–70—AGENCY REQUIREMENTS FOR PAYMENT OF EXPENSES CONNECTED WITH THE DEATH OF CERTAIN EMPLOYEES AND FAMILY MEMBERS

■ 1. The authority citation for 41 CFR part 303–70 is revised to read as follows:

Authority: 5 U.S.C. 5721–5738; 5741–5742; E.O. 11609, 3 CFR, 1971–1975 Comp., p. 586; Presidential Memorandum dated September 12, 2011, ''Delegation Under Section 2(a) of the Special Agent Samuel Hicks Families of Fallen Heroes Act.''

§ 303–70.1 [Amended]

■ 2. Amend § 303–70.1 by removing from paragraph (d) the period at the end of the sentence and adding ''; or'' in its place; and adding paragraph (e) to read as follows:

§ 303–70.1 When must we authorize payment of expenses related to an employee's death?

* * * * *

(e) Performing official duties as determined by the head of agency and be a covered employee as provided in § 303–70.700.

■ 3. Add Subpart H to read as follows:

Subpart H—Transportation of Immediate Family Members, Baggage, Household Goods, and Privately Owned Vehicle for Law Enforcement Assignment

Sec.

303–70.700 When an employee dies as a result of personal injury sustained while in the performance of the employee's law enforcement duties, either on official travel duties away from the official station, or at the current official station, must we provide transportation for the employee's immediate family, baggage, and household goods to an alternate residence destination?

303–70.701 What relocation expenses must we authorize for the immediate family under § 303–70.700?

303–70.702 Must we pay transportation costs to return the deceased employee's privately owned vehicle (POV) from the temporary duty (TDY) location or from an official station OCONUS under § 303–70.700?

Subpart H—Transportation of Immediate Family Members, Baggage, Household Goods, and Privately Owned Vehicle for Law Enforcement Assignment

§ 303–70.700 When an employee dies as a result of personal injury sustained while in the performance of the employee's law enforcement duties, either on official travel duties away from the official station, or at the current official station, must we provide transportation for the employee's immediate family, baggage, and household goods to an alternate residence destination?

Yes, if the head of the agency concerned (or a designee) determines that the employee died as a result of personal injury sustained while in the performance of the employee's duties, and the employee was:

(a) A law enforcement officer as defined in 5 U.S.C. 5541;

(b) An employee in or under the Federal Bureau of Investigation who is not described in paragraph (a); or

(c) A Customs and Border Protection officer as defined in 5 U.S.C. 8331(31).

§ 303–70.701 What relocation expenses must we authorize for the immediate family under § 303–70.700?

If the place where the immediate family will reside is different from the place where the immediate family resided at the time of the employee's death, and within the United States, then the agency must approve the following expenses:

(a) Transportation of the immediate family;

(b) Moving of the household goods of the immediate family, including transporting, packing, crating, draying, and unpacking, not to exceed 18,000 pounds net weight;

(c) Storage of household goods moved pursuant to paragraph (b) of this section, not to exceed 90 days; and

(d) Transportation of one privately owned motor vehicle.

§ 303–70.702 Must we pay transportation costs to return the deceased employee's privately owned vehicle (POV) from the temporary duty (TDY) location or from an official station OCONUS under § 303–70.700?

Yes. The agency must pay costs associated with returning the POV from the following:

(a) TDY location to the employee's permanent official station, if the agency had authorized the use of the employee's POV at the TDY location as being advantageous to the Government; or

(b) Official station OCONUS to the employee's former actual residence or alternate destination as approved by the agency, if the agency determined that the use of the employee's POV was required accordance with Chapter 302, Part 302–9 of this title.

[FR Doc. 2011–30022 Filed 11–18–11; 8:45 am]

BILLING CODE 6820–14–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 04– 37; ET Docket No. 03–104; FCC 11–160]

Broadband Over Power Lines

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document affirms the Commission's rules for Access Broadband over Power Line (Access BPL) systems. The Commission also makes certain minor modifications to improve and clarify the rules. These rules provide an appropriate balance between the dual objectives of providing for Access BPL technology that has potential applications for broadband and Smart Grid while protecting incumbent radio services against harmful interference.

DATES: Effective December 21, 2011.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Anh Wride, Office of Engineering and Technology, (202) 418–0577, *anh.wride@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order, ET Docket Nos. 04–37 and 03–104, FCC 11–160, adopted October 20, 2011 and released October 24, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.*

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

Summary of the Second Report and Order

1. In this Second Report and Order (Second Order), the Commission fundamentally affirms its rules for Access Broadband over Power Line (Access BPL) systems. The Commission also makes certain minor modifications to improve and clarify the rules. These rules provide an appropriate balance between the dual objectives of providing for Access BPL technology that has potential applications for broadband and Smart Grid while protecting incumbent radio services against harmful interference.

2. The Commission adopted rules for Access BPL systems in 2004 and affirmed those rules in 2006. The BPL rules were challenged by the national association for amateur radio, formally known as the American Radio Relay League (ARRL) in the United States Court of Appeals for the District of Columbia in *ARRL* v. *FCC.* In *ARRL* v. *FCC,* the court directed the Commission to: (1) Make part of the rulemaking record unredacted versions of several staff technical studies which the Commission considered in promulgating the rules, (2) provide a reasonable opportunity for public comment on those studies, and (3) provide a reasoned explanation of its choice of the extrapolation factor for use

in measuring radiated emissions from Access BPL systems. In response, the Commission issued a *Request for Further Comment and Further Notice of Proposed Rulemaking* in this proceeding (*RFC/FNPRM*). In the *RFC/FNPRM,* the Commission took its first step in responding to the directives of the court in *ARRL* v. *FCC* and also took that opportunity to review the Access BPL extrapolation factor and propose certain changes to the BPL technical rules that appeared appropriate in view of new information and further consideration of this matter. In this Second Order, the Commission completes its action addressing the court's concerns and its proposals in the *RFC/FNPRM.* It finds that the information submitted in response to the *RFC/FNPRM* does not warrant any changes to the emissions standards or the extrapolation factor. However, the Commission is making several refinements to its Access BPL rules. In particular, it is: (1) Modifying the rules to increase the required notch filtering capability for systems operating below 30 MHz from 20 dB to 25 dB; (2) establishing a new alternative procedure for determining site-specific extrapolation factors generally as described in the *RFC/FNPRM,* and (3) adopting a definition for the ''slant-range distance'' used in the BPL measurement guidelines to further clarify its application. The Commission finds that the benefits of the changes to the rules outweigh their regulatory costs.

3. Throughout this proceeding and in its appeal to the court, the ARRL has argued that more restrictive technical standards are needed to protect the amateur radio service from interference caused by leakage of radiofrequency (RF) emissions from Access BPL systems. The Commission initially crafted rules for BPL systems that were based on our existing emission standards for carrier current communications systems—narrow-band devices that couple RF energy onto power line wiring for communication purposes—with a number of additional requirements to promote avoidance and resolution of harmful interference to licensed services that might occur in the context of BPL operations. The Commission subsequently affirmed those rules in response to petitions for reconsideration by various parties, including ARRL. In this process, it has specifically rejected as unnecessary repeated requests by ARRL for tighter emissions controls on Access BPL operations. In response to the court's direction, it provided opportunity in the *RFC/FNPRM* for interested parties to address the BPL technical rules and the information developed by our staff that we considered in establishing those rules, explained its rationale for the extrapolation factor used in measuring BPL emissions, expressed its tentative satisfaction with the extrapolation factor adopted, while soliciting comment on whether another value would be more appropriate, and proposed a procedure for determining site-specific extrapolation factors. The Commission has completed its response to issues raised under the court's directive.

4. The Commission has established a regime of rules for Access BPL systems that will provide a robust environment for the development and deployment of this important new technology option for delivery of broadband internet/data services while at the same time minimizing the potential for interference to licensed services caused by leakage from power lines of the RF energy used by BPL transmissions. As observed in the *BPL Order,* there is some potential for increased harmful interference from BPL operations, particularly in locations within a short distance of the power lines used by this technology. Consistent with our responsibilities for managing the interference potential of devices which can interfere with radio under Section 302 of the Communications Act, the Commission has developed a set of rules for BPL devices and systems that attempts to minimize instances of interference while allowing BPL systems to operate in a viable manner to serve the needs of the American public. In this regard, the Commission has stated and continues to hold that, on balance, the benefits of Access BPL for bringing broadband services to the public are sufficiently important and significant so as to outweigh the limited increase in potential for harmful interference that may arise. The Commission also agrees with NTIA that while some cases of harmful interference may be possible from Access BPL emissions at levels at or below the part 15 limits, the potential benefits of Access BPL service warrant acceptance of a negligible risk of harmful interference that can be managed and corrected as needed on a case-by-case basis.

5. To minimize the potential for harmful interference, facilitate its resolution where it may occur, and address cases where its possible occurrence could impact critical services, the Commission adopted additional regulatory measures beyond the emissions limits in the part 15 rules. These additional measures generally require Access BPL operators to reduce emissions or avoid operation on certain frequencies or in certain locations in order to protect licensed services, to use equipment that can alter its operation by changing frequencies to eliminate harmful interference, to provide information that will assist the public in identifying locations where Access BPL operations are present and provide notice to radio users before commencing local BPL operations in a publicly accessible database. In this manner, the Access BPL rules provide an effective means for limiting harmful interference and ensuring that any instances of harmful interference that may occur can be quickly identified and resolved. As emphasized in the *BPL Order,* Access BPL systems will continue to be treated as unlicensed part 15 devices and as such will be subject to the conditions in § 15.5(b) of the rules that they not cause harmful interference and that they cease operation if they do cause such interference, as required by our rules. Upon examination of the information and comments received in response to the *RFC/FNPRM,* the Commission continues to believe that these measures are adequate and appropriate for managing the potential for harmful interference to all licensed radio services that operate on the bands used internally by BPL systems, including the amateur radio service.

6. The Commission is not persuaded by ARRL's newest technical submissions, including the reports/standards referenced in its November 2010 and June 2011 *ex parte* comments, or its assertions regarding the information in the unredacted presentations and in the additional information it recently introduced into the record in July 2009 that our assessment of the interference potential from BPL operations was incorrect or inappropriate, or that modifications to the BPL emissions limits and other technical rules to provide additional protection for the amateur service are warranted. While there is much valuable and valid information and analysis in ARRL's technical presentations, there are additional considerations that previously led us to draw different conclusions and still lead us to maintain those conclusions now.

7. With regard to the redacted portions of the staff presentations and the preliminary information from early staff work that was released in July 2009, the Commission was, of course, aware of that content and it was also aware of other considerations and facts that bear on the various BPL technical issues. Notwithstanding ARRL's apparent belief that the full content of the staff presentations should have led

us to the conclusion it prefers, the Commission found, and continues to find, differently with respect to the regulatory measures that are needed to protect the amateur service from interference from BPL operations. The presentations in those informally conducted experiments were part of our initial internal investigation of BPL and, while there is value in them, they are not the sole source of our information on BPL performance. In this regard, the Commission considered all of the available information on BPL systems and their performance, submissions in the comments and other publicly available information. It also observes that some of the staff presentations on which ARRL focuses were of experimental systems that used early implementations of BPL equipment, developed before the *BPL Order,* that do not appear to have complied with the new rules; additionally, information on other system implementations, particularly our work with the Manassas, VA system, showed different performance characteristics than the systems ARRL criticized. In some cases, ARRL simply (and incorrectly) draws different conclusions from those presentations than we do. Also, the assessments and recommendations in the redacted portions of the presentations merely reflect the views of the Laboratory engineers who performed the testing and analysis; they do not necessarily reflect the consensus view of other engineers, the management of the Laboratory or of OET. Indeed, individual views are often conflicting, but are encouraged in the interest of producing vigorous debate to lead to a thoroughly considered recommendation and decision.

The Potential for Harmful Interference

8. In the *BPL Order,* the Commission, with concurrence from NTIA, concluded that the current emission limits will restrict Access BPL systems to low emitted field strength levels in comparison to the signals of licensed radio operations. It found that the effect of these limits will be to constrain the harmful interference potential of these systems to relatively short distances from the power lines that carry the BPL signals. The Commission also recognized that some radio operations in the bands being used for Access BPL, such as those of amateur radio licensees, may occur at distances sufficiently close to power lines as to make harmful interference a possibility. The Commission stated that it believed those situations can be addressed through interference avoidance techniques by the Access BPL provider such as frequency band selection, notching, or judicious device placement, and it adopted rules to facilitate such solutions.

9. The Commission agreed with ARRL that Access BPL on overhead lines is not a traditional point-source emitter, but not with its argument that Access BPL devices would cause power lines to act as miles of transmission lines all radiating RF energy along their full length. In this regard, the Commission observed that the part 15 emission limits for carrier current systems have proven very effective at controlling interference from such systems. Also, it indicated that the design and configuration of Access BPL systems would be inconsistent with the development of cumulative emission effects for nearby receivers. The Commission further concluded that because the BPL emissions level decreases significantly with distance perpendicular from the line, the potential for interference also decays rapidly with distance from the line.

10. The Commission recognized that Access BPL systems present concerns for licensed users in the high frequency (HF) and lower portions of the very high frequency (VHF) bands, given the propagation characteristics of RF signals in the range of frequencies being used for these systems, the diversity of users of these frequencies, and the fact that Access BPL devices could be installed at many locations in an area. While it concluded that there is little likelihood that harmful interference would occur from Access BPL operations at the signal levels allowed under the current part 15 emission limits, it acknowledged that such interference could occur in limited situations despite the intentions of BPL operators. To address this interference potential, the Commission required BPL operators to comply with additional interference mitigation techniques. It stated that such steps should be taken particularly in those cases where the occurrence of interference would affect critical services or where interference could be anticipated to occur. The interference mitigation measures for critical services include exclusion from operating on certain frequency bands and exclusion from operation in certain areas. For all services, the interference mitigation provisions require that BPL system operators have the ability to remotely cease operation or apply frequency avoidance (notching) on bands where licensed services are receiving interference. BPL operators were required to be able to notch their operations on affected bands to a level 20 dB below the part 15 emissions limit for frequencies below 30 MHz (*i.e.,* 1/100th of the emissions limits for other unlicensed unintentional radiators).

11. In the *BPL Reconsideration Order,* the Commission affirmed its selection of 20 dB below the part 15 emissions limit as the minimum notching capability for frequencies below 30 MHz. It also revised the rules to specify that where an Access BPL operator implements such notching, the operator need not provide further protection to mobile operations, nor will the operator be required to resolve complaints of harmful interference to mobile operations by taking steps over and above implementing the ''notch.'' The Commission found that, while this level may be above the noise floor, reception of signals in mobile operating conditions is generally not reliable at levels at or below that level and thus does not warrant protection.

12. The Commission disagrees with ARRL that the recently released materials show interference potential from Access BPL systems to be significantly greater than that which we anticipated in the *BPL Order,* that such interference will be preclusive of amateur operations over large areas, or that the current rules are not adequate to resolve any interference that might occur. Rather, ARRL's in-depth focus on that material is in some aspects consistent with the Commission's own assessments, in other aspects incorrect, and, importantly, in many aspects does not account for the real world conditions affecting the propagation of RF emissions at HF frequencies. While ARRL provides significant information on the standard engineering principles concerning the attenuation rate of emissions from line emitters, it is mistaken as to how the attenuation rate should be viewed for purposes of measuring BPL emissions. In this regard, the Commission again concludes that 40 dB/decade is a best estimate of the expected attenuation rate/extrapolation factor in the conditions in which measurements are made under the Access BPL measurement guidelines. The Commission finds no information in the comments or the newly submitted information in ARRL's November 2010 and June 2011 *ex parte* submissions that would warrant modification of the Access BPL rules to require notching of all amateur bands at notch depths of at least 35 dB, or otherwise provide additional protection for the amateur service. However, in reviewing the requirement that Access BPL systems be capable of reducing their emissions by 20 dB in a given frequency band and current developments in BPL equipment, the

Commission now finds that it would be appropriate to increase this required ''notching'' capability by 5 dB, to 25 dB for BPL systems operating below 30 MHz. It responds to the comments with respect to each of these sets of materials sequentially listed here.

Unredacted Staff Presentations and Newly Submitted Materials

13. In its comments, ARRL argues that the unredacted staff presentations show that:

i. Access BPL is not a point-source emitter; it is a distributive system that has significant interference potential over a wide area at significant distances from (and along) the power line carrying BPL signals. It contends that the Commission's measurements show that there is virtually no signal decay along the power line 230 meters from the coupler.

ii. The proper distance extrapolation factor for assumed signal decay with distance from the power line is much closer to 20 dB/decade of distance (20 log R) than to the 40 dB/decade of distance (40 log R) adopted by the Commission for frequencies below 30 MHz.

iii. Access BPL has a considerably higher interference potential to licensed radio services than the Commission concluded in the BPL Order if operated at the maximum radiated emission levels permitted by the Commission's part 15 rules (and the BPL rules adopted in the *BPL Order*). Specifically, interference to licensed mobile radio receivers is very likely for very long distances along a power line. The presentations also show that systems operating at the part 15 emission limits will be at least 25–35 dB stronger than the median values of man-made noise at 30-meters distance. Extrapolating this to a mobile antenna closer to the lines results in an even higher noise level.

iv. The Commission erred in concluding that mobile Amateur stations would be protected from interference if, in response to an interference complaint, the BPL operator reduced the BPL radiated emission level from the offending portion(s) of the BPL system by 20 dB below the maximum radiated emission level permitted for part 15 devices generally. That remedy falls far short of reducing BPL noise to the level of ambient noise in residential environments found by Commission's technical staff, and falls far short of reducing BPL wideband noise levels to the point that mobile communications can be conducted in areas substantial distances from the power line.

v. Measurement of BPL radiated emissions should be done at heights not lower than in the same horizontal plane as the overhead power line.

14. First, the Commission agrees with ARRL that a BPL system does not behave as a point-source emitter. Neither, however, can it be analyzed as a line emitter. Analysis and prediction of RF propagation in the HF frequency region is extremely complex and difficult, and particularly at locations close to the ground, as the Commission, ARRL and many other commenters have acknowledged throughout this proceeding. The Commission's intent in the *BPL Order* was not to say that power lines are point-source radiators, but rather simply that the interference potential lessens with distance down the line from the coupler—though this occurs at rates that can vary significantly with power line topology.

15. ARRL points out that one of the video files in the staff materials released by the Commission in July 2009 shows interference to mobile reception of signals in the amateur 20-meter band (14.0–14.35 MHz). Specifically, it states that the video of the Briarcliff Manor system recorded on August 17, 2004 (Briarcliff Video #5) shows in a graphic, compelling manner the severe and constant interference caused by the BPL system to amateur reception over huge geographic areas which obviously precluded essentially all Amateur HF communications in the area. It submits that no objective observer of this video could possibly conclude that the level of BPL radiated emissions permitted by the Commission's Part 15 rules is acceptable. ARRL is correct that the interference that is apparent on Briarcliff Video #5 is not acceptable and would not be permissible under either our part 15 rules or the system operator's experimental license. However, while interference can occur from BPL operations along a stretch of power lines as shown in that and other videos in the preliminary materials released in July 2009, the Commission did not and do not find this example to substantiate a need for more restrictive rules on BPL systems. First, it does not appear that any of the mitigating features that are required in the rules had been applied to this system. In addition, our staff did contact the licensee about interference from that system several times over the course of its operation and the operator took steps first to cease operation on the amateur frequencies and then to install new equipment that had notching capability. Subsequent examination of that system by field agents of the Commission's Enforcement Bureau found no interference, which substantiates the effectiveness of our rules when properly observed. Also, as indicated by the primary and secondary title screens of Briarcliff Video #5, the system was notched only in the 20-meter amateur band, and not in the 15-meter amateur band, for which that video was recorded. Thus, the Commission did not and do not consider the interference that appears in Briarcliff Video #5 to be representative of the performance of a system operating in accordance with the set of rules it set forth for Access BPL systems.

16. The Commission also sees no merit in ARRL's argument that statements on the same presentation slide concerning an interference problem from the Phonex carrier current system to ARINC aeronautical communications and opining that compliant Access BPL ''may be worse'' should have served as a factor in its decision on protection for the amateur service. In the *BPL Order,* the Commission recognized the critical nature of aeronautical communications and, given the free space propagation path from a power line to an aircraft, excluded Access BPL systems from operating on frequencies used by that service. With respect to the Phonex case, the Commission also observes that the Phonex system at issue might not have been the source of the interference with ARINC's communications and its performance therefore cannot be used as an empirical basis for establishing any benchmarks with respect to the interference potential of BPL systems.

17. ARRL next observes that another presentation slide in the Briarcliff Manor presentation recommends that the Commission ''impose [a] 5 dB height correction [factor]'' on measurements and a ''20 log R extrapolation factor'' if it is going to allow BPL on medium voltage (MV) overhead power lines and should use a 20 dB/decade extrapolation factor for signal decay with distance from the power line. It observes that the presentation states that this ''reduces interference [from BPL] to fixed stations.'' Basing the BPL emissions limits and measurement procedures on an attenuation rate of 1/R, *i.e.,* 20 dB/decade would, of course, reduce signal levels and thereby provide additional protection to licensed services against interference. The Commission notes that the slide in question does not provide a ''recommendation'' as claimed by ARRL, rather, it only presented several options for other staff and management to consider in its deliberations. Further, as the Commission concluded previously, it does not believe that such

additional protection is needed or warranted, but rather hold that the part 15 ''no interference requirement,'' the part 15 emissions limit for carrier current systems, and the interference mitigation measures it adopted in the *BPL Order* collectively provide sufficient protection to licensed services from the potential for harmful interference from Access BPL operations. The Commission also continues to find that the attenuation rate of emissions from power lines is typically higher than 20 dB/decade and varies with location. At distances within 30 meters of the power line and when using the slant-range measurement procedure prescribed in our measurement guidelines, $1/R^2$, *i.e.,* 40 dB/decade, properly describes the expected attenuation rate at frequencies below 30 MHz, and variability around that rate is also expected.

18. It is also important to understand, as the Commission discussed in the *RFC/FNPRM* and ARRL largely ignores, that RF propagation in the lower frequencies ranges, and particularly at frequencies below 30 MHz, is greatly affected by environmental factors, so that there is significant variability in propagation from place to place. These include ground absorption and conductivity, terrain, vegetation, and the presence of structures and other man-made objects, including additional power lines arrayed on pole/towers in the near-field of emissions from a power line carrying Access BPL transmissions. In some cases, emissions from BPL systems that are expected to be compliant with the rules will attenuate with distance at relatively high rates and be well below the part 15 limits while emissions from other systems, or even from the same system but at a different location, will attenuate at a relatively lower rate and exceed the part 15 limits. The Commission is aware of these variabilities in this complex operating environment and to account for it, has adopted additional provisions for mitigating harmful interference that are set forth in the rules. In addition, recognizing this variability, it did not base our assessment of interference potential on any standard performance factor, such as an attenuation rate by itself, but rather on the successful past performance of our existing standards and the availability of suitable approaches for managing the potential for harmful interference and correcting any harmful interference that may occur.

19. The Commission has also fully considered the issue of how to measure Access BPL emissions, including whether a 5 dB correction factor was needed for Access BPL measurements below 30 MHz. In the *BPL Order,* it concluded that the existing measurement procedure that provides for measurement of the magnetic field at 1-meter height with no correction factor was appropriate for measurements in that frequency region. There is no additional information in the presentation summaries that leads us to find that this decision should be changed.

20. ARRL points out that slide 20 of the Briarcliff Manor presentation listed options of notching or mandatory advance coordination for protection of low-VHF public safety channels and that the Commission did not adopt either of those options but instead put in place a notification requirement. It also observes that the same slide listed the 50–54 MHz amateur band that is typically used for both mobile and fixed operations and the Commission did not acknowledge the interference potential to amateur operations in that band and offered no remedy for it. In the *BPL Order,* the Commission determined that public safety systems, because of the often critical and/or safety-of-life nature of the communications they provide, merit the additional protection of advanced notice of BPL operations. The Commission stated that an advance notification would provide a public safety operator with an opportunity to assess whether there are portions of its geographic area of responsibility about which it should make special arrangements with the Access BPL operator in order to avoid interference. The Commission did not address the frequencies used by the amateur service on an individual basis, but rather concluded that amateur radio frequencies generally do not warrant the special protection of frequency exclusion that was afforded frequencies reserved for international aeronautical and maritime safety operations.

21. ARRL observes that slide 21 of the Briarcliff Manor presentation predicts the potential for BPL to cause interference to mobile operations to be ''high'' to ''very high.'' It further observes that the same slide has a table indicating that the interference distance to fixed stations would be 62 meters at 2–8 MHz and 400 meters at 8–30 MHz in areas where the noise levels were at the International Telecommunication Union (ITU) ''residential'' level. It contrasts these statements with our findings in the *BPL Order* that the potential of Access BPL systems was ''low'' and observes that in the case of mobile communications where a vehicle is close to the power lines, the potential for interference will indeed be higher. While the Commission again recognize that at some locations (including where nearby antennas are located above the height of the power line) the attenuation rate of Access BPL emissions will be lower and at other locations it will be higher, these levels are consistent with our interpretations that the interference potential is low such that it can be managed adequately with the additional interference mitigation measures and the ''no harmful interference provisions'' of part 15 that are also in our rules. In this regard, the distances from a power line to an amateur fixed receiver will be sufficiently short that if harmful interference were to occur, the recipient could readily identify its source and request that it be resolved. The Commission observes that International Broadband Electric Communications, Inc. (IBEC), a major operator of Access BPL systems, reports (with confirmation by ARRL in its comments) that it has been communicating with the local amateurs and emergency services in the areas it covers to implement a successful interference resolution process. It states that it has been able to resolve interference complaints, as they arise, under the framework of the existing Access BPL rules. This information provides confirmation of the processes and requirements the Commission established, when used in practice, are adequate to prevent most cases of harmful interference to licensed services, and to resolve quickly any instances of harmful interference that do occur.

22. *Spectrum Notching.* The rules provide for mitigation of BPL interference where it may occur by notching. In the *BPL Order* and the *BPL Reconsideration Order,* the Commission found that, for frequencies below 30 MHz, a 20-dB notch would appropriately address any harmful interference that might occur to mobile operations, given both the low signal levels allowed under the part 15 emission limits and the fact that a mobile transceiver is generally only in one place for a limited period and can readily be re-positioned to provide some separation from the Access BPL operation.

23. In its comments, ARRL argues that slide 13 of the Briarcliff Manor presentation summary references predictions from the *NTIA Phase 1 Study* that show that the noise floor would rise by more than 20 dB at nearly all points, and by 30 dB at most points, along a 340-meter modeled power line. It also notes that the slide states that in NTIA's measurement activities, NTIA took occasional samples of noise power

along the line with the Access BPL system turned off and found noise levels lower than predicted by the ITU for residential areas. ARRL therefore contends that the 20-dB standard for the notching requirement is insufficient. The Commission initially noted that NTIA's sampling of noise power was only at a very limited number of locations and not sufficient to serve as the basis for a conclusion that the noise floor is lower than the levels recognized by the ITU. Further, there is not sufficient information in any of the submissions regarding changes in the noise floor to justify a change from our use of the well-established ITU-recommended levels for the noise floor in different environments.

24. In its November 2010 *ex parte* submission, ARRL provides additional comments that reference several recent domestic and international industry and governmental reports/standards to support its request for a 35-dB notch of all the amateur frequency bands. These documents include: (1) ITU–R Report SM.2158; (2) ITU–T G.9960; (3) IEEE P1901–2010; and (4) OFCOM Report on In-Home PLT devices. All of these documents mandate or recommend notching of the amateur frequencies. ITU–R Report SM.2158 states that the maximum allowable increase in the noise floor due to BPL emissions should not exceed 0.5 dB, based on the assumption that the fade margin of the amateur service in long distance communications is less than 1 dB. Based on this assumption, ARRL argues that a notch depth of 34 dB would be required if a 20-dB/decade extrapolation of the FCC emission limits is used and a notch depth of 43 dB would be needed if the existing extrapolation factor of 40-dB/decade is used.

25. In re-examining all of the information pertaining to the depth of the notching requirement, the Commission now finds that it would be appropriate to increase the required notching capability to be 5 dB greater than the 20 dB specification it initially adopted. Previously, the Commission observed that when operating with a 20-dB notch below 30 MHz, the maximum allowed emissions from an Access BPL system is 10 dBμV/m at the part 15 measurement distance of 30 meters, a level which is at or only modestly above the noise floor in the HF bands at most locations. The Commission's intention was that Access BPL emissions in a notched bandwidth would not be significantly greater than the background noise at the distances normally used for protection against harmful interference from part 15 unlicensed devices. The Commission also evaluated the potential for interference at closer distances that can occur when conducting mobile communications while traveling adjacent to roadside power lines. It observed that when extrapolated to values for the typical closest distance of a mobile antenna in motion from roadside power lines (approximately 6 meters horizontal distance and 8.5 meters vertical distance, for a slant range of 10.4 meters) and adjusted for the typical quasi-peak to average ratio of 4 dB for BPL devices operating at high duty factor, the part 15 limit corresponds to a root-mean-squared (RMS) field strength of 44 dBμV/m for frequencies at or below 30 MHz. A 20 dB reduction would limit emissions to 24 dBμV/m. The Commission concluded that given the high variability of the noise floor at HF frequencies, where increases of as much as 20 dB or more are common, mobile reception of relatively weak signals under 24 dBμV/m is generally intermittent and not reliable because both the received signal and the ambient noise levels vary up and down (the received signal and noise energy levels generally do not rise and fall together) as the vehicle moves.

26. In carefully reviewing the record on this issue, the Commission acknowledged ARRL's point that the modeling in the *NTIA Phase 1 Study* predicts that Access BPL emissions on frequencies below 30 MHz that are at the part 15 limit would raise the mobile radio noise floor at 15 MHz and 25 MHz by 30 dB in 59% of residential locations. After a 20-dB notch, the BPL remaining emissions would still produce a noise floor increase of about 10 dB for mobile operations in residential locations at those frequencies. As the Commission observed in the *BPL Reconsideration Order,* there is considerable variability around the median noise level, such that increases of as much as 20 dB are common and reduce the reliability of signals at the margin of expected reception. While, the Commission continues to believe that the significant variability in background noise levels limits the reliability of HF signals below 30 MHz such that BPL emissions at a level of 24 dBμV/m should not generally be considered harmful interference, it also understand that the 20 dB value for noise increases due to diurnal and seasonal factors is the maximum expected effect and that in many cases the daily variability in the noise floor levels will be somewhat less. The Commission have no specific information on the distribution of the diurnal and seasonal variability of noise floor levels; however, it believes that an increase of 5 dB in the required notching capability, or half the 10-dB current margin of BPL emissions affecting mobile reception above the residential noise floor, according to NTIA's estimates as supported by ARRL, would take a more conservative approach and provide protection for amateur mobile operations in more instances, while continuing to recognize the variability in emissions that limit the service to mobile amateur receivers. Given our understanding supported by the assertions in the record that most BPL operators are already using notches of at least 25 dB, the Commission would expect the cost imposed by this requirement to be minimal or nil. It finds that the benefits of providing additional protection for licensed services outweigh any potential additional costs to BPL providers. Such benefits include a more integrated environment where BPL devices may share spectrum with licensed users, with lesser concerns for potential harmful interference. BPL devices bring expanded benefits to electric utility companies by allowing them to monitor, and thereby more effectively manage their electric power distribution operations. BPL also brings ''last-mile'' delivery of broadband services to some rural and underserved areas.

27. With respect to the new information in ARRL's November 2010 *ex parte* submission, first the Commission is not persuaded that a 0.5 dB increase in the noise floor as used in the ITU–R Report SM.2158 is a reasonable assumption for the numerous reasons it stated with respect to the significant variability in background noise levels at HF frequencies. Further, it appears that the 0.5 dB number was used in the ITU Report without any discussion, analysis or other explicit rationale. The Commission further noted that in its June 2011 *ex parte* submission, ARRL mentions that ITU–R Recommendation SM.1879, which refers to the above report, does recommend that stations operating in the Amateur Service be protected t*** level such that noise at the protected station is not increased by more than 0.5 dB. Although ARRL provided calculations to relate the 0.5 dB increase in the noise floor with the part 15 limits to arrive at its requested 35-dB notch number, it again did not provide a rationale for using a 0.5 dB increase in the noise floor as the protection criterion at HF frequencies. With the exception of ITU–R Report SM.2158, the reports/standards submitted by ARRL in its November 2010 *ex parte* comments do not include

any analysis that shows that 35 dB or some other figure is the proper level of notching needed to protect amateur operations, but rather simply state as their recommendations and requirements a notching depth that existing BPL equipment can meet. The Commission also recognizes the ARRL's observation in its June 2011 *ex parte* submission that in the IEEE P1901–2010 standard there is a normative requirement for a 30-dB notch depth for the FFT OFDM (HomePlug) technology. While this voluntary industry standard is apparently being used by manufacturers of HomePlug In-House BPL equipment, it is more stringent than is necessary for our regulatory purposes and in any case does not apply to the Access BPL applications at issue herein. The Commission also does not find persuasive ARRL's argument that deeper notching can be implemented without adverse impact on the data rates of BPL technology. In this regard, the testing on which ARRL bases this claim was on In-House rather than Access BPL equipment and in any case our principal concern is with imposing regulation that is more restrictive than necessary rather than simply minimizing the impact that such regulation might have on some aspect of BPL equipment or its operation. While the Commission duly note the Republic of Korea's decision to require permanent notching of the amateur bands, the relevance of that determination by that country's regulatory body at that time to our present consideration is not readily apparent, and ARRL provides no information regarding either the radio environment or the regulatory objectives and standards that informed that decision by which the Commission might consider how those considerations might affect our own decision making.

28. The Commission recognizes that one of the documents referenced by ARRL, IEEE P1901–2010, is an industry standard for both Access and In-House BPL equipment authored by nearly a hundred entities that include BPL service and equipment providers and that this standard describes a 35-dB spectrum notching for compatibility with amateur radio services that can be supported by a type of BPL technology known as wavelet OFDM, as elucidated by UTC. Further, as ARRL submits, its scrutiny of systems listed in the BPL database indicates that existing BPL systems in the U.S. are generally notching the entirety of the HF amateur allocations, using equipment capable of notch depths of at least 35 dB. Thus, it appears that many BPL systems now in operation may be voluntarily observing the notch depth and band avoidances that ARRL is requesting. While those industry practices are consistent with the ARRL's goals in this matter, the Commission nonetheless finds they are more stringent than are justified from a regulatory standpoint. In this regard, the Commission does not find that an increase in the required notching capability to a level above 25 dB is needed to protect against interference to amateur or any other licensed services. To require that all systems adhere to a *de facto* industry 35-dB notching standard would unnecessarily constrain BPL operators, as stated by UTC, and equipment manufacturers who might choose to design for a different level of operation that would comply with the notching level the Commission has determined will provide adequate protection. Further, to require that all of the amateur bands be notched would unnecessarily restrict BPL operations in areas/locations where no amateur operations are present that could receive interference.

29. The Commission sees no statistically-valid support for ARRL's position that the ambient noise levels have become so low as to contradict our conclusion here that a 25-dB notch is generally sufficient to protect licensed services. Further, for fixed stations, if a 25-dB notch is not sufficient to resolve observed harmful interference or other steps to resolve the interference are not successful, under § 15.5(c) of the rules, the operator is then, upon notification by a representative of the Commission, required to cease operation until the interference is corrected. In such cases, the interference might perhaps be resolved by using new equipment that includes a filter with a notch capability greater than 25 dB. The Commission believes, however, that the new 25-dB notching requirement will be sufficient to resolve the great majority of cases of harmful interference that might occur and therefore do not see a need to require that Access BPL systems routinely use equipment with greater notching capability.

30. In changing the notching level to 25 dB, the Commission is aware that Access BPL operators have already installed equipment with 20-dB notching capability in compliance with the rules and that there is some inventory of equipment built to that standard which has not yet been installed. While it believes that the greater level of protection provided by our rule change is prudent in the long term, it has not observed any cases to date where the notching afforded by existing equipment has not been adequate to resolve interference. Accordingly, given the limited number of devices already deployed and manufactured, the Commission will not require their replacement or prohibit their installation for replacement or in new constructions. In order to afford manufacturers time to redesign their equipment to comply with the new, more conservative 25-dB notching requirement, the Commission will allow an 18-month period from the date this action is published in the **Federal Register** before the requirement becomes effective.

31. In its reply comments, ARRL submits that IBEC did not resolve interference complaints to amateur fixed stations by doing what the existing BPL rules require, other than compliance with the general part 15 requirement to correct any harmful interference. It states that instead, IBEC has avoided or resolved the interference by doing two of the things that ARRL has requested as modifications to the existing BPL rules: (1) IBEC avoided the use of Amateur bands in its installations, and (2) it has used state-of-the-art notch depths of 35 dB. The Commission observes that avoiding a frequency band where interference could occur is certainly an option that is contemplated under the rules. Using a notching capability with attenuation of greater than that required in the rules where needed is also consistent with the general requirement in part 15 rules that a device not cause harmful interference. The Commission does not, however, find the fact that equipment which can provide 35-dB notching capability is now available and IBEC's choice to use such equipment to be indicative that it should require that level of notching capability in all instances. Rather, while the rules will now require a notching capability of at least 25 dB, that level of attenuation will only be deemed sufficient for resolving harmful interference in the case of mobile operations; the system operator is still responsible for resolving harmful interference to fixed operations if the 25-dB notch capability is used and the interference remains. Under the notching rules the Commission adopted, a BPL system operator has the flexibility to install a notching capability greater than 25 dB or to implement other measures for resolving harmful interference in cases where the 25-dB notch is not sufficient. In this regard, IBEC did, in fact, take the steps required under § 15.611(c) of the rules—it configured its systems to be capable of remotely reducing power by 35 dB and adjusting operating frequencies to avoid site-specific, local use of the same

frequencies by licensed radio operations. A different operator might have chosen an alternative approach for complying with this rule.

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32. Notwithstanding ARRL's contentions, the Commission did consider the information in the presentations in the *BPL Order* and in the formulation of our rules for regulating interference from Access BPL emissions. There are no new facts, information, or interpretations in those presentations or in ARRL's comments that are inconsistent with the Commission's previously stated understandings and findings. These presentations, as well as other information in this proceeding, show that Access BPL operations can raise the RF noise level to levels above the noise floor such that they can cause interference to amateur operations in the close vicinity of power lines on which the BPL signals are carried. As the presentations show, the area of interference is essentially limited to distances close to and along the power lines. While some interference is possible at locations close to the power line, the Commission believes that in the great majority of locations, interference will not occur to radio services because either propagation conditions limit the range of the Access BPL emissions or there is no licensed amateur station present and operating on the frequencies on which such emissions appear. The Commission sees no need to require an Access BPL operator to reduce emissions below the part 15 limits where there is no potential for interference. In addition, it requires that a database of Access BPL systems be established to allow amateur operators to identify BPL operations in their area before the systems commence operation so that they have an opportunity to alert the BPL operator of their presence before the system is activated. The Commission addressed specific points in ARRL's arguments in paragraphs 52 through 56 of this Second Report and Order.

33. The Commission also noted that throughout this proceeding and as new equipment that allows BPL operators to better manage their frequency use at specific locations has become available, it observed BPL operators taking active steps to locate and avoid interference to amateur operators. Given that identification and resolution of harmful interference can involve expenditures of staff time and resources for Access BPL providers and possibly the temporary disruption of service to their subscribers, these providers have a strong incentive to take *a priori* steps to ensure that they avoid causing interference to the local radio services, including amateurs. Notwithstanding the occasional interference that was found by amateurs from the trial systems that were operated during the early phases of BPL development such as those examined in the staff presentations (and which, in some cases, were operating with emissions levels that were found to exceed the part 15 limits by amounts ranging from 1 to 4 dB), the Commission observed, as described by IBEC and CURRENT in their comments, that Access BPL operators are taking effective steps as contemplated in the *BPL Order* to avoid interference to amateur and other licensed services, including working with local amateur operators. Moreover, our own internal records on enforcement matters show only one complaint of interference from Access BPL to fixed licensed operations; that complaint was submitted recently and is under investigation at this time. In summary, the Commission sees no new information or reasoning in ARRL's submissions or other information regarding the three additional staff presentations in the preliminary materials released in July 2009 that would warrant changing the current rules and, specifically, it sees no need to further restrict the operations of BPL systems to protect licensed services.

Measurement Distance Extrapolation Issues

The Extrapolation Factor

34. *Overview.* In the *BPL Order,* the Commission set forth guidelines for measurement of the emissions from Access BPL systems. These guidelines, *inter alia,* specify that emissions from Access BPL devices operating below 30 MHz are to be measured for compliance with the radiated emissions limits in § 15.209 of the rules. Those limits are based on measurements made at 30-meters horizontal (lateral) distance from the device under test. However, for practical reasons associated with measurement in the field, the Access BPL measurement guidelines recommend that measurements should normally be performed at a horizontal separation distance of 10 meters from the overhead power line, and they also indicate that measurements can be performed at 3 meters if necessary because of ambient emissions, safety or practical considerations. The field strength of radiated emissions does, however, decrease with increasing distance from the emitter due to propagation loss. Because of this attenuation with distance, the field strength of emissions from a device measured at the 3-meter or 10-meter distances specified in the guidelines will generally be higher than those measured at the 30-meter distance on which the emission standard is based. In order to apply the emissions standard consistently, the measurement results must be adjusted to account for distance attenuation when measurements are made at a distance other than 30 meters.

35. The Commission specified distance extrapolation factors to convert the BPL emissions measurements for frequencies below and above 30 MHz to appropriate values for tests made at the 3-meter and 10-meter distances recommended in the BPL measurement guidelines. For BPL operations on frequencies below 30 MHz, the frequency range at issue here, some commenters in the initial phase of this proceeding, including ARRL, recommended the use of an extrapolation factor of 20 dB/decade, while others recommended an extrapolation factor of 40 dB/decade. The Commission concluded in the *BPL Order* that ''[g]iven the lack of conclusive experimental data pending large scale Access BPL deployments,'' it would ''continue the use of the existing part 15 distance extrapolation factors'' specified in the rules, *i.e.,* 40 dB/decade for frequencies below 30 MHz and 20 dB/decade for frequencies at or above 30 MHz, but with the distance measured as the slant-range distance from the overhead power line to the center of the measurement antenna rather than horizontal (lateral) distance from the nearest point of the overhead power line carrying the BPL signals to the center of the measurement antenna, as illustrated in Figure 1 of Appendix C, of this Second Report and Order. This is the horizontal (lateral) distance between the center of the measurement antenna and the vertical projection of the overhead power line carrying the BPL signals down to the height of the measurement antenna when measurements are taken at a point that is perpendicular to the power lines. It further stated that ''if new information became available that alternative emission limit/distance standards or extrapolation factors would be more appropriate,'' it would revisit this issue at another time.

36. ARRL filed a petition for reconsideration of the Commission's decision in the *BPL Order* to use 40 dB/decade as the extrapolation factor for frequencies below 30 MHz. In support of its argument that an extrapolation factor of 20 dB/decade should be used, ARRL also submitted, through *ex parte*

comments, reports on three studies conducted by the United Kingdom's Office of Communications (OFCOM) and a standard by the Special International Committee on Radio Interference (CISPR) regarding emission measurements for BPL systems and a proposal for a sliding scale extrapolation factor based on a 1996 CISPR standard. The first OFCOM study, ''*OFCOM, Ascom PLT Measurements in Winchester* (May 11, 2005)'' (Winchester Study) reported measurements of an underground *Access BPL trial* system in Winchester, United Kingdom. In that study, OFCOM concluded that the electromagnetic field attenuates at a rate between 20 dB and 25 dB/decade at this BPL installation. The second OFCOM study, ''*OFCOM, DS2 PLT Measurements in Crieff* (May 11, 2005)'' (Crieff DS2 Study) reported measurements of an Access BPL trial system in Crieff, United Kingdom. That study concentrated only on the benefits of programmable notches in the equipment and did not provide any data on distance extrapolation. The third OFCOM study, ''OFCOM, *Amperion PLT Measurements in Crieff* (May 11, 2005)'' (Crieff Amperion Study) reported measurements of an overhead, pole-mounted Access BPL trial system, also in Crieff, United Kingdom. In the Crieff Amperion Study, OFCOM concluded that the emitted field attenuates at a rate of 28 dB/decade.

37. On reconsideration, the Commission found the OFCOM studies and the CISPR standard unpersuasive in that there was no ''new'' or convincing information not already known, and affirmed its decision to use the existing part 15 distance extrapolation factor of 40 dB/decade attenuation rate in the measurements of BPL emissions on frequencies below 30 MHz.

38. In *ARRL* v. *FCC, supra,* the court found that the Commission did not offer a reasoned explanation for its dismissal of empirical data that was submitted *ex parte* by ARRL, *i.e.,* the three OFCOM studies and additional ARRL analysis intended to suggest that an extrapolation factor of 20 dB/decade may be more appropriate for Access BPL. The court ordered the Commission either to ''provide a reasoned justification for retaining an extrapolation factor of 40 dB/decade for Access BPL systems sufficient to indicate that it has grappled with the 2005 studies, or adopt another factor and provide a reasoned explanation for it.''

39. The Commission acted to respond to the court's directive in the *RFC/FNPRM.* Therein, it provided a more detailed explanation of its reasons for selecting 40 dB/decade as the extrapolation factor for frequencies below 30 MHz and in particular why it does not believe that the studies and technical proposal submitted earlier by ARRL provide convincing information that it should use an extrapolation factor that is different from (and, specifically, less than) 40 dB/decade as required in the second element of the court's directive in *ARRL* v. *FCC.* In summary of that explanation, the Commission stated that:

i. There were no significant studies that examined the very large number of measurements that would be needed to address the different site characteristics that affect the attenuation of emissions below 30 MHz;

ii. The studies submitted by ARRL in its 2005 *ex parte* provided only anecdotal information on two different types of installations (overhead and underground) from two single sites and also had certain methodological shortcomings; and

iii. With respect to its proposal for a sliding scale extrapolation factor, ARRL did not provide an explanation as to how its formula was derived or how to use it to determine the extrapolation factor, nor did it provide a rationale for selecting such a formula or information as to the relationship between the performance of emissions from BPL technology and the specifications for reduction of power line noise adopted in the standard.

40. In the *RFC/FNPRM,* the Commission also observed that since its adoption of the *BPL Reconsideration Order,* reports had become available on two new technical studies addressing attenuation of BPL emissions with distance, one by NTIA in October 2007 that described a second phase of its simulation study on the potential for interference from Access BPL systems *(NTIA Phase 2 Study)* and the other by the Federal Republic of Brazil *(Brazil Study)* in June 2008 that presented the results of a measurement study of BPL emissions. In addition, it noted that the IEEE working group on power line communications technology electromagnetic compatibility was working on a standard for EMC testing and measurements methodology for BPL equipment and installations (IEEE P1775/D2) that included a provision for determining extrapolation (distance correction) factors on a site-by-site basis using *in situ* measurements as part of its work on that standard.

41. In view of these new studies and consistent with its stated intention in the *BPL Order* to revisit the extrapolation factor if new information became available and the opportunity provided by the Court's remand of the extrapolation factor, the Commission decided to conduct further rulemaking to review its decision on the extrapolation factor. It requested that interested parties submit additional comment and information on the BPL extrapolation factor and specifically asked that such comment and information address (1) The three studies and proposal for a sliding scale extrapolation factor submitted previously by ARRL as part of its *ex parte* filing of July 8, 2005 in this proceeding, (2) the *NTIA Phase 2* and *Brazil* studies with respect to their findings on the extrapolation factor for BPL systems, and (3) the existing slant-range method as it pertains to the effective field attenuation rate in a horizontal distance context. The Commission further requested submission of any other new empirical studies or information that may provide information regarding the BPL distance attenuation extrapolation factor. The Commission stated that its goal in this review is to provide BPL measurement procedures that will adequately ensure compliance with the Section 15.209 emissions standard for emissions at or below 30 MHz without placing unfair or undue compliance burdens on equipment manufacturers and users. In conducting this review, the Commission indicated that initially it continued to believe the existing 40 dB/decade extrapolation factor, in conjunction with the slant-range distance method, was reasonable and appropriate for adjusting measurements of BPL emissions on frequencies below 30 MHz.

42. The Commission also recognized that there is considerable variability around the 40 dB/decade value at different sites. The result of this variability is that the actual attenuation at some sites could be less than 40 dB/decade and using the current extrapolation factor at such sites could produce an adjusted measurement that would be less than the level that would be measured at the standard 30-meter measurement distance specified in § 15.209 of the Commission's rules. The Commission therefore requested comment on whether it would be desirable to modify the value of the BPL extrapolation factor to be 30 dB/decade or some other value. It observed that extrapolated emission levels based on a 30 dB/decade extrapolation factor when applied to slant distance would be comparable to the extrapolated emission levels based on a 20 dB/decade extrapolation factor applied to horizontal (lateral) distance. Recognizing that reliance on a 30 dB/

decade extrapolation factor could increase the compliance burden for BPL equipment and systems that are tested at locations where the attenuation rate is in fact in the range of 40 dB/decade or greater, the Commission clarified that in all cases, measurements of Access BPL equipment and systems will be allowed to be made at the 30-meters distance specified in § 15.209 of the Commission's rules and that where possible, the Commission's staff will make measurements at this distance when testing for compliance.

43. After consideration of the most recent information and comments on this matter and further deliberation on all of the studies and information in the record, the Commission has decided to retain the 40 dB/decade extrapolation factor for frequencies below 30 MHz. There are several reasons that lead us to this conclusion. Initially, the Commission observed that the 40 dB/decade extrapolation for frequencies below 30 MHz has served successfully in our program to control emissions from radio frequency devices for many years. It also observed that, while ARRL contends that 20 dB is the only scientifically correct and valid value for an extrapolation factor, the studies and information before us shows considerable differences in extrapolation factors under various powerline system configurations and usage conditions. The Commission concludes that there is no single ''correct'' value for an extrapolation for RF emissions from power lines, and instead find that the compelling and reasonable solution is to use the existing part 15 extrapolation factor that both has a scientific basis and has stood the test of time for a wide variety of devices and systems. It also notes that, using the slant range method in performing measurements has the effect of reducing the extrapolation factor to approximately 20 dB. The Commission considers too, that the extrapolation factor used with BPL measurements is only one element in a comprehensive set of rules that are designed and intended to minimize the risk of harmful interference from BPL operations and to put in place appropriate measures to eliminate such interference if it should occur. In that context, the rules require that harmful interference be corrected under any circumstances. Measurements for examination of compliance are important, to be sure, but interference must be corrected even if measurements indicate that the BPL operations at the site are compliant. While ARRL asserts that an extrapolation factor that is too lax will lead to widespread instances of harmful interference that should be corrected *ex ante* as opposed to *ex post,* it has seen little evidence of harmful interference being caused under the rules as adopted with a 40-dB extrapolation factor.

44. In addition, the Commission notes that there is no support from any of the commenting parties that modifying the extrapolation factor to 30 dB/decade in order to take a more conservative approach that would compensate for the variability in the attenuation rate would provide a more appropriate extrapolation factor. Therefore, it is not adopting that change. To provide clarity for those conducting measurements for compliance of Access BPL equipment and systems with § 15.209 of the Commission's rules emissions standards, the Commission specifies the extrapolated values of compliant emissions levels at 3-meter and 10-meter horizontal (lateral) distance from the nearest point of the overhead power line carrying the BPL signals for typical heights of medium voltage power lines in the BPL measurement guidelines. The Commission is also adopting its proposal for a new method for determination of site specific extrapolation factors in measurements of emissions from BPL systems.

45. Looking more closely at this issue, the Commission finds that ARRL has not provided convincing information that the value of the measurement distance extrapolation factor for Access BPL should be reduced from 40 dB/decade to 20 dB/decade or some other number close to that value. While ARRL offers detailed and lengthy submissions of information on propagation of RF energy below 30 MHz and critiques of the studies, analyses and information provided by others, including this Commission, that information does not provide any new insights on radio propagation that would alter our decision. Moreover, its arguments for a 40 dB/decade standard do not account for two key factors that affect the significant attenuation of RF energy in this region of the spectrum: Factors in the emissions process (such as ground effects and the presence of multiple power lines and their position on the pole) and the significant variability in attenuation rate across different installation sites.

46. The Commission finds ARRL arguments to be unpersuasive. First, it is important to recognize that there is no ''FCC-laboratory recommendation'' as characterized by ARRL. The Commission is under no obligation to discuss in a rulemaking proceeding every staff observation or opinion provided during the course of internal deliberations. It observes that the 20 dB/decade extrapolation factor was part of one of three options presented on slide #19. The presentation offered no specific analysis or measurement data supporting this extrapolation factor. Rather, as specified on the slide, the authors offered it as a way to postpone and/or reduce the interference potential of BPL systems. Additionally, as noted by Arkados and HomePlug, none of the five FCC staff presentations actually examined the path loss extrapolation factor, but rather, they examined other technical issues such as the effect of the distance down the power line, differences in radiated field strength due to the detector that was employed, effect of measurement receiver antenna height, audible interference and antenna polarization. The Commission therefore did not (and still do not) consider that the information on which the provided option on slide #19 was based to be sufficient or compelling such that it should override or supersede other information that we also considered in the extrapolation factor decision. As UTC observes, the staff presentations merely included a 20 dB/decade extrapolation factor as one option among many for regulating BPL operations in the HF bands; the presentations did not find that a 20-dB extrapolation factor represented the actual rate of decay, nor did they contain any underlying information or analysis that would support such a finding. Further, with respect to ARRL's assertions regarding our use of new studies in the *RFC/FNPRM* as *ex post facto* evidence, it apparently overlooks our quite specific statement therein that the decision to adopt the 40 dB/decade standard was based on information available at the time of the decision, not newly available information.

47. With regard to the new studies identified in the *RFC/FNPRM,* ARRL contends that the major flaw in the *NTIA Phase 2 Study* is that the modeling used does not fully account for the way that field strength decays at angles other than 90 degrees. ARRL further argues that with respect to height, the report errs in its attempted justification of the 5 dB height correction above 30 MHz but not below, and it justifies 40 dB/decade by disregarding 20 percent of the data points. On the other hand, CURRENT quotes the *NTIA Phase 2 Study* as stating: ''[a]t or above 10 MHz, the simulation results show good agreement between the rate that field strength decays and the [40 dB/decade] distance extrapolation rate in the part 15 rules.''

HomePlug also agrees that the *NTIA Phase 2 Study* clearly demonstrates that the 40 dB/decade extrapolation factor is the correct value at or above 10 MHz, and much closer below 10 MHz than figures used in the studies submitted by ARRL. The Commission observes that NTIA's modeling in its *Phase 2 Study* indicates that the field along a complex power line model is highly varied, with areas of greater and lesser field strength produced by cancellation and reinforcement effects. However, there are some regularities, including field strength maxima at multiples of wavelengths along the power line, which is the reason why the Commission adopted the requirement for measurements at multiple points along the power lines in our BPL measurement guidelines. In addition, as discussed above, ARRL's own modeling shows that the magnetic field (measured below 30 MHz) does not vary greatly with height. Further, the Commission agrees with NTIA's position that ''the 80th percentile values eliminate the localized peaks that are unlikely to be encountered by a radio receiver randomly located in close proximity to an Access BPL power line.'' Thus, the Commission finds that the *NTIA Phase 2 Study* is not flawed as argued by ARRL.

48. The Commission recognizes the concerns of ARRL and IBEC regarding the *Brazil Study.* In addition, like the OFCOM studies before it, the *Brazil Study* would, in the best of circumstances provide only anecdotal information on the attenuation rate of BPL emissions as it only conducted measurements at a single location, rather than the very large number of sites that would be needed to develop a generalized description of that parameter. As it stated in the *RFC/FNPRM,* these studies do, however, provide an indication that BPL emissions tend to attenuate at rates that vary substantially across different sites, and that those rates can be much higher than the 20 dB/decade suggested by ARRL. In fact, the *Brazil Study,* while not individually probative, provides support for a much higher extrapolation factor than the similarly insubstantial OFCOM studies provided by ARRL.

49. The Commission agrees with ARRL that emissions radiating upwards from overhead power lines are likely to attenuate at lower rates than emissions radiating horizontally and lower to the ground. In cases where an amateur antenna is located on a tower above the height of the power lines, as is typical of fixed amateur stations, we would expect that the level of any emissions received by that antenna might typically be higher than emissions received by a similar antenna located below the height of the power lines, all other things the same, because the path to the tower-mounted antenna will be less affected by the ground. However, the Commission's Access BPL rules provide for protection of such antennas by the absolute application of the prohibition against causing harmful interference in § 15.5 of the rules. Also the Commission would generally expect that if a BPL installer sees a tower-mounted antenna, the installer would take steps to avoid interference to it before the system commences operation. In any case, for safety reasons, our rules provide for measurement of Access BPL systems from locations relatively close to the ground, where attenuation rates are likely to be higher, rather than at heights similar to power lines.

50. ARRL argues a number of technical points to support using the free-space (or near free-space) 20 dB/decade attenuation rate associated with line sources. Again, the Commission agrees with ARRL on all of these technical points of well-documented RF propagation theory. While it did not explain earlier decisions on Access BPL at the level of detail that involved mentioning these factors (and do not believe that it is routinely necessary to explain propagation considerations which are a matter of accepted electromagnetic physics theory), the Commission did consider them in its decision. In fact, they were an intrinsic element of our deliberations. As a result, the Commission included provisions in the Access BPL measurement guidelines for testing along the power lines at specified intervals where emissions would be expected to be highest. It also considered that ground absorption and other environmental effects present near the surface that limit RF propagation typically result in attenuation of emissions in the MF and HF bands at rates much higher than the 20 dB/decade free space model, especially at the 1 meter height specified in the Access BPL measurement guidelines.

51. ARRL contends it is illogical to conclude that, if a 20 dB/decade extrapolation is appropriate at 30.001 MHz, the extrapolation somehow suddenly jumps to 40 dB/decade at 29.999 MHz. While ARRL is correct with regard to the physics of this issue, as CURRENT observes, ''regulation is often a matter of drawing bright lines through gray lines.'' The Commission commonly uses ''bright line'' standards in its rules to provide clarity, simplicity, predictability and ease of applicability. The ''bright line'' difference in the extrapolation factors for under and over 30 MHz is intended to provide clear guidance in a region of the spectrum where there is considerable variability in the predictability of results. The Commission continues to believe that the current ''fixed line'' or ''bright-line'' approach for the different extrapolation factors above and below 30 MHz is appropriate for practical and administrative purposes.

52. The arguments of ARRL and CURRENT concerning the technical validity of using 40 dB/decade as the extrapolation factor for measuring emissions on frequencies below 30 MHz demonstrate the complexity involved in describing and estimating field strengths in the near-field regions of emissions. ARRL is generally correct in its technical presentation of the theory of such fields, *i.e.,* that emissions decay in the reactive near field at a rate of 40 dB/decade within a distance of $\lambda/2\pi$ from the source and then in the radiating near field out to $2D^2/\lambda$ at a rate of 20 dB/decade. The very long lengths of typical power line segments therefore would not be expected to affect the decay rate of field strengths relative to reactive near field phenomena and therefore at distances greater than 10 meters all frequencies above 4.78 MHz will generally be outside the reactive near field boundary. However, ARRL's description of the behavior of fields also shows that while the attenuation rate in the radiating near field is generally on the order of 20 dB/decade (in the free-space or near free-space case), there are standing wave patterns and other phenomena that make predictions unreliable. In addition, when measuring relatively close to the ground (at the 1-meter height specified for measurements at frequencies below 30 MHz), the proximity to and variation of ground features and other conditions cause great variability in signal levels. ARRL recognizes these ground effects, but argues that licensed services should not be protected only at ground level and that to do this the extrapolation factor should take into account the normally encountered antenna height of the victim receiver. Given that BPL measurements will be made close to the ground for the safety and practical reasons indicated and the propagation characteristics that are likely to be present in ground environments, the Commission continues to believe that there is justification for presuming that the expected attenuation rate of measured emissions at frequencies below 30 MHz is greater than 20 dB/decade. It also agrees with ARRL that licensed services should be protected in all cases and in this regard, the regime

of rules we have established for Access BPL systems, provides that protection.

53. The Commission observes that none of the standards mentioned by ARRL apply to Access BPL equipment and the specific environments in which these devices operate. In particular, even though ARRL insists that the CISPR 18 standard does apply to BPL as it would apply to any source of RF noise, the Commission notes that CISPR has been working on the subject of an emission standard for BPL as far back as 2000 under CISPR Subcommittee G. The work to develop a standard specific to BPL has continued in CISPR Subcommittee I, however, this work has been recently reset to its preliminary stage due to the complex issues surrounding RF emissions at frequencies below 30 MHz, with signal attenuation being highly variable depending on the localized environment. Moreover, the Commission finds that the record in this proceeding has established a substantial body of information that supports the use of 40 dB/decade in conjunction with slant-range distance to adjust the emissions level for test results obtained in accordance with the measurement standards it adopted for Access BPL.

54. In addition, as discussed in the *RFC/FNPRM,* the slant-range distance method in the Access BPL measurement guidelines works with the 40 dB/decade factor to yield extrapolated emissions level values that have the effect of imposing a more conservative emissions standard than would be derived using the horizontal (lateral) distance from the nearest point of the overhead power line carrying the BPL signals. In this regard, at the relatively short distances at which Access BPL emissions are to be measured, *i.e.,* distances 30 meters or less, applying the slant-range measurement method in the extrapolation of the measurements effectively reduces the compliant emission levels for BPL systems with respect to the horizontal distance from the power line. This reduction results because at any given horizontal distance from the power line, the slant-range distance is longer than the horizontal distance. The relationship is one of basic plane geometry that occurs due to the height of the power line on which the BPL signal injector is installed. When extrapolated values at 40 dB per decade of slant-range distance are plotted against the horizontal distance, the effective extrapolated emission level curve more closely follows the emission level curve based on a 20 dB per decade extrapolation factor at horizontal distances than the emission level curve based on a 40 dB per decade extrapolation factor at horizontal distances. NTIA's modeling results in its *Phase 2 Study* effectively reflect this observation. Also, given that the Access BPL measurement guidelines require compliance measurements to be taken at 30 meters or less, the effect of the slant-range distance provision is significant at all distances where the extrapolation factor can be used.

55. ARRL and several of the commenting parties addressed the Commission's request for comment on whether it would be desirable to modify the extrapolation factor to be 30 dB/decade or some other value to account for the considerable variability around the 40 dB/decade expected attenuation value at different sites. It was our intent that this lower value would apply a more conservative approach that would compensate for those cases where the actual attenuation is less than 40 dB. In opposing this plan, ARRL asserts that the Commission is not apparently convinced by its own *ex post* argument justifying use of 40 dB/decade, as it immediately thereafter abandoned that argument and proposed instead to adopt an equally unjustified 30 dB/decade extrapolation factor in what appears to be the ''King Solomon'' approach rather than a real scientific analysis. ARRL rejects the approach underlying the 30 dB/decade proposal and argues that the Commission is obligated to adopt a scientifically valid extrapolation standard, which it contends is 20 dB/decade. The UTC and CURRENT also oppose such a change, stating that the Commission was correct to select 40 dB/decade as the distance extrapolation and that it should maintain that value. UPLC argues that a 30 dB/decade value would be inappropriate and that a reduced value would impose a significant compliance burden on Access BPL systems. CURRENT argues that the Commission's original selection of 40 dB/decade is well supported by the record and that the mere possibility of other supportable conclusions, especially if based on other studies, does not warrant a change. CURRENT and the UTC further submit that the now-demonstrable lack of interference reports from CURRENT's extensive operations supports not changing the extrapolation standard.

56. It is plain from the record that reducing the extrapolation factor to the more conservative 30 dB/decade level to compensate for those situations in which the actual attenuation is less than 40 dB/decade would not satisfy the concerns of any of the parties to this matter or otherwise provide any benefits that would improve our Access BPL measurement guidelines. Contrary to ARRL's misapprehension, our consideration of a reduction in the extrapolation factor was not intended as a ''compromise'' approach in consideration of the wide variations in the studies and data before us. Rather, it was a recognition of the uncertainty or inexactness inherent in the information available and the amount of analysis undertaken at the time, and a signal of our openness in reconsidering the issue in that light.

57. Taking into consideration the above evaluations and all of the additional information before us now, the Commission believes that the most compelling path points to retaining the 40 dB extrapolation factor. In this regard, it first observed that it used this extrapolation value successfully with measurements at frequencies below 30 MHz in its program to control emissions from radio frequency devices for many years. This includes not only consumer products, but also industrial, scientific and medical equipment that may use thousands of watts of power and couple radio noise onto power lines that can radiate for significant distances. In addition, while ARRL asserts that there is only one scientifically correct and valid answer of an extrapolation factor of 20 dB, the studies and information before us show considerable differences in extrapolation factors under various system configurations and usage condition. The Commission concludes that there is no single ''right'' value for the extrapolation factor that accurately reflects environmental conditions in all cases, and instead finds that the most appropriate decision is to use the existing value in the rules that both has a scientific basis and has stood the test of time for a wide variety of devices and systems. The Commission also considers that, as observed in the discussions, using the slant range to perform measurements has the effect of reducing the extrapolation factor to approximately 20 dB. In addition, the attenuation factors that are typically present when making measurements close to the ground, as specified in the BPL rules, tend to increase the signal loss above that which occurs from the spreading of energy in free space propagation. Finally, while one can debate the propriety and scientific validity of any particular extrapolation factor, the Commission must consider that the extrapolation factor is but one element in the context of an overall set of rules that are designed to minimize the risk of harmful interference and to put in place appropriate measures to eliminate such interference if it should occur. Whether the extrapolation factor

is 20 dB or 40 dB or somewhere in between is far less important than the fact that harmful interference must be corrected under any circumstances. While ARRL asserts that an extrapolation factor that is too lax will lead to widespread instances of harmful interference that should be corrected *ex ante* as opposed to *ex post,* the Commission has seen little evidence of harmful interference being caused. Accordingly, the Commission will not modify the extrapolation factor for the emissions standard for frequencies below 30 MHz to compensate for the variability in the field strength attenuation rate at different locations.

58. The Commission also reiterates here the clarification it issued in the *RFC/FNPRM* that measurements of BPL equipment and systems should be made at the 30-meters distance specified in § 15.209 of the Commission's rules unless circumstances such as high ambient noise levels or geographic limitations are present, in which case, a 3-meter or 10-meter horizontal distances indicated in the BPL measurement guidelines may be used. The Commission further clarifies that measurements made at the 30-meter distance specified in the § 15.209 of the Commission's rules emissions standard will prevail over measurements made at shorter distances and that where possible and practical, the Commission's staff will make measurements at this distance when testing for compliance. As indicated, to provide additional clarity in our compliance requirements, the Commission also amended the BPL measurement guidelines to specify the extrapolated values of the emissions level for compliance at 3-meter and 10-meter horizontal distances from the nearest point of the overhead power line carrying the BPL signals for typical heights of medium voltage power lines. These clarifications of the existing rules as well as the adoption of the definition for slant-range distance would assist the industry in ensuring compliance of BPL systems without imposing additional regulatory costs.

Site-Specific Extrapolation Factors

59. In the *RFC/FNPRM,* the Commission proposed to allow parties testing BPL systems for compliance with the radiated emissions limits to determine distance correction factors on a site-by-site basis using a new *in situ* measurement procedure designed specifically for Access BPL. This plan, which was based on a concept under consideration in the IEEE Working Group P1775/D2 effort at that time and which has been finalized since, would allow entities conducting measurements of Access BPL systems and equipment to determine an extrapolation factor specific to a site by fitting a straight line to measurements of field strength in dBμV/m vs. logarithmic distance in meters from the nearest conductor carrying BPL emissions, where the extrapolation factor would be taken as the slope of that line. The Commission indicated that the site-specific extrapolation factor would be an alternative to the extrapolation factor specified in the BPL measurement guidelines and would be replacing the existing method using only two data points for determining site-specific extrapolation factors currently in the rules. The proposed alternative method would only be applicable to Access BPL devices operating on frequencies below 30 MHz.

60. Under the proposal in the *RFC/FNPRM,* entities conducting measurements would determine an extrapolation factor specific to the site by fitting a straight line to measurements of field strength in dBμV/m vs. logarithmic distance in meters from the nearest conductor carrying BPL emissions, where the extrapolation factor would be taken as ten times the slope, *n,* of that line. The slope *n* any point on the straight line in μV/m would be:

$$(20\log E_r - 20\log E_2)/(10\log D_2 - 10\log D_r)$$

where E_r is the measured field strength at distance D_r

The field strength in dBμV/m at any distance D along the best straight line fit is estimated from the value of *n* as:

$$20\log E_r = 20\log E_2 + n(10\log D_2 - 10\log D_r)$$

The extrapolation factor would be derived from a best straight line fit determined by a linear least squares regression calculation from measurements made at four or more lateral distances from the overhead line, starting at no less than 6 meters from the lateral plane and spaced from each other by at least 3 meters. If these measurements allow a straight line with a negative slope to be calculated or drawn with reasonable fit (the minimum regression coefficient of multiple correlation would be 0.9), the best straight line fit would be used to calculate field strength at the 30-meters standard measurement distance in the rules according to the equation above. If the four measurements do not fall near any straight line or negative slope, measurements at a new distance would be added until a reasonable fit to a straight line is indicated. In addition, measurements that obviously show a ''null'' or other ''outlier'' value would be ignored. Parties employing site-specific extrapolation values would be required to provide a record of the measurements under the above procedure and to submit those measurements and their derivation of the *in situ* values with any measurements with compliance submissions to the Commission.

61. The Commission continues to believe the availability of a site-specific approach for determining values for extrapolation of measurements of Access BPL emissions on frequencies below 30 MHz is a desirable and useful alternative to the fixed extrapolation factor. The option to use site-specific values can substantially alleviate the measurement concerns associated with the standard extrapolation factor and the variability in attenuation rates that may be observed in the field, and particularly where measurements at a site may plainly not appear to conform to the 40 dB/decade standard. It also recognizes ARRL's concerns that a site-specific option could be abused by careful selection of measurement points. However, the Commission finds that the proposed approach that requires four measurements spaced at least 3 meters apart with provisions for additional measurements where a straight line with a negative slope is not approximated by the four initial measurements, is sufficient to develop a reliable indication of the attenuation rate at a site. In particular, it believes the requirement in this new procedure that the measurements used to develop the extrapolation value approximate a straight line with a negative slope as determined through the linear least squares regression method (with a minimum regression coefficient of multiple correlation of 0.9) will adequately guard against the ''cherry picking'' concern mentioned by ARRL. Where such a line cannot be approximated, the Commission will also require that measurements be made at a different perpendicular position along the power line very nearby or at the same perpendicular position but on the opposite side of the line from the first set of measurements.

62. This new site-specific procedure will replace the existing § 15.31(f)(2) of the Commission's rules alternative for Access BPL that only requires two measurements. This plan conforms substantially to the IEEE P1775–2010 standard which has been developed. The Commission observes that a straight line best fit of multiple data points using the least squares regression technique is not a new idea developed by the IEEE standard, it is a well-established and commonly used

statistical method. It notes that in the *RFC/FNPRM,* it proposed to derive the extrapolation factor from a best straight line fit determined by a linear least squares regression calculation from measurements made at four or more lateral distances from the overhead line, starting at no less than 6 meters from the lateral plane and spaced from each other by at least 3 meters; at that time, the IEEE standard was in a state of transition and we were merely proposing a measurement concept. The Commission now observes the IEEE P1775–2010 has finalized its standard to specify that measurements be made at four or more lateral distances from the overhead line, starting at no less than 3 meters from the lateral plane and spaced from each other by at least 3 meters. The Commission adopted the distances as specified in the IEEE published standard for the new site-specific measurement procedure. This procedure is an improvement over the current procedure for determining site-specific extrapolation factors in § 15.31(f)(2) of the Commission's rules, which requires only two measurement points without any specific separation distance. The Commission cautions parties responsible for certification measurements to bear in mind that the objective of the site-specific procedure is to plot enough data points to draw a valid extrapolation curve; accordingly, in some situations the number of measurement points may need to exceed the recommended minimum for the resulting extrapolation to be valid. Further, as stated in the *BPL Order* and the *BPL Reconsideration Order,* operators of Access BPL systems are responsible for eliminating any harmful interference that may occur or must cease operation upon notification by a Commission representative that the device is causing harmful interference. Accordingly, the Commission amended its rules as set forth in Appendix C of this Order to establish a new method for determining site-specific extrapolation values for Access BPL measurements as described herein. Because this is an alternative method intended to facilitate compliance measurements which may be used at the BPL operator's discretion, the requirement provides benefits without imposing additional regulatory costs. The benefits of having this additional method would enable BPL operators to better adjust the operating parameters of BPL devices according to specific installation sites that might not conform to the standard extrapolation value, which could lead to cost savings and reduced interference potential. Additional provisions of this procedure are set forth in the revised Access BPL measurement guidelines in Appendix D of the Order.

63. The Commission will not allow the site-specific procedure to be used at locations within 30 meters of a power pole with a ground conductor where the Access BPL signals devices are carried on a neutral/grounded line of the power system. In this regard, it is concerned that emissions from a grounding conductor mounted on the side of a power line pole could combine with the emissions from the overhead neutral power line to produce false indications of the attenuation rate that would distort the slope of the extrapolation curve. Accordingly, the Commission amended its rules as set forth in Appendix C to establish a new method for determining site-specific extrapolation values for Access BPL measurements as described herein. Additional provisions of this procedure are set forth in the revised Access BPL measurement guidelines in Appendix D of the Order.

The Access BPL Database

64. ARRL contends that the BPL database is virtually useless due to errors, omissions and listings of systems that are not operating any longer and systems that have never been placed in operation. It cites as an example an incident in which it sent an email message to the person listed in the database for the Manassas, VA, BPL system, it found the email contact was invalid and follow-up email messages to the City of Manassas went unanswered. In its reply comments, the City of Manassas submits that when the system operator, Comtek, transferred operation of the system to the city, the contact was not updated immediately but the error was corrected promptly in April 2009 when the city was notified by ARRL that the listing was incorrect. The Commission agrees with ARRL that the database should be maintained with accurate, up-to-date information. The Commission's staff contacted the database manager, UTC, about ARRL's concerns and in its reply comments, UTC affirms that the database has been and is being reviewed periodically to ensure that the information is currently accurate. The Commission does note that while it is important that the database be up-to-date in all respects, it is most important that operating and soon-to-be operating systems not be omitted and it does not have information that such systems were not or are not listed. The Commission therefore encourages UTC to continue to be diligent in its management of the database and other interested parties to work with UTC in providing information to ensure that the records in the database are accurate and up-to-date.

Final Regulatory Flexibility Analysis

65. As required by the Regulatory Flexibility Act (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Request for Comment and Further Notice of Proposed Rulemaking* (RFC/FNPRM) in ET Docket Nos. 04–37 and 03–104.[2] The Commission sought written public comment on the proposals in the *RFC/FNPRM,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Second Report and Order

66. The Second Report and Order maintains the existing Access BPL emissions standards and other technical operation rules, as well as the existing extrapolation 40 dB/decade factor prescribed in the rules for use in measurement of emissions from Access BPL systems. In addition, the Second Report and Order modifies the rules to (1) Require a deeper notch filter depth when a notch filter is used to avoid interference to a specific frequency band; (2) adopt a definition for the slant-range distance used in the BPL measurement guidelines to further clarify its application; and (3) establish a new procedure for determining site-specific extrapolation factors.

67. The decisions in the Second Report and Order are consistent with the mandate by the United States Court of Appeals for the District of Columbia in *ARRL* v. *FCC,* and will provide regulatory certainty for both manufacturers of Access BPL equipment and systems operators so that development of equipment and construction of facilities can proceed unimpeded by any concerns about the status of the regulations with which equipment and systems must comply.[3]

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996), and the Small Business Jobs Act of 2010, Public Law 111–240, 124 Stat. 2504 (2010).

[2] *Request for Further Comment and Further Notice of Proposed Rulemaking* in ET Dockets No. 04–37 and 03–104 (*Amendment of Part 15 Regarding New Requirements and Measurement Guidelines for Access Broadband Over Power Line Systems, Carrier Current Systems*), 24 FCC Rcd 9669 (2009) (RFC/FNPRM).

[3] *See American Radio Relay League, Incorporated,* v. *Federal Communications Commission* (*ARRL* v. *FCC*), 524 F.3d 227 (D.C. Cir. 2008).

B. Statement of Significant Issues Raised by Public Comments in Response to the IRFA

68. There were no public comments filed that specifically addressed the rules and policies proposed in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

69. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration, and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

70. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[4] The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under Section 3 of the Small Business Act.[5] Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operations; and (3) meets may additional criteria established by the Small Business Administration (SBA).[6]

71. Nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA.[7] A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''[8] Nationwide, as of 2002, there were approximately 1.6 million small organizations.[9] The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.''[10] Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.[11] We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.''[12] Thus, we estimate that most governmental jurisdictions are small.

72. The adopted rules pertain to manufacturers of unlicensed communications devices. The appropriate small business size standard is that which the SBA has established for radio and television broadcasting and wireless communications equipment manufacturing. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.''[13] The SBA has developed a small business size standard for firms in this category, which is: All such firms having 750 or fewer employees.[14] According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. Of this total, 784 had less than 500 employees and 155 had more than 100 employees.[15] Thus, under this size standard, the majority of firms can be considered small.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

73. The Second Report and Order does not contain new or modified information collection requirements. The minor modified technical requirements adopted in this Second Report and Order, as discussed below, do not impose significant burden and will not have a significant economic impact on a substantial number of small entities that are, or may be, subject to the requirements of the rules in the item.

F. Steps taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

74. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

75. In this Second Report and Order, we modify our rules and measurement procedures for Access BPL devices operating below 30 MHz to (1) Require a deeper notch filter depth when a notch filter is used to avoid interference to a specific frequency band; (2) establish a new procedure for determining site-specific extrapolation factors; and (3) adopt a definition for the slant-range distance used in the BPL measurement guidelines to further clarify its application. In reviewing the requirement for a 20-dB notching capability and current developments in BPL equipment, we now find that it would be appropriate to increase the required notching capability of Access BPL systems operating below 30 MHz to 25 dB from the existing requirement of 20 dB, when a notch filter is used to avoid interference to a specific frequency band. This deeper notching capability is technologically available and voluntarily implemented in the field by Access BPL operators to avoid potential interference to amateur radio operators; therefore, the new requirement would not pose a substantial burden on Access BPL manufacturers. To afford manufacturers time to redesign their equipment to comply with the new, more conservative 25-dB notching requirement, we are allowing an 18-month period from the date this action is published in the **Federal Register** before the requirement becomes effective.

76. The Commission further established an alternative method to allow parties testing BPL systems for compliance with the radiated emissions limits to determine distance correction

[4] *See* 5 U.S.C. 603(b)(3).

[5] *Id.* 601(3).

[6] *Id.* 632.

[7] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *http://www.sba.gov/advo/stats/sbfaq.pdf* (accessed Dec. 2010).

[8] 5 U.S.C. 601(4).

[9] Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

[10] 5 U.S.C. 601(5).

[11] U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

[12] We assume that the villages, school districts, and special districts are small, and total 48,558. *See* U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

[13] U.S. Census Bureau, 2007 NAICS Definitions, ''334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing''; *http://www.census.gov/naics/2007/def/ND334220.HTM#N334220.*

[14] 13 CFR 121.201, NAICS code 334220.

[15] *http://factfinder.census.gov/servlet/IBQTable?_bm=y&-fds_name=EC0700A1&-geo_id=&-_skip=300&-ds_name=EC0731SG2&-_lang=en.*

factors on a site-by-site basis using an *in situ* measurement procedure when measurements cannot be made at the reference measurement distance of 30 meters as specified in the rules. Because this is an alternative method intended to facilitate compliance measurements which may be used at the BPL operator's discretion, the requirement provides benefits without imposing additional regulatory costs. The benefits of having this additional method would enable BPL operators to better adjust the operating parameters of BPL devices according to specific installation sites that might not conform to the standard extrapolation value, which could lead to cost savings and reduced interference potential.

77. In addition, the Commission clarify that parties testing BPL equipment and systems for compliance with emissions limits in our rules should measure at the standard reference 30-meter distance whenever possible, and only measure at the shorter distances recommended in the BPL measurement guidelines if safety or ambient conditions require taking measurements at a closer distance such as 10 meters or 3 meters from the overhead line. The Commission also adopts a definition for the slant-range distance used in the BPL measurement guidelines to further clarify its application. The Commission also modified its BPL measurement guidelines to provide clarity for those conducting measurements for compliance of Access BPL equipment and systems with the § 15.209 of the Commission's rules emissions standards by specifying the extrapolated values of compliant emissions levels at 3-meter and 10-meter horizontal (lateral) distance from the nearest point of the overhead power line carrying the BPL signals, for typical heights of medium voltage power lines. These clarifications of the existing rules as well as the adoption of the definition for slant-range distance would assist the industry in ensuring compliance of BPL systems, promoting possible cost savings without imposing additional regulatory costs.

Report to Congress

78. The Commission will send a copy of the Second Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[16] In addition, the Commission will send a copy of the Second Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA.[17]

79. *Congressional Review Act.* The Commission will send a copy of this Second Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

80. Pursuant to the authority contained in sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f) and 303(r), this Second Report and Order is hereby *Adopted* and part 15 of the Commission's Rules *Are Amended* as set forth in Final Rules effective December 21, 2011.

List of Subjects in 47 CFR Part 15

Communications equipment, Radio.

[16] *See* 5 U.S.C. 801(a)(1)(A).

[17] *See* 5 U.S.C. 604(b).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 15 to read as follows:

PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a and 549.

■ 2. Section 15.3 is amended by adding paragraph (hh) to read as follows:

§ 15.3 Definitions.

* * * * *

(hh) *Slant-Range Distance.* Diagonal distance measured from the center of the measurement antenna to the nearest point of the overhead power line carrying the Access BPL signal being measured. This distance is equal to the hypotenuse of the right triangle as calculated in the formula below. The slant-range distance shall be calculated as follows:

$$d_{slant} = \sqrt{\left(h_{pwr_line} - h_{ant}\right)^2 + \left(d_h\right)^2}$$

Where:

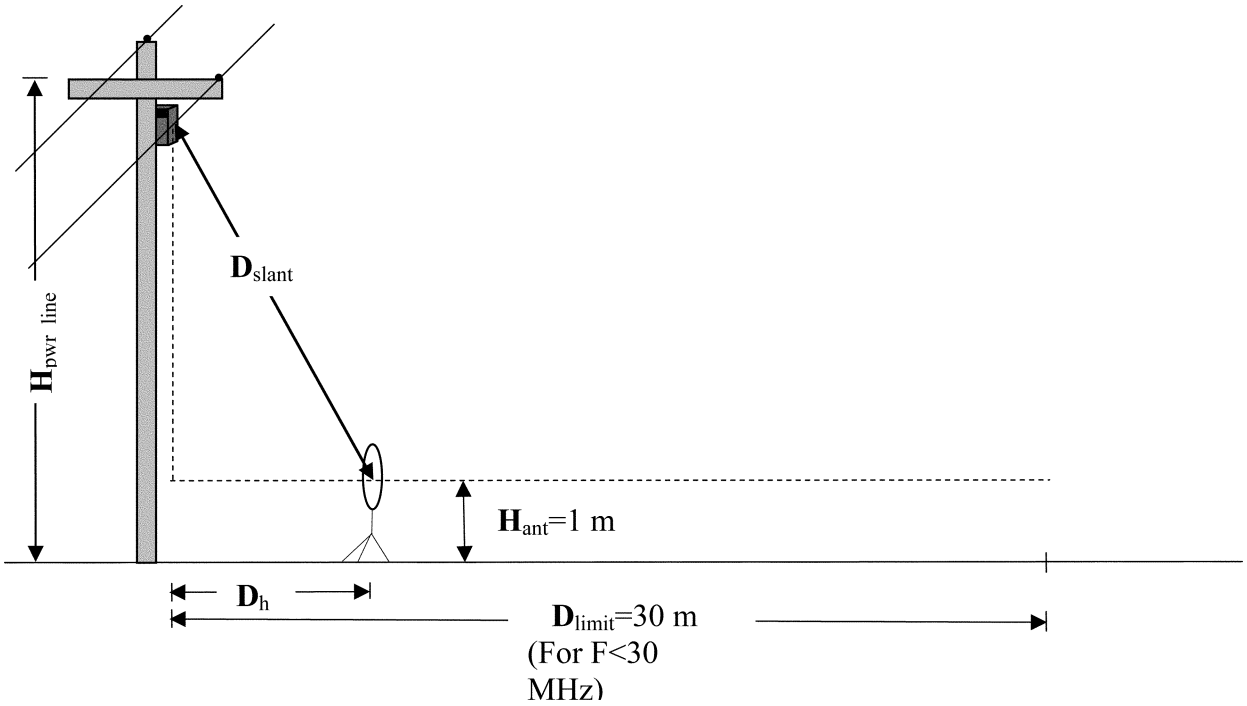
d_{slant} is the slant-range distance, in meters (see Figure 1, below);

d_h is the horizontal (lateral) distance between the center of the measurement antenna and the vertical projection of the overhead power line carrying the BPL signals down to the height of the measurement antenna, in meters;

h_{pwr_line} is the height of the power line, in meters; and

h_{ant} is the measurement antenna height, in meters.

Figure 1 – Illustration of Slant-Range Distance



D_{slant} is the slant-range distance, in meters;
D_h is the horizontal (lateral) distance between the center of the measurement antenna and the vertical projection of the overhead power line carrying the BPL signals down to the height of the measurement antenna, in meters;
D_{limit} is the distance at which the emission limit is specified in Part 15 (*e.g.,* 30 meters for frequencies below 30 MHz);
H_{pwr_line} is the height of the power line, in meters; and
H_{ant} is the measurement antenna height, in meters.

■ 3. Section 15.31 is amended by adding a sentence at the end of paragraph (f)(2), by redesignating paragraphs (f)(3) through (f)(5) as (f)(4) through (f)(6), and by adding a new paragraph (f)(3) to read as follows:

§ 15.31 Measurement standards.

* * * * *

(f) * * *

(2) * * * This paragraph (f) shall not apply to Access BPL devices operating below 30 MHz.

(3) For Access BPL devices operating below 30 MHz, measurements shall be performed at the 30-meter reference distance specified in the regulations whenever possible. Measurements may be performed at a distance closer than that specified in the regulations if circumstances such as high ambient noise levels or geographic limitations are present. When performing measurements at a distance which is closer than specified, the field strength results shall be extrapolated to the specified distance by using the square of an inverse linear distance extrapolation factor (*i.e.,* 40 dB/decade) in conjunction with the slant-range distance defined in § 15.3(hh) of this part. As an alternative, a site-specific extrapolation factor derived from a straight line best fit of measurements of field strength in dBμV/m vs. logarithmic distance in meters for each carrier frequency, as determined by a linear least squares regression calculation from measurements for at least four distances from the power line, may be used. Compliance measurements for Access BPL and the use of site-specific extrapolation factors shall be made in accordance with the Measurement Guidelines for Access BPL systems specified by the Commission. Site-specific determination of the distance extrapolation factor shall not be used at locations where a ground conductor is present within 30 meters if the Access BPL signals are on the neutral/grounded line of a power system.

* * * * *

■ 4. Section 15.37 is amended by adding paragraph (o) to read as follows:

§ 15.37 Transition provisions for compliance with the rules.

* * * * *

(o) All Access BPL devices operating below 30 MHz that are manufactured, imported, marketed or installed on or after May 21, 2013 shall comply with the requirements specified in § 15.611(c)(1)(i) of this part.

■ 5. Section 15.611 is amended by revising paragraph (c)(1)(i) to read as follows:

§ 15.611 General technical requirements.

* * * * *

(c) * * *

(1) * * *

(i) For frequencies below 30 MHz, when a notch filter is used to avoid interference to a specific frequency band, the Access BPL system shall be capable of attenuating emissions within that band to a level at least 25 dB below the applicable Part 15 limits.

* * * * *

[FR Doc. 2011–30045 Filed 11–18–11; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 27 and 90

[WT Docket No. 06–150; CC Docket No. 94–102; WT Docket No. 01–309; WT Docket No. 03–264; WT Docket No. 06–169; PS Docket No. 06–229; WT Docket No. 96–86; WT Docket No. 07–166; FCC 07–132]

Service Rules for the 698–806 MHz Band, Revision of the Commission's Rules Regarding Public Safety Spectrum Requirements, and a Declaratory Ruling on Reporting Requirement Under the Commission's Anti-Collusion Rule

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that certain rules adopted in the Service Rules for the 698–806 MHz Band proceeding, to the extent they contained information collection requirements that required approval by the Office of Management and Budget (OMB), were approved, October 28, 2011.

DATES: The final rules published on August 24, 2007, 72 FR 48814, amending 47 CFR 27.14(g) through (l), 27.15, 27.50 and 90.176 are effective November 21, 2011.

FOR FURTHER INFORMATION CONTACT: Linda Chang, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th St. SW., Washington, DC 20554 at (202) 418–1339.

SUPPLEMENTARY INFORMATION: 1. In a *Second Report and Order* (''*Second R &O*'') released on August 10, 2007, FCC 07–132, and published in the **Federal Register** on August 24, 2007 at 72 FR 48814, the Commission adopted rules which contained information collection requirements subject to the Paperwork Reduction Act (PRA). The *Second R&O* stated that, upon OMB approval of the information collection requirements, the Commission would publish in the **Federal Register** a document announcing the effective date of these rules. On October 28, 2011 the OMB approved, for a period of three years, the information collection requirements contained in 47 CFR 27.14(g) through (l), 27.15, 27.50 and 90.176 of the Commission's rules under OMB Control No. 3060–1161.

2. On October 28, 2011, OMB approved the public information collection associated with these rule changes under OMB Control No. 3060–1161.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2011–30049 Filed 11–18–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 11–137; RM–11637, DA 11–1863]

Television Broadcasting Services; Montgomery, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Channel 32 Montgomery, LLC (''Channel 32''), the licensee of WNCF(TV), channel 32, Montgomery, Alabama, requesting the substitution of channel 31 for channel 32 at Montgomery. Channel 32 believes that operation on channel 31 would allow fuller replication of the station's former analog service area, which will significantly increase the geographic area within the station's protected contour. Therefore, the public interest will be served by substituting channel 31 for channel 32 at Montgomery.

DATES: This rule is effective December 21, 2011.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, *joyce.bernstein@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 11–137, adopted November 4, 2011, and released November 9, 2011. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document will also be available via ECFS (*http://fjallfoss.fcc.gov/ecfs/*). This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1 (800) 478–3160 or via the company's Web site, *http://www.bcipweb.com.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Alabama, is amended by removing channel 32 and adding channel 31 at Montgomery.

[FR Doc. 2011–30003 Filed 11–18–11; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 805

Notice of Rescission of Certain Regulations

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Final rule.

SUMMARY: The NTSB's regulations on Employee Responsibilities and Conduct, located at 49 CFR part 805 (part 805), have been superseded by regulations of the Office of Government Ethics (OGE) issued pursuant to the provisions of the Ethics in Government Act of 1978, as

amended, and codified at 5 CFR parts 2634 and 2635. Accordingly, the NTSB is rescinding part 805 in its entirety.

DATES: *Effective Date:* November 21, 2011.

FOR FURTHER INFORMATION CONTACT: William C. Love, NTSB Designated Agency Ethics Official, 490 L'Enfant Plaza East SW., Washington, DC 20594; telephone (202) 314–6088; email *loveb@ntsb.gov.*

SUPPLEMENTARY INFORMATION:

Background

In 1989, the President's Commission on Federal Ethics Law Reform recommended that individual agency standards of conduct be replaced with a single regulation applicable to all employees of the executive branch. Acting upon that recommendation, President Bush signed *Executive Order 12674* on April 12, 1989, which was subsequently modified and restated by Executive Order 12731 (Executive Order), signed by President Bush on October 17, 1990. Section 201(a) of the Executive Order required the OGE to promulgate regulations that ''establish a single, comprehensive, and clear set of executive-branch standards of conduct''. Accordingly, OGE published a final rule entitled ''Standards of Ethical Conduct for Employees of the Executive Branch'' (Standards) on August 7, 1992, with an effective date of February 3, 1993. The Standards, as amended, are codified at 5 CFR part 2635, and established uniform standards of ethical conduct applicable to all executive branch personnel.

Upon the effective date of the Standards, the NTSB's regulations contained in part 805, which relate to employee responsibilities and conduct, were superseded.

Rescission and Reservation

By this notice, the NTSB rescinds part 805 in its entirety, reserving such part for future use. The regulations contained in part 805 deal with employee responsibilities and conduct, and have been superseded by the Standards or by 5 CFR part 2634.

Administrative Procedure Act

The rescission of part 805 is exempt from the notice and comment procedure normally required by the Administrative Procedure Act. See 5 U.S.C. 553(a). Notice and comment before the effective date are being waived because this rule concerns matters of agency organization, practice and procedure.

Executive Orders 12866 and 12988

Because this rule relates to NTSB personnel, it is exempt from the provisions of Executive Orders Nos. 12866 and 12988.

Regulatory Flexibility Act

The NTSB has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. chapter 6, that this rescission will not have a significant economic impact on a substantial number of small entities because it only affects NTSB employees.

Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply to this rescission because it does not involve any collection of information subject to the approval of the Office of Management and Budget.

Congressional Review Act

The NTSB has determined that the rescission of the aforementioned regulations is not a rule as defined in 5 U.S.C. 804, and thus, does not require review by Congress.

List of Subjects in 49 CFR Part 805

Conflict of interest, Government employees, Standards of conduct.

The Amendment

In consideration of the foregoing, the National Transportation Safety Board amends chapter 8 of title 49, Code of Federal Regulations, as follows:

PART 805—[REMOVED AND RESERVED]

■ 1. Remove and reserve part 805.

Dated: November 15, 2011.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2011–29835 Filed 11–18–11; 8:45 am]

BILLING CODE 7533–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[FWS–R9–MB–2011–0088; 91200–1231–9BPP]

RIN 1018–AX98

Migratory Bird Permits; States Delegated Falconry Permitting Authority; Technical Corrections to the Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The States of Indiana, Iowa, Nebraska, New Jersey, New Mexico, North Carolina, Ohio, Oregon, Tennessee, Virginia, and Wyoming have requested that we delegate permitting for falconry to the State, as provided under our regulations. We have reviewed regulations and supporting materials provided by these States, and have concluded that their regulations comply with the Federal regulations. We change the falconry regulations accordingly. This rule also makes certain nonsubstantive editorial changes to correct minor errors and to clarify the regulations.

DATES: This rule is effective January 1, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen, (703) 358–1825.

SUPPLEMENTARY INFORMATION:

Background

We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on October 8, 2008 (73 FR 59448), to revise our regulations governing falconry in the United States. These regulations are found in title 50 of the Code of Federal Regulations (CFR) at § 21.29. The regulations provide that, when a State meets the requirements for operating under the regulations, falconry permitting must be delegated to the State.

The States of Indiana, Iowa, Nebraska, New Jersey, New Mexico, North Carolina, Ohio, Oregon, Tennessee, Virginia, and Wyoming have submitted revised falconry regulations and supporting materials and have requested to be allowed to operate under the revised Federal regulations. We have reviewed the regulations administered by these States and have determined that their regulations meet the requirements of 50 CFR 21.29(b). According to the regulations at § 21.29(b)(4), we must issue a rule to add a State to the list at § 21.29(b)(10) of approved States with a falconry program. Therefore, we change the Federal regulations accordingly, and a Federal permit will no longer be required to practice falconry in the States of Indiana, Iowa, Nebraska, New Jersey, New Mexico, North Carolina, Ohio, Oregon, Tennessee, Virginia, and Wyoming beginning January 1, 2012.

In addition, to conform with the provisions of the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668c), we change wording in 50 CFR 21.29(a)(1)(ii) by replacing the word ''used'' with the words ''taken from the wild.''

We also make three nonsubstantive improvements to the falconry regulations in 50 CFR 21.29. Paragraph

(c)(1) is not needed because the information in it is presented in paragraph (b)(10). We remove paragraph (c)(1). We also add paragraph (d)(1)(ii)(B)(*3*) to specify that an eyas raptor need not be kept in an indoor enclosure suitable for a flighted bird. Finally, we amend paragraph (f)(12)(i) to replace ''flight feathers'' with the more precise ''tail feathers and primary and secondary wing feathers.'' We also make other nonsubstantive editorial changes to correct minor errors and to clarify the regulations.

Administrative Procedure

In accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), we are issuing this final rule without prior opportunity for public comment. Under the regulations at 50 CFR 21.29(b)(1)(ii), the Director of the U.S. Fish and Wildlife Service must determine if a State, Tribal, or territorial falconry permitting program meets Federal requirements. When the Director makes this determination, the Service is required by regulations at 50 CFR 21.29(b)(4) to publish a rule in the **Federal Register** adding the State, Tribe, or territory to the list of those approved for allowing the practice of falconry. On January 1st of the calendar year following publication of the rule, the Service will terminate Federal falconry permitting in any State certified under the regulations at 50 CFR 21.29.

This is a ministerial and nondiscretionary action that must be enacted shortly to enable the subject States to assume all responsibilities of falconry permitting by January 1, 2012, the effective date of this regulatory amendment. Further, the relevant regulation at 50 CFR 21.29 governing the transfer of permitting authority to these States has already been subject to public notice and comment procedures. Therefore, in accordance with 5 U.S.C. 553(b)(3)(B), we did not publish a proposed rule in regard to this rulemaking action because, for good cause as stated above, we found prior public notice and comment procedures to be unnecessary. In addition, per 5 U.S.C. 553(d)(1), we are making this rule effective in less than 30 days because this rule relieves a restriction: It relinquishes Federal control of the falconry permitting program to the approved States.

Required Determinations

Regulatory Planning and Review

The Office of Management and Budget (OMB) has determined that this rule is not significant under Executive Order 12866. OMB bases its determination upon the following four criteria:

a. Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

b. Whether the rule will create inconsistencies with other Federal agencies' actions.

c. Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

d. Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (that is, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities. This rule delegates authority to States that have requested it, and those States have already changed their falconry regulations. This rule does not change falconers' costs for practicing their sport, nor does it affect businesses that provide equipment or supplies for falconry.

Consequently, we certify that, because this rule will not have a significant economic effect on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)). It will not have a significant economic impact on a substantial number of small entities.

a. This rule does not have an annual effect on the economy of $100 million or more. There are no costs to permittees or any other part of the economy associated with this regulations change.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The practice of falconry does not significantly affect costs or prices in any sector of the economy.

c. This rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Falconry is an endeavor of private individuals. Neither regulation nor practice of falconry significantly affects business activities.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we have determined the following:

a. This rule will not ''significantly or uniquely'' affect small governments in a negative way. A small government agency plan is not required. The eight States affected by this rule applied for the authority to issue permits for the practice of falconry.

b. This rule will not produce a Federal mandate of $100 million or greater in any year. It is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with E.O. 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule does not contain a provision for taking of private property.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under E.O. 13132. The States being delegated authority to issue permits to conduct falconry have requested that authority. No significant economic impacts are expected to result from the State regulation of falconry.

Civil Justice Reform

In accordance with E.O. 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

We examined this rule under the Paperwork Reduction Act of 1995. OMB has approved the information collection requirements of the Migratory Bird Permits Program and assigned OMB control number 1018–0022, which expires November 30, 2013. This regulation change does not add to the approved information collection. Information from the collection is used to document take of raptors from the wild for use in falconry and to document transfers of raptors held for falconry between permittees. A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We evaluated the environmental impacts of the changes to these regulations, and determined that this rule does not have any environmental impacts. Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, we determined that these regulatory changes do not have a significant effect on the human environment.

Under the guidance in Appendix 1 of the Department of the Interior Manual at 516 DM 2, we conclude that the regulatory changes are categorically excluded because they ''have no or minor potential environmental impact'' (516 DM 2, Appendix 1A(1)). No more comprehensive NEPA analysis of the regulations change is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated potential effects on Federally recognized Indian Tribes and have determined that this rule will not interfere with Tribes' ability to manage themselves or their funds or to regulate falconry on Tribal lands.

Energy Supply, Distribution, or Use

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only affects the practice of falconry in the United States, it is not a significant regulatory action under E.O. 12866, and will not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Environmental Consequences of the Action

Socioeconomic. This action will not have discernible socioeconomic impacts.

Raptor populations. This rule will not change the effects of falconry on raptor populations. We have reviewed and approved the State regulations.

Endangered and threatened species. This rule does not change protections for endangered and threatened species.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). Delegating falconry permitting authority to States with approved programs will not affect threatened or endangered species or their habitats in the United States.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons stated in the preamble, we amend subpart C of part 21, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 21—MIGRATORY BIRD PERMITS

■ 1. The authority citation for part 21 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)); Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

■ 2. Amend § 21.29 as follows:

■ a. In paragraph (a)(1)(ii), the second sentence, remove the word ''used'' and add in its place the words ''taken from the wild'';

■ b. In paragraph (b)(10)(i), remove the word ''or'' immediately before the word ''Washington'', add a comma immediately following the word ''Washington'', and add, in alphabetical order to the list of States, the words ''Indiana,'' ''Iowa,'' ''Nebraska,'' ''New Jersey,'' ''New Mexico,'' ''North Carolina,'' ''Ohio,'' ''Oregon,'' ''Tennessee,'' ''Virginia,'' and ''or Wyoming,'';

■ c. In paragraph (b)(10)(ii), remove the words ''Indiana,'' ''Iowa,'' ''Nebraska,'' ''New Jersey,'' ''New Mexico,'' ''North Carolina,'' ''Ohio,'' ''Oregon,'' ''Tennessee,'' ''Virginia,'' and ''or Wyoming,'' and add the word ''or'' immediately before the word ''Wisconsin,'';

■ d. Remove paragraph (c)(1) and redesignate paragraphs (c)(2) through (c)(9) as paragraphs (c)(1) through (c)(8);

■ e. In newly redesignated paragraph (c)(2)(iii)(B), the second sentence, remove the words ''paragraph (c)(3)(iv)'' and add in their place the words ''paragraph (c)(2)(iv)'';

■ f. In newly redesignated paragraph (c)(5), the third sentence, remove the words ''paragraph (c)(3)'' and add in their place the words ''paragraph (c)(2)'';

■ g. In paragraph (d)(1)(ii)(B)*(2),* revise the second sentence, and add new paragraph (d)(1)(ii)(B)(*3*) to read as set forth below;

■ h. In paragraph (e)(3)(ii)(E), remove the paragraph designations (1), (2), (3), (4), (5), (6), and (7) and add in their place the paragraph designations *(1), (2), (3), (4), (5), (6),* and *(7);*

■ i. In paragraph (e)(3)(viii), the first sentence, remove the words ''paragraph (c)(3)(iv)'' and add in their place the words ''paragraph (c)(2)(iv)''; and

■ j. In paragraph (f)(12)(i), the first sentence, remove the words ''flight feathers'' and add in their place the words ''tail feathers and primary and secondary wing feathers''.

§ 21.29 Falconry standards and falconry permitting.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(B) * * *

(2) * * * Other innovative housing systems are acceptable if they provide the enclosed raptors with protection and allow them to maintain healthy feathers.

(*3*) An eyas raptor may be kept in any suitable container or enclosure until it is capable of flight.

* * * * *

Dated: November 4, 2011.

Rachel Jacobson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–29829 Filed 11–18–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126521–0640–02]

RIN 0648–XA834

Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Flatfish'' in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for ''other flatfish'' in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2011 allocation of ''other flatfish'' in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), November 16, 2011, through 2400 hrs, A.l.t., December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, (907) 586–7269.

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

The 2011 TAC of ''other flatfish'' in the Bering Sea Subarea is 3,000 metric tons (mt) established by the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011) and apportionment of the reserves (76 FR 53840, August 30, 2011).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the TAC of ''other flatfish'' in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,900 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for ''other flatfish'' in the BSAI.

''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a 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 the ''other flatfish'' fishery in the Bering Sea Subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent and relevant data only became available as of November 14, 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: November 16, 2011.

Steven Thur,

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

[FR Doc. 2011–30000 Filed 11–16–11; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 224
Monday, November 21, 2011

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

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[Docket No. DOT–OST–2011–0177]

RIN No. 2105–AD96

Nondiscrimination on the Basis of Disability in Air Travel: Accessibility of Web Sites and Automated Kiosks at U.S. Airports

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Extension of comment period and clarification of proposed rule.

SUMMARY: This action extends the comment period for a supplemental notice of proposed rulemaking (SNPRM) on the accessibility of Web sites and automated kiosks that was published in the **Federal Register** on September 26, 2011. The Department of Transportation is extending the closing date for interested persons to submit comments on this rulemaking by 45 days from November 25, 2011, to January 9, 2012. This extension is a result of requests from a number of parties for additional time to respond to the SNPRM. The Air Transport Association, the International Air Transport Association, the Air Carrier Association of America, the Regional Airline Association, and the Association of Asia Pacific Airlines all asked to extend the comment period on the proposal by 120 days in order to allow interested parties to fully evaluate the proposed rule, answer the numerous questions in the preamble, and develop constructive comments for the Department's consideration. The Interactive Travel Services Association requested an extension of at least 60 days to gather the information necessary to provide an in-depth, comprehensive response to the SNPRM. An individual with a disability has also asked for an extension, citing difficulties in using the online comment form on the *www.regulations.gov* Web site. The Department acknowledges that more time to provide comments may be warranted given the complex nature of the issues and the need to resolve problems encountered by some individuals to date in submitting comments. Nonetheless, we are not persuaded that an additional 120 or even 60 days are needed to respond. In addition to extending the comment period, this action responds to questions posed by the Associations about certain aspects of the SNPRM.

DATES: Comments must be received by January 9, 2012. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Please include the agency name and the docket number DOT–OST–2011–0177 or the Regulatory Identification Number (RIN) (2105–AD96) for this rulemaking at the beginning of your comment. You may file comments using any of the following methods:

(1) *Federal eRulemaking Portal:* Complete and submit the comment form for this rulemaking at *http://www.regulations.gov/#!submitComment;D=DOT-OST-2011-0177-0006.* If you are a person with a disability and cannot access or use the online comment form, please use the alternate comment form to submit your comments, which you can access by clicking the icon for the attachment labeled ''Optional Submission Form'' available at *http://www.regulations.gov/#!documentDetail;D=DOT-OST-2011-0177-0019.* The form includes complete instructions and may be completed, saved, and sent as an email attachment to *regulations.gov_helpdesk@bah.com.* You can also use it to submit comments by any of the methods listed below.

(2) *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Room W12–140, Washington, DC 20590–0001.

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

(4) *Fax:* (202) 493–2251.

(5) *Privacy Act:* For comments submitted on *www.regulations.gov,* please see the Privacy and Use Notice at *http://www.regulations.gov/#!privacyNotice.* All comments received on this SNPRM are posted without change to *http://www.regulations.gov,* including personal information provided with the comments. Personal information is viewable on *www.regulations.gov* and individual or organizational submitters can be identified by performing an electronic search in the docket folder. You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://DocketsInfo.dot.gov.*

(6) *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* (or to the street address listed above). Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Kathleen Blank Riether, Senior Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, (202) 366–9342 (phone), (202) 366–7152 (fax), *kathleen.blankriether@dot.gov.* You may also contact Blane A. Workie, Deputy Assistant General Counsel, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, (202) 366–9342 (phone), (202) 366–7152 (fax), *blane.workie@dot.gov.* TTY users may reach the individual via the Federal Relay Service toll-free at (800) 877–8339. You may obtain copies of this notice in an accessible format by contacting the above named individuals.

SUPPLEMENTARY INFORMATION: On September 26, 2011, the Department of Transportation (''Department,'' also ''DOT,'' ''we,'' or ''us'') published a supplemental notice of proposed rulemaking in the **Federal Register**. The SNPRM proposed to amend the Department's disability regulation implementing the Air Carrier Access Act (ACAA) rule, 14 CFR part 382 (Part 382), by requiring U.S. and foreign air carriers to ensure that their Web sites and those of their agents are accessible to people with disabilities. The SNPRM further proposed to amend Part 382, as well as the Department's regulation implementing Section 504 of the Rehabilitation Act, 49 CFR part 27 (Part 27), by requiring U.S. airports and U.S. and foreign air carriers to ensure that all new orders for automated kiosks they own, lease, or control at U.S. airports that provide flight-related services and

information to passengers are accessible to people with disabilities. 76 FR 59307 (September 26, 2011). Comments on the matters proposed were to be received by November 25, 2011. On October 7, 2011, the Air Transport Association, the International Air Transport Association, the Air Carrier Association of America, and the Regional Airline Association (hereinafter ''Associations'') jointly submitted a request to clarify the proposal and to extend the comment period by an additional 120 days. On October 20, 2011, the Association of Asia Pacific Airlines (AAPA) filed a request in support of the Associations' request to extend the comment deadline by 120 days. Eight days later we received another request from the Interactive Travel Services Association (ITSA) for an extension of at least 60 days. Finally, on November 3, 2011, we received a request from member of the disability community to delay the closing of the comment period until issues concerning access to the online comment form could be resolved. In the sections that follow, we respond to the requests and questions of the submitters.

Request for Comment Period Extension

Citing the complexity of the proposed rule and the many questions on which the Department seeks comment, the Associations request a 120-day extension of the SNPRM comment period. They contend that their members will need to develop a significant amount of information to evaluate the feasibility of the proposals and determine the accuracy of the Department's cost assumptions. They assert that additional time is also needed to evaluate the potential impact of all the proposals on their operations and determine the availability of products that would meet the proposed ''hybrid'' accessibility standard for automated kiosks. By ''hybrid'' standard, the Associations are referring to the Department's proposal to combine the U.S. Department of Justice's (DOJ) 2010 American with Disabilities Act (ADA) Standards for Accessible Design applicable to automated teller machines (Section 707) and selected provisions from Section 508 of the Rehabilitation Act of 1973 (36 CFR 1194.25) applicable to self-contained closed products. The Associations also expressed concern about the difficulty of gathering information from entities during the holiday season. They note that the current comment deadline is the day after Thanksgiving and that with an extension of 30 days, it would be the day after Christmas. In light of these challenges, the Associations believe that an additional 120 days is in the public interest to allow all interested parties an opportunity to provide the most meaningful responses to the questions raised by the Department. The AAPA cited their agreement with the Associations' 120-day extension request in the interest of a more thorough analysis and constructive comments on the SNPRM.

ITSA also indicated the need for additional time to determine whether WCAG 2.0 is the appropriate standard for achieving the accessibility goals of the rulemaking, the cost of implementing the standard across the many sites, platforms, and Web pages of ITSA members, and the need to clarify technical matters such as sequencing implementation, measuring and verifying compliance.

The Department concurs that an extension of the comment period is in the public interest but believes that an extension of 120 additional days is not warranted. We have decided to grant a 45-day extension, or until January 9, 2012, for the public to comment on the SNPRM. By granting 45 rather than 120 additional days, we are balancing the stated need for additional time to gather information and consider the proposals with the need to proceed expeditiously with this important rulemaking. We note that with an additional 45 days, interested parties will have a total of 106 days to comment. We believe this is sufficient time for analysis and coordination regarding the proposals. Accordingly, the Department finds that good cause exists to extend the time for comments on the proposed rule from November 25, 2011, to January 9, 2012. We do not anticipate any further extension of the comment period for this rulemaking.

Concerns Regarding Access to Web Site (*www.regulations.gov*)

Since publication of the SNPRM on September 26, we have been contacted by a disability rights advocate who indicated that individuals with visual impairments have had difficulty submitting comments from the *www.regulations.gov* Web site. For a variety of reasons, the Web page containing the public comment form is not easily accessed by individuals using screen reader software. We therefore urge those who cannot use the online comment form to submit their comments using one of the alternative submission methods described in the **ADDRESSES** section above.

Request for Clarification

In addition to requesting the comment period extension, the Associations posed a number of questions to the Department concerning the applicability and scope of certain provisions of the proposed accessibility requirements for Web sites and automated kiosks. They also sought further information about various documents referenced in the SNPRM preamble. We respond to their questions and requests below.

Issues Concerning the Proposed Web Site Accessibility Requirements

1. Scope of Applicability of Web Site Accessibility Requirements to U.S. Carrier Web Sites

The initial issue raised by the Associations is the scope of the proposed requirements for Web site accessibility as they apply to U.S. carrier Web sites. In their request, they ask DOT to confirm that the proposed Web site accessibility requirements in section 382.43 do not apply to the non-U.S. Web sites of U.S. carriers (e.g., country-specific Web sites maintained by U.S. carriers for the purpose of selling to consumers in countries other than the U.S.). Their concern is that if the proposed requirements do apply to all U.S. carrier Web sites maintained world-wide, it will add tremendously to their compliance burden, have a significant impact on their compliance cost estimates, and offer no benefit to U.S. customers. They note that the proposed rule exempts foreign air carriers from the requirements for their non-U.S. Web sites and assert their belief that the Department intended the same exemption to apply to the non-U.S. Web sites of U.S. carriers.

We do, in fact, intend to apply the same exemption to the non-U.S. Web sites of U.S. carriers. Section 382.43(c) of the SNPRM states: ''As a U.S. or foreign carrier that owns or controls a primary Web site that markets air transportation, you must ensure the public-facing Web pages on your Web site are accessible to individuals with disabilities in accordance with this section. As a foreign carrier, only Web pages on your Web site involved in marketing covered air transportation to the general public in the U.S. must be accessible to individuals with disabilities.'' We inadvertently included the word ''foreign'' before ''carrier'' in the second sentence of proposed section 382.43(c). The preliminary regulatory evaluation does not include costs to U.S. carriers associated with making Web sites accessible that are not marketing to U.S. consumers. Our intention in the proposal is and continues to be to exempt both U.S. and foreign carriers' Web sites that market

air transportation to consumers outside the U.S.

We appreciate the Associations' request for clarification on this point and encourage comments from the public on whether the Web site accessibility requirements should apply to U.S. and foreign carriers, as proposed, only with respect to their primary Web sites marketing air transportation to the general public in the U.S., or be expanded to cover all their Web sites regardless of whether they are marketing air transportation mainly to non-U.S. consumers.

2. Clarification of the Terms ''Primary,'' ''Main,'' and ''Public-Facing'' as They Apply to Web Sites and Web Pages Subject to the Proposed Web Site Accessibility Requirement

The Associations noted that the terms ''public-facing Web pages,'' ''primary Web site,'' and ''main Web site,'' were not defined in the SNPRM and asked for clarification of the terms as used in proposed section 382.43(c) and in the preamble to describe the applicability of the proposed requirements to carrier Web sites. The term ''public-facing Web page'' as used in the SNPRM means a Web page intended to be accessed and used by the general public, as opposed to Web pages intended for limited access (e.g., by carrier employees, private companies, or entities other than the general public). Any Web page on a carrier's primary commercial Web site that is intended to provide air transportation information or services to consumers is a ''public-facing'' Web page covered by the proposed accessibility requirements. For carriers that own, lease, or control multiple Web sites that market air transportation and offer related services and information, the Web site that is accessed when the ''*www.carriername.com*'' uniform resource locator (URL) is entered to an Internet browser from a standard desktop or laptop computer would be the ''primary'' or ''main'' Web site. The terms ''main Web site'' and ''primary Web site'' as used in the SNPRM are synonymous.

3. Conforming Alternate Versions and ''Text-Only'' Features on a Primary Web Site

The Associations also asked for clarification of the term ''conforming alternate version,'' which they believe is undefined in the SNPRM, and asked whether a text-only feature offered by some carriers on their primary Web sites would be considered an alternate conforming version. They describe the text-only feature as one that is compatible with screen-reader technology and is activated by a single click on the homepage of the primary Web site, linking the user to a text-only page that conforms to WCAG 2.0 at Level A and AA. They note that the SNPRM asks for public comment on whether the Department ''should explicitly prohibit the use of conforming alternate versions except when necessary to provide the information, services, and benefits on a specific Web page or Web site as effectively to individuals with disabilities as to those without disabilities.'' Anticipating that the Department might adopt such a restriction, they ask whether the Department has the cost-benefit data that would support a requirement to completely redesign a primary Web site when the text-only feature provides Web content at the required level of accessibility.

The term ''conforming alternate version,'' while not defined in the proposed rule text, is described in the SNPRM preamble as a Web page or Web site ''that meets the [WCAG 2.0 Level A and AA] success criteria, is up to date, and contains the same information and functionality in the same language [as the non-conforming page on the primary Web site]. A conforming alternate version of a Web page is intended to provide people with disabilities equivalent access to the same content and functionality as a directly accessible Web page under WCAG 2.0.'' See 76 FR 59307, 59313 (September 26, 2011). While the WCAG 2.0 implementation guidance is clear that conforming alternate versions are not the preferred method of conformance,[1] the Department did not propose to explicitly restrict their use in the proposed rule. We are aware of serious concerns about the emergence of parallel carrier Web sites that may be screen-reader accessible but may not provide all the information and content available on the non-conforming Web site. A review of some text-only versions of carrier Web sites indicates that these versions meet some, but not all, of the four requirements below for a conforming alternate version:

a. conforms at the designated level (e.g., meets Level A and Level AA success criteria), and

b. provides all of the same information and functionality in the same human language, and

c. provides content that is as up-to-date as the non-conforming content, and

d. can be reached from the non-conforming page via an accessibility-supported mechanism, or the non-conforming version can only be reached from the conforming version, or the non-conforming version can only be reached from a conforming page that also provides a mechanism to reach the conforming version.

The sites we reviewed met three of the four requirements for conforming alternate versions: the first (text-only content met all the WCAG 2.0 Level A and AA success criteria), the third (the text-only content that was dynamically generated from the non-conforming site content was up-to-date), and the fourth (was available from the non-conforming site via an accessibility-supported mechanism). The main problem we found with these sites was that the text-only site did not always contain the same information and functionality available on the non-conforming site. For example, while it was possible to book a flight on both the non-conforming and text-only Web sites, certain other functions available on the non-conforming site were not available on the text-only site (e.g., ability to prioritize flights listed by price over schedule, ability to indicate that your travel dates are flexible, ability to enter cities as well as airport codes, ''live chat'' assistance, etc.). At the same time, we found that some pages on the text-only site did provide close to the same information and functionality as their counterpart pages on the non-conforming site. While none of the carrier text-only sites we reviewed qualified as conforming alternate versions, we were nonetheless encouraged by the extent to which the text-only sites mirrored the content of the non-conforming sites.

Unless a carrier's text-only Web content can be reached from the carrier's primary Web site via an accessible link, conforms with WCAG 2.0 success criteria at Level A and AA, provides the same content and functionality, and is promptly updated to reflect changes to content available to its non-disabled customers, it will not meet the required level of accessibility and will not be considered a conforming alternate version. Given the concerns about carriers consistently maintaining the quality of text-only content to meet this stringent standard, we asked for comment on whether existing text-only Web sites meet the WCAG 2.0 success criteria at Level A and AA. In particular, we solicit comments from consumers with disabilities on their experiences in using text-only carrier Web sites and any gaps they are aware of in the available information and functionality on such sites as compared with that on the corresponding non-conforming site.

[1] See ''Understanding Conformance'' at *http://www.w3.org/TR/UNDERSTANDING-WCAG20/conformance.html#uc-conforming-alt-versions-head,* October 15, 2011.

We also invite public comment on whether the cost of making a carrier's entire Web site directly conformant would be substantially greater (or less) than providing a text-only version of the carrier's Web site that is conformant with WCAG 2.0 standards at Level A and AA and meets the definition of conforming alternate version. What other advantages or disadvantages are there to allowing the use of conforming alternate versions without restriction, or to restricting their use to circumstances in which it is ''the only way to provide the content on specific Web pages or Web sites as effectively to individuals with disabilities as to those without disabilities?''

4. Whether the Scope of Carrier Responsibility Under the Proposed Requirement To Ensure That Ticket Agent Web Sites Comply With the Web Site Accessibility Standards Extends to Large Tour Operators and Carrier Alliances

Noting that the term ''ticket agent'' was used in the preliminary regulatory analysis to collectively refer to travel agents and tour operators,[2] the Associations also asked the Department to confirm whether the requirement in proposed section 382.43(d) to require carriers to ensure the accessibility of ticket agents' Web sites would include Web sites operated by tour operators. See 76 FR 59307, 59325 (September 26, 2011). The Department defines ''ticket agent'' in the SNPRM preamble by citing the definition found at 49 U.S.C. 40102(a)(45), as a person other than a carrier that ''as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for air transportation.'' See 76 FR 59307, 59309 (September 26, 2011). Both travel agents and tour operators engaging in these activities, therefore, are ''ticket agents'' for purposes of the SNPRM's provisions. Under proposed section 382.43(d), carriers would be responsible to ensure that the Web sites of ticket agents comply with the Web site accessibility requirements when marketing travel packages to the general public in the U.S. that include covered air transportation operated by the carriers. We invite comments from the public on the feasibility of requiring carriers to monitor the Web sites of large tour operators to ensure their compliance with the accessibility requirements.

With respect to the Web sites of carrier alliances, the Department views such alliances as enterprises jointly owned by the member carriers. A review of several carrier alliance Web sites shows that all provide extensive flight-related information, as well as online tools to assist customers in creating flight itineraries. By providing services to assist consumers in building itineraries and linking them to member Web sites to book specific flights, the alliance Web sites are clearly marketing to consumers. However, since a carrier alliance Web site is not a primary carrier Web site as discussed above, the Department did not include such sites in its proposal or accompanying preliminary cost benefit analysis. We therefore ask for public comment on whether carriers should be required to ensure that the Web sites of any alliances with which they are affiliated comply with the proposed accessibility requirements.

5. The Department's Authority To Regulate Ticket Agent Web Sites Directly Under 49 U.S.C. 41712

Concerning ticket agent Web sites, the Associations sought clarification of the Department's assertion in the SNPRM preamble of its authority to require accessibility of Web sites marketing covered air transportation to the general public in the U.S. under 49 U.S.C. 41712, the statute prohibiting carriers and ticket agents from engaging in unfair and deceptive trade practices. They questioned why, in light of its assertion, the Department proposed to regulate ticket agents indirectly through carriers and asked for clarification of the Department's authority under the statute.

The Department considers marketing air transportation on a Web site that effectively excludes a class of consumers solely due to their disabilities to be unlawful discrimination that is also an unfair trade practice. In the SNPRM, we ask for comment on whether the Department should apply the proposed Web site accessibility requirements to ticket agents directly. We note that the Department of Justice (DOJ) announced in an advance notice of proposed rulemaking that it is considering whether to revise its Americans with Disabilities Act (ADA) regulations in the future to include Web site accessibility standards. See 75 FR 43460 (July 26, 2010). Anticipating that ticket agent Web sites may also be covered under DOJ's future amended ADA regulation, we ask whether DOT should wait for DOJ to move forward with its rulemaking before issuing our own rules to require accessibility of ticket agent Web sites. We solicit feedback on these questions to assist us in determining a course of action that would best serve the public interest. Today a great many Web sites selling air transportation, particularly ticket agent Web sites, are not accessible or are only partially accessible to people with disabilities. The Department believes that all stakeholders would greatly benefit as the number of accessible Web sites marketing and selling air transportation to the general public in the U.S. increases across the air travel industry. We are aware that there are pros and cons to our proposal to require carriers to work with their ticket agents to create incentives to achieve this objective. We again invite all stakeholders to share the pros and cons from their perspectives of this approach.

6. Ongoing Costs To Maintain an Accessible Web Site

The final issue the Associations raise regarding the proposed Web site accessibility requirements concerns the ongoing cost of maintaining Web site accessibility. They observe that the Department asserts that the estimated cost of ensuring full compliance of a primary Web site is $2.0 million annually for U.S. and foreign carriers and $2.6 million annually for ticket agents, but also states on the same page that there is a lack of quantitative data on the cost of maintaining Web site accessibility. See 76 FR 59315. They asked that the Department clarify whether it was able to quantify ongoing recurring costs to maintain an accessible Web site, and if so, identify the source of the estimated costs, and place any supporting documentation in the docket.

The statement above indicating an absence of quantitative data on the ongoing costs of maintaining Web site accessibility appeared in the SNPRM and in the preliminary regulatory analysis [3] due to editing oversights and should have been omitted from both documents. Table 24 of the preliminary regulatory analysis shows how the ongoing annual cost of maintaining Web site accessibility was estimated. The maintenance costs per carrier or agent are assumed to be the sum of the costs associated with the following fixed and variable cost elements: site evaluation and conformance checking costs (fixed), site layout and style sheet revision costs (fixed), and per-page maintenance costs (variable). This formula was used to compute costs for the ''Largest'' Web site category in Table 24. Per-page maintenance costs were inadvertently omitted from the formula used to

[2] Preliminary Regulatory Analysis, ACAA SNPRM Accessible Kiosks and Web Sites, 1, September 7, 2011 [Docket No. DOT–OST–2011–0177–0002].

[3] *Id.* at 58.

compute costs for the other three size categories (Large, Small, and Smallest). Because per page maintenance costs are so small, the impact on the overall estimates shown at the bottom of Table 24 is minimal. For a general discussion of the impact of accessibility on Web site development and maintenance over the long term, see the World Wide Web Consortium (W3C) Web site Accessibility Initiative (WAI) Web site.[4]

Issues Concerning the Proposed Accessibility Requirements for Automated Kiosks at U.S. Airports

1. Retrofitting of Automated Kiosks To Meet Accessibility Requirements

The Associations also asked the Department to clarify whether it is proposing a retrofit requirement for automated kiosks at U.S. airports, and if so, what would be the compliance time period. They note that the proposed rule text explicitly states that carriers would not be required to retrofit existing kiosks, while the preamble states that the Department is considering some form of retrofitting. They state that clarification of this point is important because retrofitting would have a significant impact on estimating the technical feasibility and cost impact of compliance for both carriers and airports (for shared-use automated kiosks).

The Department has not proposed to require retrofitting of automated kiosks but is considering this option because of concern that only requiring accessibility of new kiosks ordered after the rule's effective date could substantially delay the availability of accessible kiosks at many airport locations. The Department wants to ensure the availability of at least some accessible kiosks at every airport location within a reasonable time after the rule goes into effect. We therefore are asking for information about the technical feasibility and cost impact of retrofitting some number of kiosks before the end of their life cycle (e.g., one kiosk at each airport location). We invite comment on whether retrofitting any number of existing kiosks is feasible and if so, whether there should be a requirement for limited retrofitting, in addition to requiring that all new kiosks ordered be accessible.

2. Automated Ticket Scanners for Rebooking Flights

The Associations also wanted clarification about the types of self-service kiosks at U.S. airports that would be covered by the proposed accessibility requirements. Acknowledging that the Department did intend to cover check-in kiosks, they asked for confirmation that the Department did not intend to include automated ticket scanners available behind the security checkpoint to enable customers to independently rebook their flights during irregular operations.

Automated ticket scanners appear to fall within the scope of automated kiosks the Department intended to cover. In the SNPRM, we proposed to define ''*automated airport kiosk''* as ''a self-service transaction machine that a carrier owns, leases, or controls and makes available at a U.S. airport to enable customers to independently obtain *flight-related services*'' [emphasis added].[5] We also proposed to define ''*flight-related services*'' as ''functions related to air travel including, but not limited to, ticket purchase, *rebooking cancelled flights,* seat selection, and obtaining boarding passes or bag tags''[emphasis added]. The proposed accessibility requirements would extend to any carrier-owned or shared-use airport self-service transaction machine that enables customers to rebook their flights. We invite public comment on whether there are compelling reasons not to require such machines to be accessible, whether accessible models currently exist or are under development, and any available cost information on such models.

Requests for Supporting Documentation

The Associations asked that a number of documents cited in the SNPRM and preliminary regulatory analysis be placed in the docket. Some of these documents are publicly available as indicated below. Other information was obtained in oral interviews and no documentation is available.

1. Telecommunications and Electronic and Information Technology Advisory Committee Report to the Access Board: Refreshed Accessibility Standards and Guidelines in Telecommunications and Electronic and Information Technology (April 2008).

This document is available at *http://access-board.gov/sec508/refresh/report/.*

2. The source of the estimate that ''building accessibility into new Web pages today is estimated to add only about 3–6 percent to the cost.''

This information was obtained from comments posted by Marco Maerten, an independent Web technologies consultant, on behalf of Accessibility Associates, LLC, in response to the Department of Justice's Advance Notice of Proposed Rulemaking entitled ''Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations. [RIN 1190–AA61, Docket 110, available at DOJ–CRT–2010–0005–0311 on *www.regulations.gov.* ''In my experience, incorporating Web accessibility from the outset with qualified personnel can add 3–6% or less to technical development costs for smaller projects of 50–300 pages. There are significant economies of scale such that larger sites could benefit from even significantly lower costs.''

3. Any documentation that supports the following statement appearing in the SNPRM: ''Information obtained from kiosks vendors indicates that the bulk of the incremental costs associated with making kiosk hardware, middleware, and software applications accessible are fixed, therefore they do not vary appreciably with the number of units sold.'' 76 FR 59321.

This statement was obtained in oral interviews with two major kiosk manufacturers on 6/29/11 (IBM) and on 7/12/11 and 8/10/11 (NCR). No documentation was provided.

4. The document ''Countering the economic threat to sustainable accessibility'' by Lewis, D., Suen, S.L., Federing, D. (2010).

This document is available at *http://www.sortclearinghouse.info/cgi/viewcontent.cgi?article=1612&context=research.*

5. The preliminary regulatory analysis cites a TRACE analysis of the modifications that would be required to produce an accessible kiosk.

The analysis is available at *http://trace.wisc.edu/docs/kiosk_req/minimum.htm.*

Issued this sixteenth day of November 2011, in Washington, DC under authority assigned to me by 14 CFR 385.17(c).

Neil R. Eisner,

Assistant General Counsel, Office of Regulation and Enforcement, U.S. Department of Transportation.

[FR Doc. 2011–30002 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–9X–P

[4] W3C Web site Accessibility Initiative, ''Reduce Site Development and Maintenance Time,'' available at *http://www.w3.org/WAI/bcase/tech.html#maint,* October 15, 2011.

[5] 76 FR 59325.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–101273–10]

RIN 1545–BJ21

Corporate Reorganizations; Allocation of Basis in ''All Cash D'' Reorganizations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rule making by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance regarding the determination of the basis of stock or securities in a reorganization where no stock or securities of the issuing corporation is issued and distributed in the transaction. These regulations clarify that, in certain reorganizations where no stock or securities of the issuing corporation is issued and distributed in the transaction, the ability to designate the share of stock of the issuing corporation to which the basis, if any, of the stock or securities surrendered will attach applies only to a shareholder that owns actual shares in the issuing corporation. These regulations affect corporations engaging in such transactions and their shareholders. The text of those temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by February 21, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–101273–10), Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered or sent electronically, via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–101273–10).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Lisa A. Fuller, (202) 622–7550; concerning submission of comments, Oluwafunmilayo Taylor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 1. The temporary regulations provide guidance regarding the determination of the basis of stock or securities in a reorganization where no stock or securities of the issuing corporation is issued and distributed in the transaction. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Explanation of Provisions

These temporary regulations clarify that, in certain reorganizations where no stock or securities of the issuing corporation is issued and distributed in the transaction, the ability to designate the share of stock of the issuing corporation to which the basis, if any, of the stock or securities surrendered will attach applies only to a shareholder that owns actual shares in the issuing corporation.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as defined in Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Lisa A. Fuller, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.358–2 also issued under 26 U.S.C. 358(b)(1).

Par. 2. Section 1.358–2 is amended by:

1. Revising paragraph (a)(2)(iii).

2. Adding a new *Example 15* and *Example 16* to paragraph (c).

3. Revising paragraph (d).

The revision and addition reads as follows:

§ 1.358–2 Allocation of basis among nonrecognition property.

(a) * * *

(2) * * *

(iii) [The text of this proposed amendments to § 1.358–2(a)(2)(iii) is the same as the text of § 1.358–2T(a)(2)(iii) published elsewhere in this issue of the **Federal Register**].

* * * * *

(c) Examples * * *

[The text of this proposed amendments to § 1.358–2, *Examples 15* and *16* are the same as the text of *Examples 15* and *16* in § 1.358–2T published elsewhere in this issue of the **Federal Register**].

* * * * *

(d) [The text of this proposed amendment to § 1.358–2(d) is the same as the text of § 1.358–2T(d) published elsewhere in this issue of the **Federal Register**].

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2011–29794 Filed 11–18–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN98

Payment for Home Health Services and Hospice Care by Non-VA Providers

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulation and internal policy documents concerning the billing methodology for non-VA providers of home health services and hospice care. The proposed rulemaking would include home health services and hospice care under the VA regulation governing payment for other non-VA health care providers. Because the newly applicable methodology cannot supersede rates for which VA has specifically contracted, this rulemaking will only affect providers who do not have existing negotiated contracts with VA. The proposed rule would also rescind internal guidance documents that could be interpreted as conflicting with the proposed rule.

DATES: *Comment Date:* Comments on the proposed rule must be received by VA on or before December 21, 2011.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AN98—Payment for home health and services and hospice care by non-VA providers.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. This is not a toll-free number. In addition, during the comment period, comments may be viewed online at *www.Regulations.gov* through the Federal Docket Management Systems (FDMS).

FOR FURTHER INFORMATION CONTACT: Holley Niethammer, Fee Policy Chief, National Fee Program Office, Veterans Health Administration, Department of Veterans Affairs, 3773 Cherry Creek Dr. N., East Tower, Ste 495, Denver, CO 80209, (303) 370–5062. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On December 17, 2010, VA published in the **Federal Register** a rule amending 38 CFR 17.56 to update VA's payment methodology for in- and outpatient health care professional services provided at non-VA facilities, and other medical charges associated with non-VA outpatient care, provided under 38 CFR 17.52 or 17.120. 75 FR 78901 (Dec. 17, 2010). In paragraph (a) of § 17.56, as amended, we state that the new methodology does not apply to ''non-contractual payments for home health services and hospice care.'' 38 CFR 17.56(a). As explained in the notice of final rulemaking, this exception is based on practical, administrative considerations, and not based on a policy decision that these services ought to be billed in a different manner. *See* 75 FR 78901. We explained:

Home Health Care and Hospice Care

[T]he pricing methodology adopted by this rule would be used in establishing payment rates for all non-VA inpatient and outpatient health care professional services and other outpatient services, including hospice care and home health services. However, in reviewing implementation strategies and internal procedural practices related to the payment of hospice care and home health services through means other than a contract, we have encountered significant practical problems that prevent immediate implementation of this new methodology. These problems relate to separate administration of hospice care and home health services by the Veterans Health Administration's Office of Geriatrics and Extended Care, which uses separate methods for forming agreements for these services, and challenges regarding information technology systems necessary to move to the new [Centers for] Medicare [and Medicaid] rate, but do not relate to the actual payment amounts for these services. Such amounts would generally be unchanged by this rulemaking because the vast majority of these services are paid through a contractual mechanism (and are therefore exempted under § 17.56(a)(1)). However, we estimate that there may be about 100 providers who are not paid through a contractual mechanism and therefore who would have been affected by this rulemaking.

Given separate administration of hospice and home health services under separate VA guidance, we have determined that these providers did not receive adequate notice regarding the intended effect of the proposed rule or of the need for some delay in implementation of the rule so that VA may modify its systems. We will promulgate, as soon as possible, a proposed rule to make § 17.56, as revised by this notice, applicable to these providers. Therefore, we have added to paragraph (a) of the final rule an exception for these two services.

Id. at 78908.

This rulemaking would remove the exception so that the billing methodology in § 17.56 would apply to payments for home health services and hospice care. The reasons that we would make the billing methodology in § 17.56 applicable to these exempted groups were explained thoroughly in the proposed and final rulemakings that amended § 17.56. *See* 75 FR 7218 (Feb. 18, 2010); 75 FR 78901. We need not repeat them here. Indeed, in the proposed rule we specifically stated that that rationale should be applied to home health services and hospice care, noting that we intended to adopt the ''Home Health Prospective Payment System'' and ''Hospice'' Medicare schedules. 75 FR at 7219. It was not until the final-rule notice that we recognized a need to re-propose, for administrative reasons, making the methodology applicable to home health and hospice care.

By this proposed rule, we also notify providers of home health services and hospice care that by adopting § 17.56 methodology, VA would rescind all conflicting internal VA guidance that could be interpreted as providing an alternate billing methodology applicable only to these services. Due to VA's historically separate administration of hospice and home health care from the other services affected by § 17.56, a VHA Handbook provides guidance specific to payments for non-VA home health services and hospice care. *See* Veterans Health Administration, U.S. Dep't of Veterans Affairs, VHA Handbook 1140.3, Home Health and Hospice Care Reimbursement Handbook (Aug. 16, 2004). VHA Handbook 1140.3 establishes maximum reimbursement rates for non-VA home health services and hospice care when a payment methodology has not been established under a negotiated contract, but also authorizes exemptions from these maximum rates to negotiate contracts with providers for home health services and hospice care. This Handbook states the following on page 3 regarding establishing maximum rates for home health services: ''VA uses locally calculated, discipline-specific, Medicare LUPA [Low-Utilization Payment Amount] rates as the maximum cap for skilled home care and home health aide services. In those states that reimburse separately for homemaker services, VA's rate will not exceed 110 percent of the established state rate for that home care agency or geographic area.'' For establishing maximum rates for hospice care, the Handbook also states on page 3: ''VA uses locally calculated, Medicare hospice payment rates as the maximum reimbursement rates to purchase a comprehensive package of bundled home hospice services.'' These alternate

pricing methodologies would be rescinded by this rulemaking. The prior final rule and this proposed rule are intended to prescribe an exclusive billing methodology for all covered services.

We explained in the final rule amending § 17.56 that we estimated only about 100 providers will be affected by this revision because under § 17.56(a)(1) any negotiated rate will prevail over the other methodologies set forth in § 17.56. *See* 75 FR at 78908. However, a more accurate estimate is that about 8400 providers will be affected. On average, each of these providers cares for 6 veterans at VA expense, and the potential revenue loss is $1,346.28 per provider annually. In addition, these providers without negotiated contracts for payment may benefit from the ''phase-in'' of the new rates, which is contemplated by the language in § 17.56(a)(2)(i), where VA will pay: ''[t]he applicable Medicare fee schedule or prospective payment system amount ('Medicare Rate') for the period in which the service was provided * * *''. 38 CFR 17.56(a)(2)(i).

Comment Period

Although under the rulemaking guidelines in Executive Order 12866, VA ordinarily provides a 60-day comment period, the Secretary has determined that there is good cause to limit the public comment period on this proposed rule to 30 days. The application of the rates in § 17.56 to non-VA providers of home health services and hospice care was in fact proposed in February 2010. *See* 75 FR 7218. However, we exempted these services in the final rule for the administrative reasons discussed above, and indicated that we would soon propose once again to include them in § 17.56. *See* 75 FR 78901. Therefore, significant public notice has already been provided, as has the opportunity to comment on the applicability of § 17.56 to home health and hospice care payments. Accordingly, the Secretary has provided a 30-day comment period for this proposed rule.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Paperwork Reduction Act

This action contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed regulatory amendment would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*. We estimate that about 8400 providers without negotiated contracts offer home health care or hospice care to veterans at rates that are equivalent to, or not significantly higher than, those offered by the proposed amendment. VA costs of purchased skilled home care were compared to Medicare Home Health Prospective Payment System (HH–PPS) reimbursement for a 60-day period. The average VA reimbursement level per veteran for a 60-day period was $2,537.40 in FY 2010. The average Medicare reimbursement level for skilled home care per beneficiary was $2,312.94 in FY 2010. This difference would mean that providers would receive $3.74 less per day from VA for a 60-day episode of care. On average, each of the 8400 providers cares for 6 veterans at VA expense, and the potential revenue loss would be $1,346.28 per provider annually, an insignificant amount of revenue for these providers. This total would be less than 100 million dollars annually. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on November 14, 2011, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Government programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Veterans.

Dated: November 16, 2011.

Robert C. McFetridge,

Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to revise 38 CFR part 17 as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501, and as noted in specific sections.

§ 17.56 [Amended]

2. Revise § 17.56(a) by removing ''and except for non-contractual payments for home health services and hospice care''.

[FR Doc. 2011–29994 Filed 11–18–11; 8:45 am]

BILLING CODE 8302–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0845; FRL–9492–1]

Revisions to the California State Implementation Plan, Placer County Air Pollution Control District and Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Placer County Air Pollution Control District (PCAPCD) and Sacramento Metropolitan Air Quality Management District (SMAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from coatings and strippers used on wood products, wood paneling, and miscellaneous metal parts and products. We are proposing to approve three local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by December 21, 2011.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0845, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or email. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, *law.nicole@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: PCAPCD Rule 236 (Wood Products and Coating Operations), PCAPCD Rule 238 (Factory Coating of Flat Wood Paneling), and SMAQMD Rule 451 (Surface Coating of Miscellaneous Metal Parts and Products). In the Rules and Regulations section of this **Federal Register,** we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: October 24, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2011–29905 Filed 11–18–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 209, 216, 229, and 252

RIN 0750–AH38

Defense Federal Acquisition Regulation Supplement: Separation of Combined Provisions and Clauses (DFARS Case 2011–D048)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to separate provisions and clauses that are currently combined, in order to be in compliance with DFARS drafting conventions.

DATES: *Comment Date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before January 20, 2012, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2011–D048, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''DFARS Case 2011–D048'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2011–D048.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2011–D048'' on your attached document.

○ *Email: dfars@osd.mil.* Include DFARS Case 2011–D048 in the subject line of the message.

○ *Fax:* (703) 602–0350.

○ *Mail:* Defense Acquisition Regulations System, *Attn.:* Amy G. Williams, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To

confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Amy G. Williams, telephone (703) 602–0328.

SUPPLEMENTARY INFORMATION:

I. Background

A provision is included only in the solicitation and addresses the offeror. A contract clause is included in both the solicitation and the contract, and provides the terms that apply throughout contract performance. Representations and certifications are generally included in a provision, which the offeror responds to in its offer. It is against DFARS drafting conventions to combine a provision and a clause into a single clause.

This rule proposes to remove the representations from five DFARS clauses and create five new provisions to be used in solicitations that include the associated clauses, as follows:

DFARS Clause	Proposed provision
252.209–7005, Reserve Officer Training Corps and Military Recruiting on Campus.	252.209–7003, Reserve Officer Training Corps and Military Recruiting on Campus—Representation.
252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products.	252.216–70XX, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products—Representation.
252.216–7003, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government.	252.216–70YY, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government—Representation.
252.229–7003, Tax Exemptions (Italy)	252.229–70XX, Tax Exemptions (Italy)—Representation.
252.229–7005, Tax Exemptions (Spain)	252.229–70YY, Tax Exemptions (Spain)—Representation.

Conforming changes are also required to DFARS 252.204–7007, Alternate A, Annual Representations and Certifications and the associated prescription at DFARS 204.1202, to list the new provisions in lieu of the current DFARS clauses.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because it does not add any new requirements—it only reformats existing requirements of five clauses into separate provisions and clauses. Therefore, an initial regulatory flexibility analysis has not been performed. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610.

Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2011–D048), in correspondence.

IV. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 204, 209, 216, 229, and 252

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore DoD proposes to amend 48 CFR parts 204, 209, 216, 229, and 252 as follows:

1. The authority citation for 48 CFR parts 204, 209, 216, 229, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE MATTERS

2. Amend section 204.1202(2) by revising paragraphs (ii), (iii), (iv), (xi), and (xii) to read as follows:

204.1202 Solicitation provision and contract clause.

* * * * *

(ii) 252.209–7002, Disclosure of Ownership or Control by a Foreign Government.

(iii) 252.209–7003, Reserve Officer Training Corps and Military Recruiting on Campus—Representation.

(iv) 252.216–70YY, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government—Representation.

* * * * *

(xi) 252.229–70XX, Tax Exemptions (Italy)—Representation.

(xii) 252.229–70YY, Tax Exemptions (Spain)—Representation.

* * * * *

PART 209—CONTRACTOR QUALIFICATIONS

3. Revise section 209.470–4 to read as follows:

209.470–4 Solicitation provision and contract clause.

(a) Use the provision at 252.209–7003, Reserve Officer Training Corps and Military Recruiting on Campus—Representation, in all solicitations with institutions of higher education.

(b) Use the clause at 252.209–7005, Reserve Officer Training Corps and Military Recruiting on Campus, in all solicitations and contracts with institutions of higher education.

PART 216—TYPES OF CONTRACTS

4. Amend section 216.203–4–70 by—

(a) Revising the section heading; and

(b) Revising paragraphs (a) and (c) to read as follows:

216.203–4–70 Additional provisions and clauses.

(a) *Price adjustment for basic steel, aluminum, brass, bronze, or copper mill products.*

(1)(i) The price adjustment clause at 252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products, may be used in fixed-price supply solicitations and contracts for basic steel, aluminum, brass, bronze, or copper mill products, such as sheets, plates, and bars, when an established catalog or market price exists for the particular product being acquired.

(ii) The 10 percent figure in paragraph (d)(1) of the clause shall not be exceeded unless approval is obtained at a level above the contracting officer.

(2) Use the price adjustment provision at 252.216–70XX, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products—Representation, in solicitations that include the clause at 252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products.

* * * * *

(c) *Price adjustment for wage rates or material prices controlled by a foreign government.*

(1)(i) The price adjustment clause at 252.216–7003, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government, may be used in fixed-price supply and service solicitations and contracts when—

(A) The contract is to be performed wholly or in part in a foreign country; and

(B) A foreign government controls wage rates or material prices and may, during contract performance, impose a mandatory change in wages or prices of material.

(ii) Verify the base wage rates and material prices prior to contract award and prior to making any adjustment in the contract price.

(2) Use the provision at 252.216–70YY, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government—Representation, in solicitations that include the clause at DFARS 252.216–7003, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government.

PART 229—TAXES

5. Amend section 229.402–70 by—

(a) Revising the section heading; and

(b) Revising paragraphs (c) and (e) to read as follows:

229.402–70 Additional provisions and clauses.

* * * * *

(c)(1) Use the clause at 252.229–7003, Tax Exemptions (Italy), in solicitations and contracts when contract performance will be in Italy.

(2) Use the provision at 252.229–70XX, Tax Exemptions (Italy)—Representation, in solicitations that contain the clause at 252.229–7003, Tax Exemptions (Italy).

* * * * *

(e)(1) Use the clause at 252.229–7005, Tax Exemptions (Spain), in solicitations and contracts when contract performance will be in Spain.

(2) Use the provision at 252.229–70YY, Tax Exemptions (Spain)—Representation, in solicitations that contain the clause at 252.229–7005, Tax Exemptions (Spain).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Amend section 252.204–7007 by—

(a) Amending the clause date by removing ''(SEP 2011)'' and adding in its place ''(DATE)''; and

(b) Revising paragraph (d)(1) to read as follows:

252.204–7007 Alternate A, Annual Representations and Certifications.

* * * * *

(d)(1) The following representations or certifications in ORCA are applicable to this solicitation as indicated:

(i) 252.209–7001, Disclosure of Ownership or Control by the Government of a Terrorist Country. Applies to all solicitations expected to result in contracts of $150,000 or more.

(ii) 252.209–7003, Reserve Officer Training Corps and Military Recruiting on Campus—Representation. Applies to all solicitations with institutions of higher education.

(iii) 252.216–70YY, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government. Applies to solicitations for fixed-price supply and service contracts when the contract is to be performed wholly or in part in a foreign country, and a foreign government controls wage rates or material prices and may, during contract performance, impose a mandatory change in wages or prices of materials.

(iv) 252.225–7042, Authorization to Perform. Applies to all solicitations when performance will be wholly or in part in a foreign country.

(v) 252.229–70XX, Tax Exemptions (Italy)—Representation. Applies to solicitations when contract performance will be in Italy.

(vi) 252.229–70YY, Tax Exemptions (Spain)—Representation. Applies to solicitations when contract performance will be in Spain.

* * * * *

7. Add section 252.209–7003 to read as follows:

252.209–7003 Reserve Officer Training Corps and Military Recruiting on Campus—Representation.

As prescribed in 209.470–4(a), use the following provision: Reserve Officer Training Corps and Military Recruiting on Campus—Representation (Date).

(a) *Definition. Institution of higher education,* as used in this provision, is defined in the clause at 252.209–7005, Reserve Officer Training Corps and Military Recruiting on Campus.

(b) *Limitation on contract award.* Except as provided in paragraph (c) of this provision, an institution of higher education is ineligible for contract award if the Secretary of Defense determines that the institution has a current policy or practice (regardless of when implemented) that prohibits or in effect prevents—

(1) The Secretary of a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officer Training Corps (ROTC) (in accordance with 10 U.S.C. 654 and other applicable Federal laws) at that institution;

(2) A student at that institution from enrolling in a unit of the Senior ROTC at another institution of higher education;

(3) The Secretary of a military department or the Secretary of Transportation from gaining entry to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting; or

(4) Military recruiters from accessing, for purposes of military recruiting, the following information pertaining to students (who are 17 years of age or older) enrolled at that institution:

(i) Name.

(ii) Address.

(iii) Telephone number.

(iv) Date and place of birth.

(v) Educational level.

(vi) Academic major.

(vii) Degrees received.

(viii) Most recent educational institution enrollment.

(c) *Exception.* The limitation in paragraph (b) of this provision does not apply to an institution of higher education if the Secretary of Defense determines that the institution has a long-standing policy of pacifism based on historical religious affiliation.

(d) *Representation.* By submission of its offer, the offeror represents that the institution does not have any policy or practice described in paragraph (b) of this clause, unless the Secretary of Defense has determined that the institution has a long-standing policy of pacifism based on historical religious affiliation.

(End of provision)

8. Amend section 252.209–7005 by—

(a) Amending the introductory text by removing ''209.470–4'' and adding in its place ''209.470–4(b)'';

(b) Amending the clause date by removing ''(Jan 2000)'' and adding in its place ''(Date)'';

(c) Revising introductory text of paragraph (b);

(d) Removing paragraph (d);

(e) Redesignating paragraph (e) as paragraph (d); and

(f) Revising the introductory text of the newly redesignated paragraph (d).

The revisions read as follows:

252.209–7005 Reserve Officer Training Corps and Military Recruiting on Campus.

* * * * *

(b) *Limitation.* Except as provided in paragraph (c) of this clause, the Contractor shall not, during performance of this contract, have any policy or practice that prohibits or in effect prevents—

* * * * *

(d) Notwithstanding any other clause of this contract, if the Secretary of Defense determines that the Contractor misrepresented its policies and practices at the time of contract award or has violated the prohibition in paragraph (b) of this clause—

* * * * *

9. Amend section 252.216–7000 by—

(a) Amending the introductory text by removing ''216.203–4–70(a)'' and adding in its place ''216.203–4–70(a)(1)'';

(b) Amending the clause date by removing ''(Jul 1997)'' and adding in its place ''(Date)''; and

(c) Revising paragraph (b) to read as follows:

252.216–7000 Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products.

* * * * *

(b) As represented by the Contractor in its offer, the unit price stated for (*Identify the item*) is not in excess of the Contractor's established price in effect on the date set for opening of bids (or the contract date if this is a negotiated contract) for like quantities of the same item. This price is the net price after applying any applicable standard trade discounts offered by the Contractor from its catalog, list, or schedule price.

* * * * *

10. Amend section 252.216–7003 by—

(a) Amending the introductory text by removing ''216.203–4–70(c)'' and adding in its place ''216.203–4–70(c)(1)'';

(b) Amending the clause date by removing ''(Jun 1997)'' and adding in its place ''(Date)''; and

(c) Revising paragraph (a) to read as follows:

252.216–7003 Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government.

* * * * *

(a) As represented by the Contractor in its offer, the prices set forth in this contract—

(1) Are based on the wage rate(s) or material price(s) established and controlled by the government of the country specified by the Contractor in the solicitation; and

(2) Do not include contingency allowances to pay for possible increases in wage rates or material prices.

* * * * *

11. Add section 252.216–70XX to read as follows:

252.216–70XX Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products—Representation.

As prescribed in 216.203–4–70(a)(2), use the following provision:

Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products—Representation (Date)

(a) *Definitions.* The terms *established price* and *unit price,* as used in this provision, have the meaning given in the clause 252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products.

(b) By submission of its offer, the offeror represents that the unit price stated in this offer for (*Identify the item*) is not in excess of the offeror's established price in effect on the date set for opening of bids (or the contract date if this is to be a negotiated contract) for like quantities of the same item. This price is the net price after applying any applicable standard trade discounts offered by the offeror from its catalog, list, or schedule price.

(End of provision)

12. Add section 252.216–70YY to read as follows:

252.216–70YY Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government—Representation.

As prescribed in 216.203–4–70(c)(2), use the following provision:

Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government—Representation (Date)

(a) By submission of its offer, the offeror represents that the prices set forth in this offer—

(1) Are based on the wage rate(s) or material price(s) established and controlled by the government of

_____

(*Offeror insert name of host country*);

and

(2) Do not include contingency allowances to pay for possible increases in wage rates or material prices.

(End of provision)

13. Amend section 252.229–7003 by—

(a) Amending the introductory text by removing ''229.402–70(c)'' and adding in its place ''229.402–70(c)(1)'';

(b) Amending the clause date by removing ''(Jan 2002)'' and adding in its place ''(Date)''; and

(c) Revising paragraph (a) to read as follows:

252.229–7003 Tax Exemptions (Italy).

* * * * *

(a) As the Contractor represented in its offer, the contract price, including the prices in subcontracts awarded under this contract, does not include taxes from which the United States Government is exempt.

* * * * *

14. Amend section 252.229–7005 by—

(a) Amending the introductory text by removing ''229.402–70(e)'' and adding in its place ''229.402–70(e)(1)'';

(b) Amending the clause date by removing ''(Jun 1997)'' and adding in its place ''(Date)''; and

(c) Revising paragraph (a) to read as follows:

252.229–7005 Tax Exemptions (Spain).

* * * * *

(a) As the Contractor represented in its offer, the contract prices, including subcontract prices, does not include the taxes identified herein, or any other taxes from which the United States Government is exempt.

* * * * *

15. Add section 252.229–70XX to read as follows:

252.229–70XX Tax Exemptions (Italy)—Representation.

As prescribed in 229.402–70(c)(2), use the following provision:

Tax Exemptions (Italy)—Representation (Date)

(a) *Exemptions.* The United States Government is exempt from payment of—

(1) Imposta Valore Aggiunto (IVA) tax in accordance with Article 72 of the IVA implementing decree on all supplies and services sold to United States Military Commands in Italy; and

(2) The other taxes specified in paragraph (c) of the clause DFARS 252.229–7003, Tax Exemptions (Italy).

(b) *Representation.* By submission of its offer, the offeror represents that the offered price, including the prices of subcontracts to be awarded under the contract, does not include the taxes identified herein, or any other taxes from which the United States Government is exempt.

(End of provision)

16. Add section 252.229–70YY to read as follows:

252.229–70YY Tax Exemptions (Spain)—Representation.

As prescribed in 229.402–70(e)(2), use the following clause:

Tax Exemptions (Spain)—Representation (Date)

(a) *Exemptions.* In accordance with tax relief agreements between the United States Government and the Spanish Government, and because the resultant contract arises from the activities of the United States Forces in Spain, the contract will be exempt from the excise, luxury, and transaction taxes listed in paragraph (b) of the clause DFARS 252.229–7005, Tax Exemptions (Spain).

(b) *Representation.* By submission of its offer, the offeror represents that the offered price, including the prices of subcontracts to be awarded under the contract, does not include the taxes identified herein, or any other taxes from which the United States Government is exempt.

(End of provision)

[FR Doc. 2011–29857 Filed 11–18–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 244, and 252

RIN 0750–AH39

Defense Federal Acquisition Regulation Supplement: Applicability of Hexavalent Chromium Policy to Commercial Items (DFARS Case 2011–D047)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to clarify the applicability to commercial items of DoD policies relating to the use of materials containing hexavalent chromium.

DATES: *Comment Date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before January 20, 2012, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2011–D047, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by inputting ''DFARS Case 2011–D047'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2011–D047.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2009–D047'' on your attached document.

- *Email: dfars@osd.mil.* Include DFARS Case 2011–D047 in the subject line of the message.
- *Fax:* 703–602–0350.
- *Mail:* Defense Acquisition Regulations System, Attn: Amy G. Williams, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 703–602–0328.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a final rule at in the **Federal Register** at 76 FR 25569 on May 5, 2011, to implement in the Defense Federal Acquisition Regulation Supplement (DFARS) the DoD policy addressing the serious human health and environmental risks related to the use of hexavalent chromium. Hexavalent chromium is a chemical that has been used in numerous DoD weapons systems platforms due to its corrosion protection properties. However, hexavalent chromium is a known carcinogen. The final rule minimized the use of materials containing hexavalent chromium in items acquired by DoD, including the creation of a new DFARS clause, 252.223–7008, Prohibition of Hexavalent Chromium, which prohibits the contractor from providing any deliverables or construction material that—

(1) Contains hexavalent chromium in a concentration greater than 0.1 percent by weight in any homogeneous material; or

(2) Requires the removal or reapplication of hexavalent chromium materials during subsequent sustainment phases of the deliverable or construction material.

The final rule prescribed use of the clause in solicitations and contracts for supplies, maintenance and repair services, or construction, unless an exception at DFARS 223.7304 applies or use has been authorized in accordance with DFARS 223.7305.

II. Discussion and Analysis

The preamble to the final rule stated the clear intent that the rule should apply to commercial items. In response to a respondent who requested an exception for all commercial items, DoD stated that to provide an exception for all commercial items will jeopardize the intent of the rule and be contrary to DoD policy (section II.F.).

However, although the final rule did not specify an exception for commercial items, the rule overlooked the need to separately prescribe the clause in part 212 in order to require use of the clause in acquisitions conducted under part 212. FAR 12.301(d)(1) states that prescriptions contained elsewhere in the FAR do not apply to acquisitions under FAR part 12, unless separately included in FAR part 12.

Therefore, this rule proposes to correct that oversight and provide at

DFARS 212.301(f) the requirement for use of DFARS 252.223–7008 in contracts for the acquisition of commercial items, as prescribed at 223.7306. In addition, in order to flow the requirement down to commercial subcontracts under a noncommercial prime contract, the clause DFARS 252.223–7008 must be added to the list of clauses in DFARS 252.244–7000, Subcontracts for Commercial Items and Commercial Components (DoD Contracts).

In addition, the prescription at DFARS 244.403 for use of 252.244–7000 was simplified, so that DFARS 244.403 does not require update every time a clause is added to the list in 252.244–7000 for flow down to subcontracts for commercial items. Further, 252.244–7000 states that the listed clauses shall flow down when applicable. This rule augments the list of clauses in 252.244–7000 with indication of the conditions of applicability for each clause.

III. Executive Orders 1286 and 13565

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because this rule is just correcting a drafting oversight in the rule published on May 5, 2011. DoD certified that that rule would not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis has not been performed. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 201X–D047), in correspondence.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 212, 244, and 252

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulation Supplement.

Therefore DoD proposes to amend 48 CFR parts 212, 244, and 252 as follows:

1. The authority citation for 48 CFR parts 212, 244, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

2. Amend section 212.301 by—

(a) Redesignating paragraphs (f)(iv)(E) through (L) as paragraphs (f)(iv)(F) through (M); and

(b) Adding new paragraph (f)(iv)(E) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(E) Use the clause at 252.223–7008, Prohibition of Hexavalent Chromium, as prescribed at 223.7306.

* * * * *

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

3. Revise section 244.403 to read as follows:

244.403 Contract clause.

Use the clause at 252.244–7000, Subcontracts for Commercial Items and Commercial Components (DoD Contracts), in solicitations and contracts for supplies or services other than commercial items that contain any of the clauses listed in the clause at 252.244–7000.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Revise section 252.244–7000 to read as follows:

252.244–7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts).

As prescribed in 244.403, use the following clause:

SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS) (DATE)

In addition to the clauses listed in paragraph (c) of the Subcontracts for Commercial Items clause of this contract (Federal Acquisition Regulation 52.244–6), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

(a) 252.223–7008, Prohibition of Hexavalent Chromium, if the subcontract is for supplies, maintenance and repair services, or construction materials.

(b) 252.225–7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals (JAN 2011) (10 U.S.C. 2533b), if flow down is required in accordance with paragraph (e) of DFARS clause 252.225–7009.

(c) 252.225–7039, Contractors Performing Private Security Functions (AUG 2011) (Section 862 of Pub. L. 110–181, as amended by section 853 of Pub. L. 110–417 and sections 831 and 832 of Pub. L. 111–383), if the subcontract will be performed in areas of contingency operations, complex contingency operations, or other military operations or exercises designated by the Combatant Commander.

(d) 252.227–7015, Technical Data—Commercial Items (SEP 2011), if applicable (see 227.7102–4(a)), if flow down is required in accordance with paragraph (e) of DFARS clause 252.227–7015.

(e) 252.227–7037, Validation of Restrictive Markings on Technical Data (SEP 2011), if applicable (see 227.7102–4(c)), if the subcontract or supplier at any tier requires the delivery of technical data.

(f) 252.236–7013 Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers (JAN 2009) (Pub. L. 110–329, Division E, Section 108), if the subcontract involves the acquisition of steel as a construction material.

(g) 252.237–7010 Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111–84), if the subcontract may require subcontractor personnel to interact with detainees in the course of their duties.

(h) 252.237–7019 Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108–375), if the subcontract may require subcontractor personnel to interact with detainees in the course of their duties.

(i) 252.246–7003 Notification of Potential Safety Issues (JAN 2007), if flow down is required in accordance with paragraph (f) of DFARS clause 252.246–7003.

(j) 252.247–7023 Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631), if flow down is required in accordance

with paragraph (h) of DFARS clause 252.247–7023.

(k) 252.247–7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631), if flow down is required in accordance with paragraph (b) of DFARS clause 252.247–7024.

(End of clause)

[FR Doc. 2011–29861 Filed 11–18–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 232 and 252

RIN 0750–AH40

Defense Federal Acquisition Regulation Supplement; Updates to Wide Area WorkFlow (DFARS Case 2011–D027)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to update policies on the submission of payment requests and receiving reports in electronic format.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before January 20, 2012, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS case 2011–D027, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''DFARS Case 2011–D027'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2011–D027.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2011–D027'' on your attached document.

○ *Email: dfars@osd.mil.* Include DFARS Case 2011–D027 in the subject line of the message.

○ *Fax:* (703) 602–0350.

○ *Mail:* Defense Acquisition Regulations System, Attn: Mr. Julian Thrash, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Julian Thrash, (703) 602–0310.

SUPPLEMENTARY INFORMATION:

I. Background

DoD proposes to update policy and procedures in the Defense Federal Acquisition Regulation Supplement (DFARS) for electronic submission of payment requests and receiving reports through Wide Area WorkFlow (WAWF) and TRICARE Encounter Data System (TEDS). WAWF, which electronically interfaces with the primary DoD payment systems, is the accepted DoD system for generating invoices and receiving reports. TEDS is an accepted system for processing payment requests for rendered TRICARE health care services.

The capabilities of WAWF have expanded to enable use in a wider variety of environments by a wider variety of users. As such, this rule is intended to expand the use of WAWF for submission of payment requests and receiving reports and to standardize processes and instructions on the use of WAWF by accomplishing the following DFARS revisions:

- Update 232.7002(a)(1) to clarify that only payment requests (not receiving reports) for contracts paid for with the Governmentwide commercial purchase card are excepted from using WAWF;
- Remove the exception to the use of WAWF at 232.7002(a)(2) for contracts awarded to foreign vendors;
- Update 232.7002(a)(3) to specify a WAWF exception for contracts awarded by contracting officers for contingency, humanitarian, peacekeeping, or emergency response operations only when the use of WAWF is not feasible by the contractor;
- Update 232.7002(a)(4) to specify a WAWF exception for purchases made for an unusual or compelling need as defined in Federal Acquisition Regulation (FAR) 6.302–2 only when the use of WAWF is not feasible;
- Remove, at 232.7003(b), the contracting officer's authority to allow a contractor to submit a payment request and receiving report using an electronic form other than WAWF, unless a written determination is provided to the Senior Procurement Executive;
- Add at 232.7003(c), the use of TEDS for submitting and processing TRICARE payment requests and receiving reports for rendered health care services; and
- Provide a standard WAWF payment clause.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD expects that this proposed rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Therefore, an Initial Regulatory Flexibility Analysis has been prepared and is summarized as follows:

The rule incorporates WAWF's new capability of capturing receiving reports for contracts paid for with a Governmentwide commercial purchase card and clarifies exceptions to the use of WAWF only when it is not feasible. The rule also consolidates and standardizes instructions to contractors on how to use the WAWF application. Furthermore, it eliminates locally defined methods that are in some cases causing confusion and inefficiencies, and it incorporates the use of TEDS for medical services requiring Health Insurance Portability and Accountability Act data not handled by WAWF.

DoD made small business awards to 60,000 companies in Fiscal Year 2010. With the exception of less than 4,000 companies that only received awards paid with a purchase card, this will be a simplification of procedures by allowing contractors to use the same process and systems for all DoD shipments.

This rule does not impose any new reporting or recordkeeping requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no significant alternatives to accomplish the stated objectives of this rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2011–D027) in the correspondence.

IV. Paperwork Reduction Act

This rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore DoD proposes to amend 48 CFR parts 232 and 252 as follows:

1. The authority citation for 48 CFR parts 232 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 232—CONTRACT FINANCING

2. Revise section 232.7002(a) to read as follows:

232.7002 Policy.

(a) Contractors shall submit payment requests and receiving reports in electronic form, except for—

(1) Payment requests for purchases paid for with a Governmentwide commercial purchase card;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified information or national security;

(3) Contracts awarded by deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 2302(8), or contracts awarded by contracting officers in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies, when access to Wide Area WorkFlow by those contractors is not feasible;

(4) Purchases to support unusual or compelling needs of the type described in FAR 6.302–2, when access to Wide Area WorkFlow by those contractors is not feasible;

(5) Cases in which DoD is unable to receive payment requests or provide acceptance in electronic form; or

(6) Cases in which the contracting officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the contractor. In those cases, a copy of the determination shall be furnished to the Service Procurement Executive.

* * * * *

3. Amend section 232.7003 by revising paragraphs (b) and (c) to read as follows:

232.7003 Procedures.

* * * * *

(b) For payment of commercial transportation services provided under a Government rate tender or a contract for transportation services, the use of a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (*e.g.,* PowerTrack, Transportation Financial Management System, and Cargo and Billing System) is permitted.

(c) For submitting and processing payment requests and receiving reports for rendered health care services, use of TRICARE Encounter Data System (TEDS) as the electronic format is permitted.

4. Revise section 232.7004 to read as follows:

232.7004 Contract clauses.

(a) Except as provided in 232.7002(a)(2), (3), or (4), use the clause at 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports, in solicitations and contracts.

(b) Use the clause at 252.232–70XX, Wide Area WorkFlow Payment Instructions, when 252.232–7003 is used and neither 232.7003 (b) nor (c) apply. See PGI 232.7004 for instructions on completing the clause.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 252.232–7003 by—

(a) Amending the introductory text to remove ''232.7004'' and insert in its place ''232.7004(a)'';

(b) Amending the clause date by removing ''(MAR 2008)'' and adding in its place ''(Date)'';

(c) Adding new paragraph (a)(4);

(d) Removing paragraphs (c)(1) and (2);

(e) Redesignating paragraphs (c)(3) and (4) as paragraphs (c)(1) and (2), respectively; and

(f) Amending the newly redesignated paragraph (c)(1) by removing the word ''or'' at the end of the paragraph;

(g) Amending the newly redesignated paragraph (c)(2) by removing ''.'' and replacing it with ''; '' at the end of the paragraph;

(h) Adding new paragraphs (c)(3) and (4).

The additions read as follows:

252.232–7003 Electronic Submission of Payment Requests and Receiving Reports.

* * * * *

(a) * * *

(4) ''Receiving report'' means the data required by the clause at 252.246–7000, Material Inspection and Receiving Report.

* * * * *

(c) * * *

(3) DoD makes payment for rendered health care services using the TRICARE Encounter Data System (TEDS) as the electronic format; or

(4) Payment is made via the Governmentwide commercial purchase card, the receiving report shall still be submitted via WAWF.

* * * * *

6. Section 252.232–70XX is added to read as follows:

252.232–70xx Wide Area WorkFlow Payment Instructions.

As prescribed in 232.7004(b), use the following clause:

WIDE AREA WORKFLOW PAYMENT INSTRUCTIONS (DATE)

(a) *Definitions.* As used in this clause—

Document type means the type of payment request or receiving report available for creation in Wide Area WorkFlow (WAWF).

Department of Defense Activity Address Code (DoDAAC) is a six position code that uniquely identifies a unit, activity, or organization.

Local processing office (LPO) is the office responsible for payment certification when the entitlement system is OnePay.

(b) *Electronic Invoicing.* The WAWF system is the preferred method to electronically process vendor payment requests and receiving reports, as authorized by DFARS 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports, unless an alternate invoicing method is agreed to by the contracting parties in accordance with DFARS clause 252.232–7003.

(c) *WAWF Access.* To access WAWF, the Contractor shall—

(1) Have a designated electronic business point of contact in the Central Contractor Registration at *https://www.acquisition.gov;* and

(2) Be registered to use WAWF at *https://wawf.eb.mil/* following the step-by-step procedures for self-registration available at this Web site.

(d) *WAWF Training.* The Contractor should follow the training instructions of the WAWF

Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the ''Web Based Training'' link on the WAWF home page at *https://wawf.eb.mil/.*

(e) *WAWF Methods of Document Submission.* Document submissions may be via web entry, Electronic Data Interchange, or File Transfer Protocol.

(f) *WAWF Payment Instructions.* The Contractor must use the following information when submitting payment requests and receiving reports in WAWF for this contract/order:

(1) *Document Type.* The Contractor agrees to use the document type(s) identified below, unless the Contractor notifies the contracting officer that its business process does not allow for submission of the specified document type(s). The Contractor and the contracting officer must agree to an alternative document type before award.

(Contracting Officer: Insert Applicable Document Type(s)

Note: *If a Combo Document Type is identified but not supportable by the Contractor's business systems, an Invoice (stand-alone) and Receiving Report (stand-alone) Document Type may be used instead.)*

(2) *Inspection/Acceptance Location.* The Contractor shall select the appropriate inspection/acceptance location(s) in WAWF, if specified by the contracting officer below.

(Contracting Officer: Insert Inspection and Acceptance locations or ''Not Applicable''.)

(3) *Document Routing.* The Contractor shall use the information in the Routing Data Table below only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the System.

ROUTING DATA TABLE *

Field name in WAWF	Data to be entered in WAWF
Pay Office DoDAAC	
Issue By DoDAAC	
Admin DoDAAC	
Inspect By DoDAAC	
Ship To Code	
Service Approver (DoDAAC)	
Ship From Code	
Service Acceptor (DoDAAC)	
Accept at Other DoDAAC	
LPO DoDAAC	
DCAA Auditor DoDAAC	
Other DoDAAC(s)	

*(*Contracting Officer: Insert applicable DoDAAC information or ''See Schedule'' if multiple Ship to/Acceptance locations apply, or ''Not Applicable''.)*

(4) *Payment Request and Supporting Documentation.* The Contractor shall ensure a payment request includes appropriate contract line item and subline item descriptions of the work performed or supplies delivered, unit price/cost per unit, fee (if applicable), and all relevant back-up documentation (e.g. timesheets) in support of each payment request.

(5) *WAWF Email Notifications.* The Contractor shall enter the email address identified below in the ''Send Additional Email Notifications'' field of WAWF once a document is submitted in the system.

(Contracting Officer: Insert applicable Email addresses or ''Not Applicable''.)

(g) *Payment Request Follow-up.* The Contractor may obtain invoice status by accessing *https://myinvoice.csd.disa.mil/,* after submission of an invoice in WAWF. The information may not be readily available until at least 3 days prior to payment date.

(h) *WAWF Point of Contact.* The Contractor may obtain clarification regarding invoicing in WAWF from the contracting activity's WAWF point of contact identified below.

(Contracting Officer: Insert applicable information or ''Not Applicable''.)
(End of clause)

[FR Doc. 2011–29860 Filed 11–18–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 10

[Docket No. OST–1996–1437]

RIN 2105–AD11

Maintenance of and Access to Records Pertaining to Individuals; Proposed Exemption

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: DOT proposes to exempt portions of a newly established system of records titled, ''Department of Transportation/ALL 24 Departmental Office of Civil Rights System'' from certain provision of the Privacy Act. Specifically, the DOT exempts portions of the ''Department of Transportation/ ALL–24 Departmental Office of Civil Rights System'' from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements. Public comment is invited.

DATE: Comments are due December 21, 2011.

ADDRESSES: You may file comments identified by the docket number DOT–OST–1996–1437 by any of the following methods:

- *Federal Rulemaking Portal:* go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., 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 Ave., SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–1996–1437 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

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

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Claire Barrett, Departmental Chief Privacy Officer, Office of the Chief Information Officer, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590 or *claire.barrett@dot.gov* or (202) 366–8135.

SUPPLEMENTARY INFORMATION: It is DOT practice to identify a Privacy Act system of records that is exempt from one or more provisions of the Privacy Act (pursuant to 5 U.S.C. 552a(j) or (k)) both in the system notice published in the **Federal Register** for public comment and in an Appendix to DOT's regulations implementing the Privacy Act (49 CFR Part 10, Appendix A). This amendment proposes exemption from certain portions of the Privacy Act of a proposed record system—the Departmental Office of Civil Rights System of Records (DOCRS)—to be used to track correspondence, inquiries, complaints, and appeals filed by individuals, small businesses, or representatives of individuals or small businesses who believe they have been subjected to discrimination or retaliation prohibited by Federal law by a DOT employee, or by a DOT

Federally-assisted, or Federally-conducted program or activity.

To aid in the law enforcement aspects of DOCRS, DOT proposes to treat it as it treats other law enforcement systems, by exempting it from the following provisions of the Privacy Act: (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) to the extent that DOCRS contains investigatory material compiled for law enforcement purposes, in accordance with 5 U.S.C. 552a(k)(2).

Regulatory Analysis and Notices

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

This proposal is not a ''significant regulatory action'' within the meaning of Executive Order 12886. It is also not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this proposal would not have a significant economic impact on a substantial number of small entities, because the reporting requirements, themselves, are not changed and because it applies only to information on individuals that is maintained by the Federal Government.

This proposal would not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

B. Executive Order 13084

This notice has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because it has no effect on Indian Tribal Governments, the funding and consultation requirements of Executive Order 13084 do not apply.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. I hereby certify that the rule proposed in this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This rule imposes no new information reporting or recordkeeping necessitating clearance by the Office of Management and Budget.

E. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this notice.

List of Subjects in 49 CFR Part 10

Authority delegations (Government agencies); Organization and functions (Government agencies); Transportation Department.

In consideration of the foregoing, DOT proposes to amend part 10 of Title 49, Code of Federal Regulations, as follows:

PART 10—[AMENDED]

1. The authority citation for part 10 would continue to read as follows:

Authority: 5 U.S.C. 552a; 49 U.S.C. 322.

2. The Appendix to Part 1—Exemptions would be amended by inserting in of Part II.A. a new paragraph 8, immediately following paragraph (7) to read as follows:

Appendix A—Exemptions

Part II. Specific exemptions. A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a, to the extent that they contain investigatory material compiled for law enforcement purposes, in accordance 5 U.S.C. 552a(k)(2):

* * * * *

8. Departmental Office of Civil Rights System (DOCRS).

* * * * *

Issued in Washington, DC, on November 9, 2011.

Claire Barrett,

Departmental Chief Privacy Officer.

[FR Doc. 2011–29556 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–62–P

Notices

Federal Register
Vol. 76, No. 224
Monday, November 21, 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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. 2011–CFPB]

Proposed Collection; Comment Request

ACTION: Notice and request for comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau or CFPB), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. The Bureau is soliciting comments regarding the information collection requirements contained in 12 CFR Part 1082, State Official Notification Rules.

DATES: Written comments must be received on or before January 20, 2012 to be assured of consideration.

ADDRESSES: You may submit comments, identified by *Docket No. CFPB–2011–0038,* by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Bureau of Consumer Financial Protection, 1500 Pennsylvania Ave, NW., (Attn: 1801 L Street), Washington, DC 20220.
- *Hand Delivery/Courier in Lieu of Mail:* Monica Jackson, Office of the Executive Secretary, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20006.

All submissions must include the agency name and docket number. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington DC 20006, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Ethan Levisohn, Office of Enforcement, at (202) 435–7055.

SUPPLEMENTARY INFORMATION:

Title: CFPB State Official Notification Rules.

OMB Control Number: 1505–0237.

Abstract: Section 1042 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111–203, requires the Bureau to prescribe rules establishing procedures that govern the process, described in Section 1042(b) of the Dodd-Frank Act, by which state officials notify the CFPB of actions or proceedings undertaken pursuant to the authority granted in section 1042(a) to enforce the Dodd-Frank Act or regulations prescribed thereunder. In accordance with the requirements of the Dodd-Frank Act, the Bureau has proposed an interim final rule establishing that notice should be provided at least 10 days before the filing of an action, with certain exceptions, and setting forth a limited set of information which is to be provided with the notice (which substantially tracks the statutory language). The data will be received each time a state official files an action to enforce the Dodd-Frank Act or a regulation promulgated thereunder. It will be collected by the Bureau (through electronic mail submissions), and specifically by the Office of Enforcement and the Executive Secretary, who will share it as necessary and appropriate within the Bureau and elsewhere in government, pursuant to the process set out in the rules. It will also be collected by the prudential regulators (through postal mail or electronic mail submissions) where relevant. Unless used as part of a legal proceeding in which the Bureau is engaged, it is not expected that the information will be shared with the public, unless the information is already made public by the state official providing the notice.

As discussed, the information provided in the notice will be used by the Bureau (and prudential regulators, where relevant) to stay informed about the enforcement activities of state officials enforcing the Dodd-Frank Act and to decide when and how, if at all, to react to such activities.

Type of Review: Renewal.

Affected Public: State or Local Governments.

Estimated Total Annual Burden Hours: The information sent under the notice provisions of the rule is primarily information which the state officials providing the notice would have already collected and have available at the time notice is given. It is unlikely that compiling and sending the requested information would require more than 30 minutes of additional work. As this is a new area of law, at this time, it would be impossible to estimate the number of actions which state officials will file under the Dodd-Frank Act and, accordingly, the number of notices which the CFPB will receive.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the collection of information associated with the State Official Notification Rules is necessary for the proper performance of the Bureau, including whether the information will have practical utility; (b) the accuracy of the above estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, usefulness, 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.

Robert Dahl,

PRA Departmental Clearance Officer, Department of the Treasury.

[FR Doc. 2011–29996 Filed 11–18–11; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 15, 2011.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: National School Lunch Program Direct Certification Improvement Study.

OMB Control Number: 0584–0529.

Summary of Collection: Direct certification enables children in households that receive Supplemental Nutrition Assistance Program (SNAP) or other public assistance program benefits to be certified to receive free school meals without application. The Child Nutrition and Special Supplemental Nutrition Program for Women, Infant, and Children (WIC) Reauthorization Act of 2004 (Pub. L. 108–265) required States and local education agencies to use direct certification. The Food and Nutrition Service (FNS) issued a new guideline, effective for school year 2009–2010, that direct certification must apply to all students in the household, to the extent possible, if any household member receives SNAP, Food Distribution Program on Indian Reservation, or Temporary Assistance for Needy Families benefits.

Need and Use of the Information: In order for FNS to meet the study objectives, the project will include three data collection efforts: (1) A Web-based national survey of States and local nutrition program administration; (2) in-person interviews conducted with State and district-level staff responsible for direct certification in seven case study States; and (3) an exploration of unmatched SNAP participant records and National School Lunch Program application in case study States. If the data are not collected, FNS will not have the information it needs to address the study objectives.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 6,513.

Frequency of Responses: Reporting: Other (one-time).

Total Burden Hours: 3,728.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–29952 Filed 11–18–11; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Office of the Under Secretary, Research, Education, and Economics; Notice of the Advisory Committee on Biotechnology and 21st Century Agriculture Meeting

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the United States Department of Agriculture announces a meeting of the Advisory Committee on Biotechnology and 21st Century Agriculture (AC21).

DATES: The meeting dates are December 6–7, 2011, 8:30 a.m. to 5 p.m. each day.

ADDRESSES: Room 1107, U.S. Department of State, 2201 C Street NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Michael Schechtman, Designated Federal Official, Office of the Deputy Secretary, USDA, 202B Jamie L. Whitten Federal Building, 12th and Independence Avenue SW., Washington, DC 20250; Telephone (202) 720–3817; Fax (202) 690–4265; Email *AC21@ars.usda.gov.*

SUPPLEMENTARY INFORMATION: The next meeting of the AC21 has been scheduled for December 6–7, 2011. The AC21 consists of members representing the biotechnology industry, the organic food industry, farming communities, the seed industry, food manufacturers, state government, consumer and community development groups, as well as academic researchers and a medical doctor. In addition, representatives from the Department of Commerce, the Department of Health and Human Services, the Department of State, the Environmental Protection Agency, the Council on Environmental Quality, and the Office of the United States Trade Representative have been invited to serve as ''ex officio'' members. The Committee meeting will be held from 8:30 a.m. to 5 p.m. on each day. The topics to be discussed will include: (1) Considering reports of two working groups on their initial deliberations relating to size and scope of risks and to potential compensation mechanisms; (2) listening to presentations from outside experts on topics relevant to the work of the AC21; and (3) continuing overall discussions on the Committee charge and planning subsequent work.

Background information regarding the work and membership of the AC21 will be made available on the USDA Web site at *http://www.usda.gov/wps/portal/usda/usdahome?contentid=AC21Main.xml&contentidonly=true.* Members of the public who wish to make oral statements should also inform Dr. Schechtman in writing or via Email at the indicated addresses at least three business days before the meeting. On December 6, 2011, if time permits, reasonable provision will be made for oral presentations of no more than five minutes each in duration.

The meeting will be open to the public, but space is limited and security requirements at the venue dictate that all attendees must be pre-registered for clearance in order to enter the building. If you would like to attend the meetings, you must register by contacting Ms. Dianne Fowler at (202) 720–4074 or by Email at *Dianne.fowler@ars.usda.gov* at least 7 days prior to the meeting. Please provide your name, title, business affiliation, address, telephone, fax number, date of birth, and identifying data (drivers license or passport number) when you register. If you are a person with a disability and request

reasonable accommodations to participate in this meeting, please note the request in your registration. All reasonable accommodation requests are managed on a case by case basis.

Dated: November 16, 2011.

Catherine E. Woteki,

Under Secretary, Research, Education and Economics.

[FR Doc. 2011–30027 Filed 11–18–11; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; Direct Loan Servicing—Special

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is seeking comments from all interested individuals and organizations on a revision of a currently approved information collection that supports Direct Loan Servicing-Special programs. The information is used in eligibility and feasibility determinations on borrower requests for disaster set-aside, primary loan servicing, buyout at market value, and homestead protection, as well as liquidation of security.

DATES: We will consider comments that we receive by January 20, 2012.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, the OMB control number and the title of the information collection. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* J. Lee Nault, Loan Specialist, USDA/FSA/FLP, STOP 0523, 1400 Independence Avenue SW., Washington, DC 20250–0520.
- *Email: lee.nault@wdc.usda.gov.*
- *Fax:* (202) 690–0949.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting J. Lee Nault at the above address.

FOR FURTHER INFORMATION CONTACT: J. Lee Nault, Loan Specialist, Farm Service Agency, (202) 720–6834.

SUPPLEMENTARY INFORMATION:

Title: (7 CFR part 766) Farm Loan Programs—Direct Loan Servicing-Special.

OMB Number: 0560–0233.

Expiration Date: 01/31/2014.

Type of Request: Revision.

Abstract: FSA is revising a currently approved information collection to add two new forms which would allow certain borrowers to: (1) Request a new notification of loan servicing options available; and (2) complete a new loan servicing application.

FSA's Farm Loan Programs provide loans to family farmers to purchase real estate and equipment and finance agricultural production. Direct Loan Servicing—Special, as specified in 7 CFR part 766, provides the requirements for servicing financially distressed and delinquent direct loan borrowers. FSA's loan servicing options include disaster set-aside, primary loan servicing (including reamortization, rescheduling, deferral, write down and conservation contracts), buyout at market value, and homestead protection. FSA also services borrowers who file bankruptcy or liquidate security when servicing options are not available or are insufficient to produce a feasible plan. The information collections contained in the regulation are necessary to evaluate a borrower's request for consideration of the special servicing actions.

Respondents: Individuals or households, businesses or other for profit farms.

Estimated Annual Number of Respondents: 14,929.

Estimated Number of Reponses per Respondent: 1.

Total Annual Responses: 27,905.

Estimated Total Annual Burden Hours: 15,832.

We are requesting comments on all aspects of this information collection and to help us to:

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

(2) Evaluate the accuracy of the FSA's estimate of burden 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.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Signed on: November 15, 2011.

Bruce Nelson,

Administrator, Farm Service Agency.

[FR Doc. 2011–30031 Filed 11–18–11; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Tobacco Transition Payment Program; Availability of Current Assessment Methods Determination Document

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice of availability of determinations.

SUMMARY: The Commodity Credit Corporation (CCC) is making available a document regarding two consolidated determinations with respect to the current methods used to calculate manufacturer and importer assessments that fund the Tobacco Transition Payment Program (TTPP). It is in response to challenges raised in two lawsuits—*Prime Time International Co.* v. *Vilsack et al.* and *Philip Morris USA Inc.* v. *Vilsack et al.*—involving the terms and construction of the Fair and Equitable Tobacco Reform Act of 2004 (FETRA). Both matters involve the question of what is a ''share of gross domestic volume'' within the meaning of FETRA and the question of what is to be done with those ''shares'' in calculating program liabilities. Because the outcomes of these two lawsuits have the potential to affect not only the plaintiffs, but also all other importers and manufacturers, public availability of a USDA determination is warranted.

FOR FURTHER INFORMATION CONTACT: Jane Reed, phone: (202) 720–6782; mail: Farm Service Agency, USDA, ATTN: Jane Reed, U.S. Department of Agriculture, Farm Service Agency, Economic and Policy Analysis Staff, Mail stop 0515, 1400 Independence Ave. SW., Washington DC 20250–0515; email: *jane.reed@wdc.usda.gov;* fax: (202) 720–8120. Persons with disabilities who require alternative means for communication information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: FETRA (7 U.S.C. 518–519a), which was contained

in the American Jobs Creation Act of 2004 (Pub. L. 108–357) authorized the TTPP following the termination of the longstanding tobacco price support program. The 10-year TTPP (operating from fiscal year (FY) 2005 through FY 2014) makes annual payments of about $1 billion to those who held tobacco quotas and produced tobacco at the time FETRA established TTPP. These payments are funded via assessments that are collected from domestic tobacco manufacturers and importers.

USDA uses a two-step process for calculating these assessments for each manufacturer and importer. First, the total amount of assessment liability is divided among six classes of tobacco products (cigarettes, cigars, snuff, roll-your-own, chewing, and pipe). Second, liability is further divided among the individual manufacturers and importers based on each company's market share within each class. For both steps, a party's or class' ''share'' of ''gross domestic volume''—that volume being defined in FETRA as the totality of those products of all categories removed into domestic commerce and not exempt from Federal excise tax—is a key element. How these terms are interpreted, and what a party's or class' ''share'' is of that ''gross domestic volume'' within the meaning of FETRA are key elements in both disputes.

USDA believes, after considering the matter, that the continued use of current procedure to calculate manufacturer and importer assessments is warranted. A detailed explanation of the issues and USDA's rationale is available in the USDA determination at *http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ecpa&topic=fta-ta.* The determination addresses the rulemaking matter covered in a **Federal Register** document published March 22, 2011 (76 FR 15859–15864) with respect to the ''Step B'' calculations. The determination also addresses an administrative petition regarding ''Step A.'' These terms and the nature of the disputes are described in detail in the document available at the link noted above.

Signed on November 16, 2011.

Bruce Nelson,

Administrator, Farm Service Agency.

[FR Doc. 2011–30032 Filed 11–18–11; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Humboldt-Toiyabe National Forest, Carson Ranger District, Nevada and California, Bordertown to California 120 kV Transmission Line

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Forest Service will prepare an EIS to determine and analyze the effects of the proposed Bordertown 120 kilovolt (kV) Transmission Line project on people and the environment. The project would consist of the construction and operation of approximately 10 miles of new 120 kV overhead transmission line between NV Energy's existing Bordertown and California Substations. To accommodate the new transmission line, the project would also include improvements to both substations. The majority of the route would cross National Forest System land managed by the Forest Service, with shorter segments crossing private land and public land managed by the Bureau of Land Management (BLM).

DATES: Comments concerning the scope of the analysis must be received by 71 days from date of publication in the **Federal Register**. The draft environmental impact statement is expected April 2013 and the final environmental impact statement is expected December 2013.

ADDRESSES: Written comments or resource information can be submitted by any of the following methods:

- Email comments to: *comments-intermtn-humboldt-toiyabe@fs.fed.us.*
- U.S. Mail address: Humboldt-Toiyabe National Forest, Bordertown to California 120 kV Transmission Line, 1200 Franklin Way, Sparks NV 89431.
- Hand delivery: 1200 Franklin Way, Sparks, NV 89431, Monday–Friday, 8 a.m.–4:30 p.m., excluding Federal holidays.
- Fax comments to: (775) 355–5399, please include a cover sheet and include ''Bordertown to California 120 kV Transmission Line'' in the subject line.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, please contact Marnie Bonesteel, Humboldt-Toiyabe National Forest, (775) 352–1240, *mbonesteel@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 Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the project is to provide reliable bulk transmission capacity to west Reno consistent with NERC Standard TPL–003–0. Load growth in the Reno area, particularly on the west side, has created bulk electrical transmission problems. Almost all of the power generation in the Reno 120 kV system is on the east side of Reno. The North Valley Road 345/120 kV Substation in north central Reno is currently used to move power through a network of 120 kV lines to the west side. During periods of heavy load, loss of one line in the network could overload the remaining lines, causing a failure that could result in outages in west Reno.

Proposed Action

The Forest Service proposes to authorize construction and operation of approximately 10 miles of new 120 kV overhead transmission line between NV Energy's Bordertown and California Substations (Stateline alignment). To accommodate the new transmission line, the project would also include improvements to both substations. Improvements include the installation of a 345/120 kV transformer and a 120 kV line terminal at Bordertown Substation and rearrangment of existing 120 kV terminals at California Substation. The majority of the route (approximately 7 miles) would cross National Forest System land, with shorter segments crossing private land (approximately 2.5 miles) and public land managed by BLM (approxomately 0.50 mile).

Alternatives

The Forest Service will evaluate a No Action Alternative, under which the Forest Service would not authorize a special use permit for construction of a transmission line. In addition, three alternative transmission alignments that would connect the Bordertown and California substations are being considered (Mitchell, Peavine and Poeville). The Mitchell alignment crosses an area previously disturbed by wildland fire and uses existing transmission corridors. The Peavine alignment crosses through big sagebrush vegetation and is the most visually sensitive alignment for approximately 0.50 mile of the route. The Poeville alignment takes advantage of routing within existing transmission line corridors and reduces the total miles crossing National Forest System land.

The Poeville alignment would be the longest route. Other alternatives may be developed in response to issues identified during scoping.

Lead and Cooperating Agencies

The Forest Service is the lead federal agency for the NEPA analysis process and preparation of the EIS. Cooperating agencies identified at this time include: Bureau of Land Management, Washoe County, City of Reno, Truckee Meadows Planning Agency and the Nevada Department of Wildlife.

Responsible Official

Humboldt-Toiyabe Forest Supervisor.

Nature of Decision To Be Made

The Forest Supervisor will decide whether or not to authorize a 50 year term Special Use Permit for the construction, operation, and maintenance of the Bordertown 120 kV transmission line on National Forest System land. Decisions regarding public land managed by the BLM will be made by the BLM.

Preliminary Issues

Through public scoping, the Forest Service expects to identify relevant issues, potential impacts, design/mitigation measures, and alternatives to the proposed action. At present, the Forest Service has identified the following preliminary concerns:

- Potential effects to visual resources and existing viewsheds as a result of power line structures visable from Bordertown and California substations.
- Potential effects to Dog Valley and Webber Ivesia, Forest Service sensitive plants, from potential introduction and spread of noxious and invasive weeds.
- Potential for introduction and spread of noxious and invasive weed species, including known populations of medusahead grass and bull thistle from construction of temporary roads.
- Ability to reclaim temporary roads and areas disturbed by the project using native plant species due to the proliferation of cheatgrass and bulbous blue grass in the area.
- Potential effects to historic properties, including the National Historic Emigrant trail and an historic railroad grade due to the installation of powerline structures changing the visual setting of the area.
- Potential for off-highway motor vehicle use to occur on temporary roads constructed for the project.
- Potential temporary effects to the Mitchell Canyon mule deer wintering area due to construction activities.
- Potential loss or reduction of large diameter trees and trees planted after the Mitchell Canyon fire due to construction of the powerline corridor.
- Potential need to protect powerlines from wildland fire due to hazardous fuel conditions adjacent to project area.
- Potential for altering the general forested character and setting from a change in land use by granting a permanent easement for the powerline.

Permits or Licenses Required

Other permits required by NV Energy to construct the project include, but are not limited to the following: Sierra County, Special Use Permit; Washoe County Special Use Permit; Washoe County Air Quality Management Division, Surface Area Disturbance Permit; Bureau of Land Management Right of Way grant; Lahontan Regional Water Quality Control Board, National Pollutant Dishcharge Elimination System (NPDES) Construction Storm Water General Permit for Linear Projects; and Nevada Division of Environmental Protection, NPDES Stormwater General Permit for Construction.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. To provide the public an opportunity to review the proposal and project information, the Forest Service will hold at least two meetings. Meetings will be conducted in an ''open house'' format and will include displays explaining the project and provide a forum for commenting on the project. Meetings are currently planned for Bordertown/Cold Springs and Verdi, Nevada.

1. December 6th, 2011 4:30–6:30 p.m., Cold Springs Regional Park, Grand Room 3355 White Lake Parkway in Cold Springs, Nevada 89508.

2. December 8th, 2011 4:30—6:30 p.m., Verdi Elementary School, 250 Bridge Street, Verdi, Nevada 89523.

It is important that reviewers provide their comments at such times and in such a manner that they are useful to the agency's preparation of the EIS. 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 (40 CFR 1501.7 and 1508.22, FS Handbook 1909.15 Section 21).

Dated: November 10, 2011.

Jeanne M. Higgins,

Forest Supervisor.

[FR Doc. 2011–29797 Filed 11–18–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Upper Deckers Creek Watershed, Preston County, WV

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service, U. S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Upper Deckers Creek Watershed, Preston County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Kevin Wickey, State Conservationist, Natural Resources Conservation Service, 1550 Earl Core Road, Suite 200, Morgantown, West Virginia 26505. Telephone: (304) 284–7545.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional or national impacts on the environment. As a result of these findings, Kevin Wickey, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns the rehabilitation of the Upper Deckers Creek Site 1 dam and impoundment to meet current design criteria and performance standards. The Site 1 dam, located about 1.5 miles northwest of Arthurdale, WV, was constructed in 1969 as a single purpose flood control structure. Alternatives under consideration include the addition of rural raw water supply as a project purpose and increasing the reservoir volume, evaluating other raw water supply sources, raising the top of the dam elevation, flattening upstream and downstream face of the dam to improve slope stability, installing an internal drainage system in the dam, constructing a new auxiliary spillway,

and constructing a new principal spillway riser structure. In addition to these structural alternatives, a no-action and a decommissioning alternative will be evaluated.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Natural Resources Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. A meeting will be held at the Preston County Public Service District No. 1 office located on U Road in Arthurdale, WV at 1 p.m. on Wednesday, December 21, 2011, to determine the scope of the evaluation of the proposed action. Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal. Further information on the proposed action or the scoping meeting may be obtained from Kevin Wickey, State Conservationist, at the above address or telephone (304) 284–7545).

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: November 4, 2011.

Kevin Wickey,

State Conservationist.

[FR Doc. 2011–29963 Filed 11–18–11; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; Direct Investment Surveys: BE–605, Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate With Foreign Parent

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 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: Written comments must be submitted on or before January 20, 2012.

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 email at *dhynek@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to David H. Galler, Chief, Direct Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9835; fax: (202) 606–2894; or via email at *david.galler@bea.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate with Foreign Parent (BE–605) is a sample survey that collects data on transactions and positions between foreign-owned U.S. business enterprises and their ''affiliated foreign groups'' (i.e., their foreign parents and foreign affiliates of their foreign parents). The sample data are used to derive universe estimates in nonbenchmark years from similar data reported in the BE–12, Benchmark Survey of Foreign Direct Investment in the United States, which is conducted every five years. The data are used in the preparation of the U.S. international transactions, national income and product, and input-output accounts and the net international investment position of the United States. The data are needed to measure the size and economic significance of foreign direct investment in the United States, measure changes in such investment, and assess its impact on the U.S. economy.

The Bureau of Economic Analysis (BEA) proposes the following changes to the survey: (1) The deletion of a check-box question that asks respondents whether they plan to expand their operation with a new facility (this information is no longer needed); and (2) design improvements to the survey form.

II. Method of Collection

Form BE–605 is a quarterly report that must be filed within 30 days after the end of each quarter (45 days after the final quarter of the respondent's fiscal year) by every U.S. business enterprise that is owned 10 percent or more by a foreign investor and that has total assets, sales or gross operating revenues, or net income (positive or negative) of over $60 million.

As an alternative to filing paper forms, BEA will offer an electronic filing option, its eFile system, for use in reporting on Form BE–605. For more information about eFile, go to *http://www.bea.gov/efile.*

Potential respondents are those U.S. business enterprises that were required to report in the BE–12, Benchmark Survey of Foreign Direct Investment in the United States—2007, along with those U.S. business enterprises that subsequently entered the direct investment universe. The data collected are sample data covering transactions and positions between foreign-owned U.S. business enterprises and their affiliated foreign groups. Universe estimates are developed from the reported sample data.

III. Data

OMB Control Number: 0608–0009.
Form Number: BE–605.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Responses: 16,000 annually.
Estimated Time per Response: One hour is the average, but may vary considerably among respondents because of differences in company size and complexity.
Estimated Total Annual Burden Hours: 16,000.
Estimated Total Annual Cost to Public: $0.
Respondent's Obligation: Mandatory.
Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended).

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 will 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: November 16, 2011.

Glenna Mickelson,

Management Analyst, Office of Chief Information Officer.

[FR Doc. 2011–29980 Filed 11–18–11; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Circular Welded Carbon Steel Pipes and Tubes From Thailand: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

DATES: *Effective Date:* November 21, 2011.

FOR FURTHER INFORMATION CONTACT: Andrew Huston or Jacqueline Arrowsmith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4261 and (202) 482–5255, respectively.

Background

On April 27, 2011, the Department of Commerce (the Department) published the initiation of an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand for the period March 1, 2010, through February 28, 2011. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 76 FR 23545, 23546 (April 27, 2011). This review covers two producers/exporters of the subject merchandise to the United States: Saha Thai Steel Pipe (Public) Company, Ltd. (Saha Thai), and Pacific Pipe Public Company Limited (Pacific Pipe).

Extension of Time Limit for the Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and section 351.213(h)(1) of the Department's regulations require the Department to issue the preliminary results of a review within 245 days after the last day of the anniversary month of the order or suspension agreement for which the administrative review was requested, and final results of the review within 120 days after the date on which the notice of the preliminary results is published in the **Federal Register.** However, if the Department determines that it is not practicable to complete the review within the aforementioned specified time limits, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the 245-day period to 365 days and to extend the 120-day period to 180 days.

The Department requires additional time to evaluate the questionnaire responses from Saha Thai and Pacific Pipe in order to conduct a thorough analysis of all information on the record. In particular, the Department needs additional time to analyze cost of production information for both Saha Thai and Pacific Pipe. Therefore, the Department finds that it is not practicable to complete the preliminary results of this review by the original deadline of December 1, 2011, and is extending the deadline for completion of the preliminary results of this administrative review from 245 days to 365 days. The revised deadline for the preliminary results of this administrative review is now no later than March 30, 2012.

This notice is issued and published pursuant to sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: November 15, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–30011 Filed 11–18–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA833

Marine Mammals; File No. 10018

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that Rachel Cartwright, Ph.D., Keiki Kohola Project, Oxnard, California, has applied for an amendment to Scientific Research Permit No. 10018–01.

DATES: Written, telefaxed, or email comments must be received on or before December 21, 2011.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 10018 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808) 944–2200; fax (808) 973–2941.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Joselyd Garcia-Reyes or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 10018–01 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 10018, issued on June 18, 2008 (73 FR 36042) and amended on July 14, 2010 (75 FR 43150), authorizes Dr. Cartwright to conduct humpback whale (*Megaptera novaeangliae*) research, consisting of photo-identification, focal follows, underwater observations, and collection of sloughed skin, in Hawaiian and Alaskan waters from May through September each year. The permit holder is requesting the permit be amended to authorize deployment of: (1) Suction cup satellite tags to a maximum of 18 females in female-calf pairs and (2) implantable satellite tags to a maximum of 6 yearling humpback whales, annually. Tagging would only occur in Hawaii. The purposes of the tagging activities are to:

(1) Verify the impact of research vessels during boat based behavioral follows, (2) further understand how female-calf pairs use breeding ground habitat, potentially identifying key resting regions and establishing the degree to which female-calf pairs circulate within vs. move between specific favored female-calf regions, and (3) further document the behavioral dynamics of newly-independent yearlings within breeding regions. The amended permit would expire on June 30, 2013.

A draft supplemental environmental assessment (SEA) has been prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), to examine whether significant environmental impacts could result from issuance of the proposed scientific research permit. The draft SEA is available for review and comment simultaneous with the scientific research permit application.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 15, 2011.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–30013 Filed 11–18–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA837

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scientific and Statistical Committee (SSC) on December 13, 2011 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, December 13 at 9 a.m.

ADDRESSES: The meeting will be held at the Seaport Hotel, One Seaport Lane Boston, MA 02210; *telephone:* (617) 385–4000; *fax:* (617) 385–4001.

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 Scientific and Statistical Committee (SSC) will discuss the 2012 SSC calendar and tasks, social science issues including socioeconomic considerations in setting acceptable biological catches (ABCs); improving SSC outreach, research priorities, advisory panel input in the process for making ABC recommendations, SSC liaison assignments to Council Plan Development Teams, using Council advisory panel information in developing ABC recommendations; risk policy development, 2012 National SSC Workshop recommendations and NRCC Assessment Workgroup recommendations.

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

Special Accommodations

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

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

Dated: November 16, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–29950 Filed 11–18–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA829

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) and its Administrative Committee will hold meetings.

DATES: The meetings will be held on December 13–14, 2011. The Council will convene on Tuesday, December 13, 2011 from 9 a.m. to 5 p.m., and the Administrative Committee will meet from 5:15 p.m. to 6 p.m. The Council will reconvene on Wednesday, December 14, 2011 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at Marriott Frenchman's Reef Hotel, 5 Estate Bakkeroe, St. Thomas, USVI.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920; *telephone:* (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 141st regular Council meeting to discuss the items contained in the following agenda:

December 13, 2011—9 a.m. to 5 p.m.

- Call to Order.
- Adoption of Agenda.
- Consideration of the 140th Council Meeting Verbatim Transcriptions.
- Executive Director's Report.
- Catch Share Project Update—Flavia Tonioli.
- Parrotfish Size and Bag Limit—Mike Larkin.
- USVI Traps Reduction Project Report.
- SSC Meeting Report:

—ERAEF.
—Legal Opinion SSC Role.
—Other Issues.

Public Comment Period—(5) Five-Minutes Presentations

December 13, 2011—5:15 p.m.–6 p.m.

- Administrative Committee Meeting (Closed Session):

—Budget Update FY 2011/12.
—International Queen Conch Initiative Conference 2012 (IQCI).
—Other Business.

December 14, 2011—8:30 a.m.–5 p.m.

- SAFMC Information and Education Overview—Utilizing the Advisory Panel Process and Partnerships—Kim Iverson.
- Encouraging Effective Stakeholder Participation in the Fisheries Management Process—Emily Muelhston.
- Yellowtail Update and Report on Data Relevant to ACLs in St. Thomas—St. John—David Olsen.
- Queen Conch Compatibility Issues.
- Compatibility Issues among Bajo de Sico, Tourmaline and Abril la Sierra.
- Highly Migratory Species Fishery Management Update—Peter Cooper and Delisse Ortíz:

—Amendment 4–6 to the Consolidated HMS FMP.

—HMS Electronic Dealer Reporting System (eDealer).

Enforcement Reports

—Puerto Rico—DNER.

—U.S. Virgin Islands—DPNR.

—NOAA/NMFS.

—U.S. Coast Guard.

- Administrative Committee Recommendations.
- Meetings Attended by Council Members and Staff.

Public Comment Period (5-Minutes Presentations)

- Other Business.
- Next Council Meeting.

The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. To further accommodate discussion and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date established in this notice.

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Special Accommodations

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be subjects for formal action during this meeting. Actions 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 that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–1920, *telephone* (787) 766–5926, at least 5 days prior to the meeting date.

Dated: November 16, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–29997 Filed 11–18–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA792

Takes of Marine Mammals Incidental to Specified Activities; Physical Oceanographic Studies in the Southwest Indian Ocean, January Through February, 2012

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the United States Navy (Navy) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting physical oceanographic studies in the southwest Indian Ocean, January through February, 2012. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to the Navy to incidentally harass, by Level B harassment only, 29 species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than December 21, 2011.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Magliocca@noaa.gov*. NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* 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.

An electronic copy of the application containing a list of the references used in this document may be obtained by writing to the above address, telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

In accordance with Executive Order 12114, the Navy has prepared a draft Overseas Environmental Assessment (OEA), which is also available on the Internet. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Michelle Magliocca, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protect Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for the incidental taking of small numbers of marine mammals shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring

and reporting of such takings. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, NMFS must either issue or deny the authorization. NMFS must publish a notice in the **Federal Register** within 30 days of its determination to issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

NMFS received an application on August 15, 2011, from the Navy for the taking of marine mammals, by Level B harassment, incidental to conducting physical oceanographic studies in the southwest Indian Ocean. The Navy plans to conduct a seismic oceanographic survey from January 23, 2012, through February 8, 2012. Upon receipt of additional information, NMFS determined the application complete and adequate on September 14, 2011.

The Navy plans to use one source vessel, the R/V *Melville (Melville),* and a seismic airgun array to obtain high resolution imaging of ocean mixing dynamics at the Agulhas Return Current and Antarctic Circumpolar Currents (ARC/ACC). The *Melville* would spend 14 days on seismic oceanography surveys and three days on acoustic Doppler current profiler (ADCP) mooring deployments and recoveries, other oceanographic sampling methods, and transit to and from the study site.

Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the airgun array may have the potential to cause a short-term behavioral disturbance for marine mammals in the survey area. This is the principal means of marine mammal taking associated with these activities, and the Navy has requested an authorization to take 29 species of marine mammals by Level B harassment. Take is not expected to result from the use of the multibeam echosounder (MBES), subbottom profiler (SBP), or ADCPs, due to the narrow and directional acoustic beam field of the MBES, the attenuation rate of high-frequency sound in seawater, and the motility of free-ranging marine mammals. Take is also not expected to result from collision with the *Melville* because it is a single vessel moving at relatively slow speeds during seismic acquisition within the survey, for a relatively short period of time.

Description of the Specified Activity

The Navy's proposed physical oceanographic studies are scheduled to commence on January 23, 2012, and continue for approximately 17 days ending on February 8, 2012. Some minor deviation from these dates is possible due to logistics and weather conditions; therefore, the authorization would be valid from January 23, 2012 through March 7, 2012. Within this time period, the Navy would conduct seismic oceanography surveys using a towed array of two low-energy 105 in^3 generator-injector (GI) airguns. The *Melville* would depart from Cape Town, South Africa, on January 23, 2012, and transit to the survey area near the Agulhas Plateau, off the southern tip of Africa. The exact location of the ARC/ACC front in January cannot be predetermined due to the natural meander of the currents, but studies would most likely take place within the boundaries of 36°S to 43°S and 19°E to 30°E. The exact locations of the ARC/ACC frontal system would be determined on site using high-resolution conductivity-temperature-depth measurements. The total area of this region is about 207,500 nautical $miles^2$ (Nm^2) (713,000 $kilometers^2$ [km^2]). The proposed study would take place in water depths of approximately 1,000 to 5,200 meters (m). The survey would require approximately 17 days to complete approximately 2,489 km of transect lines, and be comprised of multiple transects across and along the ARC/ACC front.

Vessel Specifications

The *Melville,* owned by the Navy, is a seismic research vessel with a propulsion system designed to be as quiet as possible to avoid interference with the seismic signals emanating from the airgun array. The vessel, which has a length of 97 m (318 feet [ft]); a beam of 14 m (46 ft); and a maximum draft of 5 m (16 ft); is powered by two 1,385 horsepower (hp) Propulsion General Electric motors and a 900 hp retracting bow thruster. The *Melville's* operation speed during seismic acquisition would be approximately 7 to 11 km/hour (hr) (4 to 6 knots) and the cruising speed of the vessel outside of seismic operations would be about 20 km/hr (11 knots). The vessel also has a platform one deck below and forward of the bridge, which is positioned 12.5 m (41 ft) above the waterline and provides a relatively unobstructed 180 degree view forward. Aft views can be obtained along both the port and starboard decks.

Acoustic Source Specifications

Metrics Used in This Document

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this document. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in underwater acoustics is 1 μPa, and the units for SPLs are dB re: 1 μPa.

SPL (in decibels (dB)) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement and can be expressed as the peak, the peak-peak (p-p), or the root mean square (rms). RMS, which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to SPL in this document refer to the root mean square unless otherwise noted. SPL does not take the duration of a sound into account.

Seismic Airguns

The *Melville* would deploy two GI guns, which are stainless steel cylinders charged with high pressure air that, when instantaneously released into the water column, generate sound. The GI guns would operate in harmonic mode (105 in^3 in each of the generator and injector chambers for a total discharge volume of 210 in^3) with a 1,200 m long hydrophone streamer. GI guns would be energized simultaneously at 2,000 psi every 17 seconds (s). The GI gun array

would emit sound at a frequency range of 10 to 188 Hertz (Hz) and reach a peak source level of 240 dB re 1 μPa. Seismic oceanography studies would be conducted 24 hours (hrs) per day for 14 days (336 hrs) and the GI guns would be towed at a depth of 3 to 9 m.

Characteristics of the Airgun Pulses

Airguns function by venting high-pressure air into the water which creates an air bubble. The pressure signature of an individual airgun consists of a sharp rise and then fall in pressure, followed by several positive and negative pressure excursions caused by the oscillation of the resulting air bubble. The oscillation of the air bubble transmits sounds downward through the seafloor and the amount of sound transmitted in the near horizontal directions is reduced. However, the airgun array also emits sound that travels horizontally toward non-target areas. The nominal source levels of the airgun array that would be used by the Navy on the *Melville* are 234 dB re: 1 $\mu Pa_{(0\text{-}p)}$ to 240 dB re: 1 $\mu Pa_{(p\text{-}p)}$.

Predicted Sound Levels for the Airguns

Lamont-Doherty Earth Observatory (L–DEO) developed a verified model that predicts impulsive sound pressure field propagation and accurately describes acoustic propagation in marine waters of depths greater than 1,000 m. These model-generated sound propagation radii are routinely used for determination of received sound levels generated by impulsive sound sources, and have been previously applied in calculating the total ensonified area for use of two low-energy 105 in^3 GI-guns. Modeled sound propagation radii of GI-gun sources that are the same or similar to the GI-guns used in this study, in water depths > 1,000 m, are given in Table 1. These modeled acoustic propagation distances were applied in Environmental Assessments (EAs) and IHAs for seismic surveys conducted in the Eastern Tropical Pacific Ocean (ETP) off of Central America (NMFS, 2004), the Northern Gulf of Mexico (GOMEX) (L–DEO, 2003; NMFS, 2007), and the Arctic Ocean (NMFS, 2006).

For the ETP, one and three 105 in^3 GI-gun arrays were modeled, with a source output level of 241 dB re 1 $\mu Pa_{(0\text{-}p)}$ and 247 dB re 1 $\mu Pa_{(p\text{-}p)}$. For the GOMEX survey, GI-gun source output levels were (a) 237 dB re 1 $\mu Pa_{(0\text{-}p)}$ and 243 dB re 1 $\mu Pa_{(p\text{-}p)}$; and (b) 229 dB re 1 $\mu Pa_{(0\text{-}p)}$ and 236 dB re 1 $\mu Pa_{(p\text{-}p)}$. L–DEO modeling of a single G-gun has also been applied to a seismic survey in the Arctic Ocean. The source level for the 210 in^3 G-gun was 246 dB re 1 $\mu Pa_{(0\text{-}p)}$ and 253 dB re 1 $\mu Pa_{(p\text{-}p)}$. However, because the G-gun generates more energy than a GI-gun of the same size, the distances for received sound levels may be an overestimate for the lower energy dual 105 in^3 GI-gun source used in the ARC12 research project. The GI-gun is comprised of two, independently fired air chambers (the generator and the injector) to tune air bubble oscillation and minimize the amplitude of the acoustic pulse. In contrast, the G-gun is comprised of one chamber and generates a single, less refined injection of air into the water, which produces more acoustic energy than that of the GI-gun.

TABLE 1—MODELED SOUND PROPAGATION RADII FOR LOW-ENERGY AIR-GUN ARRAYS FOR DEPTHS > 1,000 M

Air-gun configuration	Water depth (m)	Tow depth (m)	Received sound levels (dB re 1 μPa RMS)			
			190	180	160	Location
			Distance			
1 GI-gun 105 in^3	> 1,000	2.5	10	27	275	ETP.
3 GI-guns 105 in^3	> 1,000	2.5	26	82	823	ETP.
2 GI-guns 105 in^3 (a)	> 1,000	3	20	69	670	GOMEX.
2 GI-guns 105 in^3 (b)	> 1,000	6	15	50	520	GOMEX.
1 G-gun 210 in^3	> 1,000	9	20	78	698	Arctic.

Based on extant modeling, the proposed sound propagation radii for the two 105 in^3 GI-guns are 20 m, 70 m, and 670 m for the 190, 180, and 160 dB re 1 μPa RMS isopleths, respectively (Table 2). Empirical data indicate that for deep water (> 1,000 m), the L–DEO model tends to overestimate the received sound level at a given distance (Tolstoy *et al.,* 2004). It follows that the proposed sound propagation radii are considered conservative, and the actual distance at which received sound levels are 160 dB re 1 uPa RMS or greater are expected to be less than that proposed. The proposed sound propagation radii are also consistent with recent modeling of sound propagation in the Southern Ocean (Breitzke and Bohlen, 2010).

TABLE 2—SOUND PROPAGATION RADII FOR THE DUAL 105 IN^3 GI-GUN ARRAY PROPOSED FOR USE IN THE ARC12 RESEARCH PROJECT

Acoustic source	Frequency (Hz)	Source level (dB re 1 μPa)	Received levels (dB re 1 μPa)		
			190	180	160
			Distance (m)		
2 GI-guns 105 in^3	10–188	~$240_{(peak\text{-}to\text{-}peak)}$	20	70	670

Considering the circumference of the area ensonified to the 160 dB isopleth extends to 1,340 m (twice the 670 m radius); that the GI-gun array is towed approximately 2–9 m below the surface at a speed of 4 knots (7.4 km/hr), and that the seismic oceanographic surveys would be conducted for 14 days for 24 hrs/day, the Navy estimates that the

seismic oceanographic survey distance would encompass 1,344 Nm (2,489 km). Multiplying the total linear distance of the seismic oceanographic survey by the area ensonified to the 160 dB isopleth (1,340 m), yields a total ensonified area of approximately 3,335 km^2.

Ocean Surveyor ADCP

A hull-mounted Teledyne RD Instruments Ocean Surveyor ADCP (TRDI OS ADCP) would be operated at 38 kHz with acoustic output pressure of 224 dB re 1 µPa. The beamwidth would be 30 degrees off nadir and the acoustic pressure along each beam is estimated at 180 dB re 1 µPa at 114 m. The TRDI OS ADCP would operate concurrently with the GI-gun array and intermittently to map the distribution of water currents and suspended materials in the water column.

Lowered ADCP (L–ADCP)

A lowered Teledyne RD Instruments ADCP (L–ADCP) would be mounted on a rosette with a conductivity-temperature-depth gauge. The beamwidth would be 30 degrees off nadir and the output pressure would be 216 dB re 1 µPa at 300 kHz. The L–ADCP would be deployed intermittently to collect hydrographic data.

Moored ADCP

Up to four long-range ADCPs (LR–ADCPs) would be anchored on the seafloor using 400 kilograms (kg) of scrap iron (assemblage of four scrap locomotive wheels). LR–ADCPs would be moored to the seafloor at an estimated 3,000 m, such that they float at a depth of 500 m below the sea surface. LR–ADCPs would be suspended from the iron anchorage assemblies by a single line comprised of ¾-inch (in) nylon line and ½-in wire rope. The LR–ADCPs and suspension line would be recovered at the close of the study via an acoustic release and the iron anchorage assembly would remain on the sea floor. The acoustic source frequency would be 75 kHz with an output pressure level of 200 dB re 1 µPa at a rate of once per second. The beamwidth would be four degrees and directed vertically upward at 20 degrees. LR–ADCPs would be moored several kilometers apart, in the area of the ARC/ACC frontal system, with exact mooring locations to be determined onsite due to the natural meander of the currents and front. LR–ADCPs would operate continuously for the estimated 14 days of research before being recovered.

Multibeam Echosounder

The *Melville* would operate a hull-mounted Kongsberg EM 122 multibeam echosounder (MBES) at 10.5 to 13 kilohertz (kHz). The MBES would generate acoustic pulses in a downward fan-shaped beam, one degree fore-aft and 150 degrees athwartship. For deep water operations, each ''ping'' is comprised of eight (> 1,000 m depth; 3,280 ft) or four (< 1,000 m depth; 3,280 ft) successive acoustic transmissions 2 to 100 milliseconds (ms) in duration. The maximum sound pressure output level would be 242 dB re 1 µPa.

Sub-Bottom Profiler

The *Melville* would also operate a Knudsen 320B/R sub-bottom profiler (SBP). The SBP is dual-frequency and operates at 3.5 and 12 kHz with maximum power outputs of 10 kilowatts (kW) and 2 kW, respectively. The pulse length used during this study would be 0.8 to 24 ms, relative to water depth and sediment characteristics. The pulse repetition rates would be between 0.5 and 2 seconds (s) in shallow water and up to 8 s in deep water. A common operational mode is broadcast of five pulses at 1-s intervals followed by a 5-s delay. Maximum acoustic output pressure would be 211 dB re 1 µPa at 3.5 kHz; however, systems are typically used at 80 percent capacity. The SPB emits a downward conical beam with a width of about 30 degrees.

Description of the Marine Mammals in the Area of the Proposed Specified Activity

Forty marine mammal species are known to inhabit waters between South Africa and Antarctica. Six of these species are listed as endangered under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) and depleted under the MMPA, including the southern right (*Eubalaena australis*), humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whales. Most of the species occurring in the area spend the austral summer in preferred Antarctic habitats, and the austral winter in areas northward around the east and west coasts of Africa, South America, Australia, and islands of the Indian Ocean. The cape fur seal is the only pinniped known to have breeding colonies along the southern coast of Africa. It is not listed as threatened or endangered under the ESA. Cape fur seals are endemic to South Africa, with colonies on islands and patches of mainland along the southern coast.

Table 3 provides estimates of the average (best) and maximum marine mammal population densities in the area of the proposed study during the austral summer, anticipated occurrence of each species in the area of research during that time, primary habitat(s), and ESA listing status.

TABLE 3—HABITAT, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED SEISMIC SURVEY AREAS OFF SOUTHERN AFRICA IN THE SOUTHWEST INDIAN OCEAN

[See text and Tables 2.0–2.2 in the Navy's application and environmental analysis for further details.]

Species	Occurrence in survey area during the Austral summer	Habitat	ESA[1]	Density	
				Best	Max
Mysticetes					
Antarctic minke whale	Rare	Pelagic and coastal	NL	< 0.01	0.01
Blue whale	Rare	Pelagic and coastal	E	< 0.01	< 0.01
Bryde's whale	Common	Pelagic and coastal	NL	< 0.01	< 0.01
Common minke whale	Rare	Pelagic and coastal	NL	0.03	0.05
Fin whale	Rare	Continental shelf and slope and pelagic.	E	< 0.01	0.01
Humpback whale	Rare	Mainly nearshore waters and banks.	E	< 0.01	< 0.01
Sei whale	Rare	Pelagic	E	< 0.01	< 0.01
Odontocetes					
Arnoux's beaked whale	Rare	Deep water	NL	< 0.01	0.01

TABLE 3—HABITAT, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED SEISMIC SURVEY AREAS OFF SOUTHERN AFRICA IN THE SOUTHWEST INDIAN OCEAN—Continued

[See text and Tables 2.0–2.2 in the Navy's application and environmental analysis for further details.]

Species	Occurrence in survey area during the Austral summer	Habitat	ESA[1]	Density	
				Best	Max
Cuvier's beaked whale	Common	Pelagic	NL	<0.01	<0.01
Dwarf sperm whale	Indeterminate	Continental shelf an deep water.	NL	<0.01	<0.01
Gray's beaked whale	Rare	Deep water	NL	<0.01	<0.01
Hector's beaked whale	Rare	Deep water	NL	<0.01	<0.01
Pygmy right whale	Indeterminate	Continental shelf	NL	<0.01	<0.01
Pygmy sperm whale	Indeterminate	Continental shelf and deep water.		<0.01	<0.01
Southern bottlenose whale	Rare	Deep water	NL	0.01	0.01
Southern right whale	Common	Coastal and pelagic	E	<0.01	<0.01
Sperm whale	Common	Pelagic and deep water	E	0.01	0.01
Strap-toothed whale	Common	Deep water	NL	<0.01	<0.01
True's beaked whale	Common	Deep water	NL	<0.01	<0.01
Common bottlenose dolphin	Common	Coastal and pelagic		0.04	0.10
Dusky dolphin	Rare	Coastal and pelagic	NL	<0.01	<0.01
False killer whale	Indeterminate	Pelagic	NL	<0.01	<0.01
Fraser's dolphin	n/a	Deep water	NL	n/a	n/a
Heaviside's dolphin	Rare	Coastal and deep water	NL	<0.01	0.01
Hourglass dolphin	Rare	Coastal and pelagic	NL	<0.01	<0.01
Indo-pacific bottlenose dolphin	n/a	Coastal and continental shelf.	NL	n/a	n/a
Indo-pacific hump-backed dolphin	n/a	Coastal	NL	n/a	n/a
Killer whale	Common	Ubiquitous	NL	0.01	0.01
Long-beaked common dolphin	Common	Coastal and continental shelf.	NL	<0.01	<0.01
Long-finned pilot whale	Rare	Continental shelf and slope and pelagic.	NL	0.05	0.10
Pantropical spotted dolphin	Indeterminate	Coastal and pelagic	NL	0.01	0.01
Pygmy killer whale	Rare	Deep water	NL	<0.01	<0.01
Risso's dolphin	Common	Deep water	NL	0.06	0.10
Rough-toothed dolphin	Rare	Deep water	NL	<0.01	<0.01
Short-beaked common dolphin	Common	Continental shelf and slope and pelagic.	NL	0.24	0.38
Short-finned pilot whale	Rare	Pelagic	NL	0.03	0.04
Southern right whale dolphin	Common	Deep water	NL	0.01	0.02
Spinner dolphin	Common	Coastal and pelagic	NL	<0.01	0.01
Striped dolphin	Common	Continental shelf and slope and pelagic.	NL	0.19	0.31
Pinnipeds					
Cape fur seal	Rare	Islands and mainland	NL	0.04	n/a

n/a Not available or not assessed.
[1] U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed.
[18] Galapagos Islands (Alava and Salazar, 2006).

Refer to section 2.0 of the Navy's application for detailed information regarding the abundance and distribution, population status, and life history and behavior of these species and their occurrence in the proposed project area. The application also presents how the Navy calculated the estimated densities for the marine mammals in the proposed survey area. While Table 3 lists all 40 species known to inhabit the proposed survey area, the Navy is only requesting take authorization for 29 species. The Navy does not anticipate take, nor is NMFS proposing to authorize take, for the following species: Blue whale, Bryde's whale, dwarf sperm whale, pygmy right whale, pygmy sperm whale, dusky dolphin, Fraser's dolphin, heaviside's dolphin, Indo-Pacific bottlenose dolphin, Indo-Pacific hump-backed dolphin, and Cape fur seal. This is based on population density estimates for cetaceans and the total ensonified area of the proposed activity. Cape fur seals are not expected to be harassed because their primary habitat is among the bays of the South African coastline, more than 30 Nm away from the proposed survey activities.

Potential Effects of the Specified Activity on Marine Mammals

Acoustic stimuli generated by the operation of airguns, which introduce sound into the marine environment, may have the potential to cause Level B harassment of marine mammals in the proposed survey area. The effects of sounds from airgun operations might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007).

Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not considered an injury but rather a type of Level B harassment (Southall *et al.,* 2007). Although the possibility cannot be entirely excluded, it is unlikely that the

proposed project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected, but NMFS expects the disturbance to be localized and short-term.

Tolerance to Sound

Studies on marine mammal tolerance to sound in the natural environment are relatively rare. Richardson *et al.* (1995) defines tolerance as the occurrence of marine mammals in areas where they are exposed to human activities or man-made noise. In many cases, tolerance develops by the animal habituating to the stimulus (*i.e.,* the gradual waning of responses to a repeated or ongoing stimulus) (Richardson *et al.,* 1995; Thorpe, 1963), but because of ecological or physiological requirements, many marine animals may need to remain in areas where they are exposed to chronic stimuli (Richardson *et al.,* 1995).

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. Malme *et al.,* (1985) studied the responses of humpback whales on their summer feeding grounds in southeast Alaska to seismic pulses from a airgun with a total volume of 100-in^3. They noted that the whales did not exhibit persistent avoidance when exposed to the airgun and concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to 172 dB: re 1 µPa.

Weir (2008) observed marine mammal responses to seismic pulses from a 24-airgun array firing a total volume of either 5,085 in^3 or 3,147 in^3 in Angolan waters between August 2004 and May 2005. She recorded a total of 207 sightings of humpback whales (n = 66), sperm whales (n = 124), and Atlantic spotted dolphins (n = 17) and reported that there were no significant differences in encounter rates (sightings/hr) for humpback and sperm whales according to the airgun array's operational status (*i.e.,* active versus silent).

Masking of Natural Sounds

The term masking refers to the inability of a subject to recognize the occurrence of an acoustic stimulus as a result of the interference of another acoustic stimulus (Clark *et al.,* 2009). Marine mammals are highly dependent on sound, and their ability to recognize sound signals amid other noise is important in communication, predator and prey detection, and, in the case of toothed whales, echolocation. Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.,* 1995). Even in the absence of manmade sounds, the sea is usually noisy. Background ambient noise often interferes with or masks the ability of an animal to detect a sound signal even when that signal is above its absolute hearing threshold. Natural ambient noise includes contributions from wind, waves, precipitation, other animals, and (at frequencies above 30 kHz) thermal noise resulting from molecular agitation (Richardson *et al.,* 1995). Background noise can also include sounds from human activities. Masking of natural sounds can result when human activities produce high levels of background noise. Conversely, if the background level of underwater noise is high, (*e.g.,* on a day with strong wind and high waves), an anthropogenic noise source will not be detectable as far away as would be possible under quieter conditions and will itself be masked.

Masking effects of pulsed sounds on marine mammal calls and other natural sounds are expected to be limited. Because of the intermittent nature and low duty cycle of seismic airgun pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in some situations, reverberation occurs for much or the entire interval between pulses (*e.g.,* Simard *et al.,* 2005; Clark and Gagnon, 2006) which could mask calls. Some baleen and toothed whales are known to continue calling in the presence of seismic pulses, and their calls can usually be heard between the seismic pulses (*e.g.,* Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a,b, 2006; and Dunn and Hernandez, 2009). However, Clark and Gagnon (2006) reported that fin whales in the northeast Pacific Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.,* 1994). However, more recent studies found that they continued calling in the presence of seismic pulses (Madsen *et al.,* 2002; Tyack *et al.,* 2003; Smultea *et al.,* 2004; Holst *et al.,* 2006; and Jochens *et al.,* 2008). Dolphins and porpoises commonly are heard calling while airguns are operating (*e.g.,* Gordon *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, b; and Potter *et al.,* 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking.

Although some degree of masking is inevitable when high levels of manmade broadband sounds are introduced into the sea, marine mammals have evolved systems and behavior that function to reduce the impacts of masking. Structured signals, such as the echolocation click sequences of small toothed whales, may be readily detected even in the presence of strong background noise because their frequency content and temporal features usually differ strongly from those of the background noise (Au and Moore, 1988, 1990). The components of background noise that are similar in frequency to the sound signal in question primarily determine the degree of masking of that signal.

There is evidence of other marine mammal species continuing to call in the presence of industrial activity. For example, bowhead whale calls are frequently detected in the presence of seismic pulses, although the number of calls detected may sometimes be reduced (Richardson *et al.,* 1986; Greene *et al.,* 1999; Blackwell *et al.,* 2009). Additionally, annual acoustical monitoring near BP's Northstar production facility during the fall bowhead migration westward through the Beaufort Sea has recorded thousands of calls each year (for examples, see Richardson *et al.,* 2007; Aerts and Richardson, 2008). Construction, maintenance, and operational activities have been occurring from this facility for more than 10 years. To compensate and reduce masking, some mysticetes may alter the frequencies of their communication sounds (Richardson *et al.,* 1995a; Parks *et al.,* 2007). Masking processes in baleen whales are not amenable to laboratory study, and no direct measurements on hearing sensitivity are available for these species. It is not currently possible to determine with precision the potential consequences of temporary or local background noise levels. However, Parks *et al.* (2007) found that right whales altered their vocalizations, possibly in response to background noise levels. For species that can hear over a relatively broad frequency range, as is presumed to be the case for mysticetes, a narrow band source may only cause partial masking. Richardson *et al.* (1995a) note that a bowhead whale

20 km (12.4 mi) from a human sound source, such as that produced during oil and gas industry activities, might hear strong calls from other whales within approximately 20 km (12.4 mi), and a whale 5 km (3.1 mi) from the source might hear strong calls from whales within approximately 5 km (3.1 mi). Additionally, masking is more likely to occur closer to a sound source, and distant anthropogenic sound is less likely to mask short-distance acoustic communication (Richardson *et al.,* 1995a).

Redundancy and context can also facilitate detection of weak signals. These phenomena may help marine mammals detect weak sounds in the presence of natural or manmade noise. Most masking studies in marine mammals present the test signal and the masking noise from the same direction. The sound localization abilities of marine mammals suggest that, if signal and noise come from different directions, masking would not be as severe as the usual types of masking studies might suggest (Richardson *et al.,* 1995). The dominant background noise may be highly directional if it comes from a particular anthropogenic source such as a ship or industrial site. Directional hearing may significantly reduce the masking effects of these noises by improving the effective signal-to-noise ratio. In the cases of high-frequency hearing by the bottlenose dolphin, beluga whale, and killer whale, empirical evidence confirms that masking depends strongly on the relative directions of arrival of sound signals and the masking noise (Penner *et al.,* 1986; Dubrovskiy, 1990; Bain *et al.,* 1993; Bain and Dahlheim, 1994). Toothed whales, and probably other marine mammals as well, have additional capabilities besides directional hearing that can facilitate detection of sounds in the presence of background noise. There is evidence that some toothed whales can shift the dominant frequencies of their echolocation signals from a frequency range with a lot of ambient noise toward frequencies with less noise (Au *et al.,* 1974, 1985; Moore and Pawloski, 1990; Thomas and Turl, 1990; Romanenko and Kitain, 1992; Lesage *et al.,* 1999). A few marine mammal species are known to increase the source levels or alter the frequency of their calls in the presence of elevated sound levels (Dahlheim, 1987; Au, 1993; Lesage *et al.,* 1993, 1999; Terhune, 1999; Foote *et al.,* 2004; Parks *et al.,* 2007, 2009; Di Iorio and Clark, 2009; Holt *et al.,* 2009).

These data demonstrating adaptations for reduced masking pertain mainly to the very high frequency echolocation signals of toothed whales. There is less information about the existence of corresponding mechanisms at moderate or low frequencies or in other types of marine mammals. For example, Zaitseva *et al.* (1980) found that, for the bottlenose dolphin, the angular separation between a sound source and a masking noise source had little effect on the degree of masking when the sound frequency was 18 kHz, in contrast to the pronounced effect at higher frequencies. Directional hearing has been demonstrated at frequencies as low as 0.5–2 kHz in several marine mammals, including killer whales (Richardson *et al.,* 1995). This ability may be useful in reducing masking at these frequencies. In summary, high levels of noise generated by anthropogenic activities may act to mask the detection of weaker biologically important sounds by some marine mammals. This masking may be more prominent for lower frequencies. For higher frequencies, such as that used in echolocation by toothed whales, several mechanisms are available that may allow them to reduce the effects of such masking.

In general, NMFS expects the masking effects of seismic pulses to be minor, given the normally intermittent nature of seismic pulses, the frequency and output pressure of the dual GI-guns, and the likelihood that marine mammals may avoid the sound source.

Behavioral Disturbance

Behavioral disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Marine mammal reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular proximity to activities and/or exposed to a particular level of sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

The sound criteria used to estimate how many marine mammals might be disturbed to some biologically-important degree by a seismic program are based primarily on behavioral observations of a few species. Scientists have conducted detailed studies on humpback, gray, bowhead (*Balaena mysticetus*), and sperm whales. Less detailed data are available for some other species of baleen whales and small toothed whales, but for many species there are no data on responses to marine seismic surveys.

Baleen Whales—Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable (reviewed in Richardson *et al.,* 1995). Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away. In the cases of migrating gray and bowhead whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals (Richardson *et al.,* 1995); they simply avoided the sound source by altering their migration route to varying degrees, but within the natural boundaries of the migration corridors.

Studies of gray, bowhead, and humpback whales have shown that seismic pulses with received levels of 160 to 170 dB re: 1 μPa seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed (Malme *et al.,* 1986, 1988; Richardson *et al.,* 1995). In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from four to 15 km from the source. A substantial proportion of the baleen whales within those distances may show avoidance or other strong behavioral reactions to the airgun array.

McCauley *et al.* (1998, 2000) studied the responses of humpback whales off western Australia to a full-scale seismic survey with a 16-airgun array (2,678-in^3) and to a single airgun (20-in^3) with source level of 227 dB re: 1 $\mu Pa_{(p\text{-}p)}$. In the 1998 study, they documented that avoidance reactions began at five to eight km from the array, and that those reactions kept most pods approximately three to four km from the operating

seismic boat. In the 2000 study, they noted localized displacement during migration of four to five km by traveling pods and seven to 12 km by more sensitive resting pods of cow-calf pairs. Avoidance distances with respect to the single airgun were smaller but consistent with the results from the full array in terms of the received sound levels. The mean received level for initial avoidance of an approaching airgun was 140 dB re: 1 μPa for humpback pods containing females, and at the mean closest point of approach distance the received level was 143 dB re: 1 μPa. The initial avoidance response generally occurred at distances of five to eight km from the airgun array and two km from the single airgun. However, some individual humpback whales, especially males, approached within distances of 100 to 400 m (328 to 1,312 ft), where the maximum received level was 179 dB re: 1 μPa.

Humpback whales on their summer feeding grounds in southeast Alaska did not exhibit persistent avoidance when exposed to seismic pulses from a 1.64–L (100-in^3) airgun (Malme *et al.,* 1985). Some humpbacks seemed ''startled'' at received levels of 150 to 169 dB re: 1 μPa. Malme *et al.* (1985) concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to 172 dB re: 1 μPa.

Studies have suggested that south Atlantic humpback whales wintering off Brazil may be displaced or even strand upon exposure to seismic surveys (Engel *et al.,* 2004). The evidence for this was circumstantial and subject to alternative explanations (IAGC, 2004). Also, the evidence was not consistent with subsequent results from the same area of Brazil (Parente *et al.,* 2006), or with direct studies of humpbacks exposed to seismic surveys in other areas and seasons. After allowance for data from subsequent years, there was no observable direct correlation between strandings and seismic surveys (IWC, 2007:236).

There are no data on reactions of right whales to seismic surveys, but results from the closely-related bowhead whale show that their responsiveness can be quite variable depending on their activity (migrating versus feeding). Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive, with substantial avoidance occurring out to distances of 20 to 30 km from a medium-sized airgun source at received sound levels of around 120 to 130 dB re: 1 μPa (Miller *et al.,* 1999; Richardson *et al.,* 1999; see Appendix B (5) of L–DEO's environmental analysis). However, more recent research on bowhead whales (Miller *et al.,* 2005; Harris *et al.,* 2007) corroborates earlier evidence that, during the summer feeding season, bowheads are not as sensitive to seismic sources. Nonetheless, subtle but statistically significant changes in surfacing-respiration-dive cycles were evident upon statistical analysis (Richardson *et al.,* 1986). In the summer, bowheads typically begin to show avoidance reactions at received levels of about 152 to 178 dB re: 1 μPa (Richardson *et al.,* 1986, 1995; Ljungblad *et al.,* 1988; Miller *et al.,* 2005).

Reactions of migrating and feeding (but not wintering) gray whales to seismic surveys have been studied. Malme *et al.* (1986, 1988) studied the responses of feeding eastern Pacific gray whales to pulses from a single 100-in^3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales stopped feeding at an average received pressure level of 173 dB re: 1 μPa on an (approximate) rms basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB re: 1 μPa. Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast (Malme *et al.,* 1984; Malme and Miles, 1985), and western Pacific gray whales feeding off Sakhalin Island, Russia (Wursig *et al.,* 1999; Gailey *et al.,* 2007; Johnson *et al.,* 2007; Yazvenko *et al.,* 2007a, b), along with data on gray whales off British Columbia (Bain and Williams, 2006).

Various species of *Balaenoptera* (blue, sei, fin, and minke whales) have occasionally been seen in areas ensonified by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and calls from blue and fin whales have been localized in areas with airgun operations (*e.g.,* McDonald *et al.,* 1995; Dunn and Hernandez, 2009). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during times of good sightability, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting vs. silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006). In a study off of Nova Scotia, Moulton and Miller (2005) found little difference in sighting rates (after accounting for water depth) and initial sighting distances of balaenopterid whales when airguns were operating vs. silent. However, there were indications that these whales were more likely to be moving away when seen during airgun operations. Similarly, ship-based monitoring studies of blue, fin, sei and minke whales offshore of Newfoundland (Orphan Basin and Laurentian Sub-basin) found no more than small differences in sighting rates and swim directions during seismic versus non-seismic periods (Moulton *et al.,* 2005, 2006a, b).

Data on short-term reactions by cetaceans to impulsive noises are not necessarily indicative of long-term or biologically significant effects. It is not known whether impulsive sounds affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales have continued to migrate annually along the west coast of North America with substantial increases in the population over recent years, despite intermittent seismic exploration (and much ship traffic) in that area for decades (Appendix A in Malme *et al.,* 1984; Richardson *et al.,* 1995; Allen and Angliss, 2010). The western Pacific gray whale population did not seem affected by a seismic survey in its feeding ground during a previous year (Johnson *et al.,* 2007). Similarly, bowhead whales have continued to travel to the eastern Beaufort Sea each summer, and their numbers have increased notably, despite seismic exploration in their summer and autumn range for many years (Richardson *et al.,* 1987; Angliss and Allen, 2009).

Toothed Whales—Little systematic information is available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above have been reported for toothed whales. However, there are recent systematic studies on sperm whales (*e.g.,* Gordon *et al.,* 2006; Madsen *et al.,* 2006; Winsor and Mate, 2006; Jochens *et al.,* 2008; Miller *et al.,* 2009). There is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (*e.g.,* Stone, 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.,* 2006; Stone and Tasker, 2006; Potter *et al.,* 2007; Hauser *et al.,* 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.,* 2009; Richardson *et al.,* 2009).

Seismic operators and marine mammal observers on seismic vessels

regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (*e.g.,* Goold, 1996a, b, c; Calambokidis and Osmek, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.,* 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.,* 2009; see also Barkaszi *et al.,* 2009). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing (*e.g.,* Moulton and Miller, 2005). Similarly, recent empirical observations indicate that delphinids have been frequently observed within the 160 dB isopleth during seismic survey operations (LGL 2009, 2010b). Nonetheless, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (*e.g.,* Stone and Tasker, 2006; Weir, 2008). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km less, and some individuals show no apparent avoidance. The beluga whale (*Delphinapterus leucas*) is a species that (at least at times) shows long-distance avoidance of seismic vessels. Aerial surveys conducted in the southeastern Beaufort Sea during summer found that sighting rates of beluga whales were significantly lower at distances 10 to 20 km compared with 20 to 30 km from an operating airgun array, and observers on seismic boats in that area rarely see belugas (Miller *et al.,* 2005; Harris *et al.,* 2007).

Captive bottlenose dolphins (*Tursiops truncatus*) and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2000, 2002, 2005). However, the animals tolerated high received levels of sound before exhibiting aversive behaviors.

Most studies of sperm whales exposed to airgun sounds indicate that the sperm whale shows considerable tolerance of airgun pulses (*e.g.,* Stone, 2003; Moulton *et al.,* 2005, 2006a; Stone and Tasker, 2006; Weir, 2008). In most cases the whales do not show strong avoidance, and they continue to call. However, controlled exposure experiments in the Gulf of Mexico indicate that foraging behavior was altered upon exposure to airgun sound (Jochens *et al.,* 2008; Miller *et al.,* 2009; Tyack, 2009).

There are almost no specific data on the behavioral reactions of beaked whales to seismic surveys. However, some northern bottlenose whales (*Hyperoodon ampullatus*) remained in the general area and continued to produce high-frequency clicks when exposed to sound pulses from distant seismic surveys (Gosselin and Lawson, 2004; Laurinolli and Cochrane, 2005; Simard *et al.,* 2005). Most beaked whales tend to avoid approaching vessels of other types (*e.g.,* Wursig *et al.,* 1998). They may also dive for an extended period when approached by a vessel (*e.g.,* Kasuya, 1986), although it is uncertain how much longer such dives may be as compared to dives by undisturbed beaked whales, which also are often quite long (Baird *et al.,* 2006; Tyack *et al.,* 2006). Based on a single observation, Aguilar-Soto *et al.* (2006) suggested that foraging efficiency of Cuvier's beaked whales may be reduced by close approach of vessels. In any event, it is likely that most beaked whales would also show strong avoidance of an approaching seismic vessel, although this has not been documented explicitly.

There are increasing indications that some beaked whales tend to strand when naval exercises involving mid-frequency sonar operation are ongoing nearby (*e.g.,* Simmonds and Lopez-Jurado, 1991; Frantzis, 1998; NOAA and USN, 2001; Jepson *et al.,* 2003; Hildebrand, 2005; Barlow and Gisiner, 2006; see also the Stranding and Mortality section in this notice). These strandings are apparently a disturbance response, although auditory or other injuries or other physiological effects may also be involved. Whether beaked whales would ever react similarly to seismic surveys is unknown. Seismic survey sounds are quite different from those of the sonar in operation during the above-cited incidents.

Odontocete reactions to large arrays of airguns are variable and, at least for delphinids, seem to be confined to a smaller radius than has been observed for the more responsive of the mysticetes and other odontocetes.

Hearing Impairment and Other Physical Effects

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is called temporary threshold shift (TTS) (Southall *et al.,* 2007). Researchers have studied TTS in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.,* 2007). However, there has been no specific documentation of TTS let alone permanent hearing damage, *i.e.,* permanent threshold shift (PTS), in free-ranging marine mammals exposed to sequences of airgun pulses during realistic field conditions.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days, can be limited to a particular frequency range, and can be in varying degrees (*i.e.,* a loss of a certain number of dBs of sensitivity). For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007). As illustrated previously in Table 2, the *Melville's* airguns are expected to reach or exceed 180 dB re: 1 µPa at 70 m (230 ft).

To avoid the potential for injury, NMFS (1995, 2000) concluded that cetaceans should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re: 1 µPa. The established 180-dB re 1 µPa (rms) criterion is the received level above which, in the view of a panel of bioacoustics specialists convened by NMFS before additional TTS measurements for marine mammals became available, one could not be certain that there would be no injurious effects, auditory or otherwise, to marine mammals. TTS is considered by NMFS to be a type of Level B (non-injurious) harassment. The 180-dB level is a shutdown criterion applicable to cetaceans, as specified by NMFS (2000) and is used to establish an exclusion zone (EZ), as appropriate. NMFS also assumes that cetaceans exposed to levels exceeding 160 dB re: 1 µPa (rms) may experience Level B harassment.

Researchers have derived TTS information for odontocetes from studies on the bottlenose dolphin and beluga. For the one harbor porpoise tested, the received level of airgun sound that elicited onset of TTS was lower (Lucke *et al.,* 2009). If these results from a single animal are representative, it is inappropriate to assume that onset of TTS occurs at similar received levels in all odontocetes (*cf.* Southall *et al.,* 2007). Some cetaceans apparently can incur TTS at considerably lower sound exposures than are necessary to elicit TTS in the beluga or bottlenose dolphin.

For baleen whales, there are no data, direct or indirect, on levels or properties of sound that are required to induce TTS. The frequencies to which baleen whales are most sensitive are assumed to be lower than those to which odontocetes are most sensitive, and natural background noise levels at those low frequencies tend to be higher. As a result, auditory thresholds of baleen whales within their frequency band of best hearing are believed to be higher (less sensitive) than are those of odontocetes at their best frequencies (Clark and Ellison, 2004). From this, it is suspected that received levels causing TTS onset may also be higher in baleen whales (Southall *et al.,* 2007).

Marine mammal hearing plays a critical role in communication with conspecifics and in interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during a time when communication is critical for successful mother/calf interactions could have more serious impacts if it were in the same frequency band as the necessary vocalizations and of a severity that it impeded communication. The fact that animals exposed to levels and durations of sound that would be expected to result in this physiological response would also be expected to have behavioral responses of a comparatively more severe or sustained nature is also notable and potentially of more importance than the simple existence of a TTS. For this proposed study, the Navy expects cases of TTS to be improbable given: (1) The slow speed of the vessel during survey activities; (2) the motility of free-ranging marine mammals in the water column; and (3) the propensity for marine mammals to avoid obtrusive sounds.

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur at least mild TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS (*e.g.,* Richardson *et al.,* 1995, p. 372*ff;* Gedamke *et al.,* 2008). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as airgun pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis, and probably greater than six dB (Southall *et al.,* 2007).

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur during the Navy's proposed activity. Baleen whales generally avoid the immediate area around operating seismic vessels, as do some other marine mammals.

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. However, resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.,* 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might perhaps result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, very little is known about the potential for seismic survey sounds (or other types of strong underwater sounds) to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007), or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales and some odontocetes, are especially unlikely to incur non-auditory physical effects.

Stranding and Mortality

Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.,* 1993; Ketten, 1995). However, explosives are no longer used for marine waters for commercial seismic surveys or (with rare exceptions) for seismic research; they have been replaced entirely by airguns or related non-explosive pulse generators. Airgun pulses are less energetic and have slower rise times, and there is no specific evidence that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of strandings of beaked whales with naval exercises involving mid-frequency active sonar and, in one case, an L–DEO seismic survey (Malakoff, 2002; Cox *et al.,* 2006), has raised the possibility that beaked whales exposed to strong ''pulsed'' sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding (*e.g.,* Hildebrand, 2005; Southall *et al.,* 2007).

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include:

(1) Swimming in avoidance of a sound into shallow water;

(2) A change in behavior (such as a change in diving behavior) that might

contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage or other forms of trauma;

(3) A physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and

(4) Tissue damage directly from sound exposure, such as through acoustically-mediated bubble formation and growth or acoustic resonance of tissues. Some of these mechanisms are unlikely to apply in the case of impulse sounds. However, there are increasing indications that gas-bubble disease (analogous to the bends), induced in supersaturated tissue by a behavioral response to acoustic exposure, could be a pathologic mechanism for the strandings and mortality of some deep-diving cetaceans exposed to sonar. Still, the evidence for this remains circumstantial and associated with exposure to naval mid-frequency sonar, not seismic surveys (Cox *et al.,* 2006; Southall *et al.,* 2007).

Seismic pulses and mid-frequency sonar signals are quite different, and some mechanisms by which sonar sounds have been hypothesized to affect beaked whales are unlikely to apply to airgun pulses. Sounds produced by airgun arrays are broadband impulses with most of the energy below one kHz. Typical military mid-frequency sonar emits non-impulse sounds at frequencies of two to 10 kHz, generally with a relatively narrow bandwidth at any one time. A further difference between seismic surveys and naval exercises is that naval exercises can involve sound sources on more than one vessel. Thus, it is not appropriate to assume that there is a direct connection between the effects of military sonar and seismic surveys on marine mammals. However, evidence that sonar signals can, in special circumstances, lead (at least indirectly) to physical damage and mortality (*e.g.,* Balcomb and Claridge, 2001; NOAA and USN, 2001; Jepson *et al.,* 2003; Fernández *et al.,* 2004, 2005; Hildebrand 2005; Cox *et al.,* 2006) suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity ''pulsed'' sound.

There is no conclusive evidence of cetacean strandings or deaths at sea as a result of exposure to seismic surveys, but a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings. Suggestions that there was a link between seismic surveys and strandings of humpback whales in Brazil (Engel *et al.,* 2004) were not well founded (IAGC, 2004; IWC, 2007). In September 2002, there was a stranding of two Cuvier's beaked whales (*Ziphius cavirostris*) in the Gulf of California, Mexico, when the L–DEO vessel R/V *Maurice Ewing* was operating a 20-airgun (8,490 in^3) array in the general area. The link between the stranding and the seismic survey was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, the Gulf of California incident plus the beaked whale strandings near naval exercises involving use of mid-frequency sonar suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales until more is known about effects of seismic surveys on those species (Hildebrand, 2005). No injuries of beaked whales are anticipated during the proposed study because of:

(1) The high likelihood that any beaked whales nearby would avoid the approaching vessel before being exposed to high sound levels,

(2) Differences between the sound sources operated from the *Melville* and those involved in the naval exercises associated with strandings.

Potential Effects of Other Acoustic Devices

As previously mentioned, the Kongsberg EM 122 MBES generates short acoustic pulses for 2 to 100 ms every 1.5 to 20 s, depending on water depth. Acoustic output frequency is 12 kHz and the maximum source level is 242 dB re 1 µPa.m. The Knudsen 320B/R SBP generates short acoustic pulses of 0.8 to 24 ms at 0.5 to 8 s intervals. Pulse frequency is 3.5 kHz and the maximum source level is 211 dB re 1 µPa.m. The TRDI OS ADCP would operate at 38 kHz with sound output pressure level of 224 dB re 1 µP.m, producing a ping every 0.2 to 6 s. L–ADCPs would operate at 300 kHz with an output pressure level of 216 dB re 1 µP.m. Moored L–R ADCPs would operate at 75 kHz with an output pressure level of 200 dB re 1 µP.m and pulse interval of 2 s.

The MBES, SBP, and TRDI OS ADCP would operate from the *Melville* during the proposed study to verify seafloor conditions and collect additional seafloor bathymetric data. The MBES and SBP would operate continuously, and concurrent, with airgun operations. The TRDI OS ADCP would operate intermittently to map the distribution of water currents and suspended materials in the water column, and would also operate concurrent with the dual GI-gun array. The moored LR–ADCPs would operate continuously for approximately 14 days, and L–ADCPs deployed intermittently, to collect hydrographic data.

Marine mammals would need to be within 100 m of the hull mounted MBES (highest acoustic pressure) to experience a received level of ~185 dB re 1 µPa2.s and the potential for TTS. If exposed to the MBES or SBP, it is unlikely that animals would be ensonified for more than a single pulse of >10 ms, given the narrowness of the acoustic beamwidths of all instruments, and mobile nature of the vessel and free-ranging marine mammals. Kremser *et al.* (2005) concluded that an animal would have to pass through the area ensonified by an MBES/SBP transducer at close range, and be moving at a speed and bearing similar to that of the vessel to be subjected to the multiple pulses and sound levels sufficient to cause harm. Similarly, Burkhardt *et al.* (2007) suggest that auditory injury is possible only if a cetacean dove into the immediate vicinity of a transducer. Standard echosounding instruments, such as the MBES and SBP, are considered to present a low risk of TTS or auditory injury, given that an individual would have to be within the acoustic beam field, ~10 m or less from the transducer, and receive exposure to 250 to 1000 acoustic pulses to be at risk for TTS (Boebel *et al.,* 2004). Based in part on the foregoing discussion, NMFS has determined that brief exposure of marine mammals to a single pulse, or small numbers of pulses from an MBES or SBP, is not likely to result in the harassment of marine mammals (NMFS 2010a, b, 2011b).

The shipboard TRDI OS ADCP operates at similar frequencies and duty cycles, generates a relatively narrow beamwidth, and is not expected to pose any significant risk to marine mammals for the same reasons that MBES and SBP present a low risk of harassment. In summary, due to (a) The narrow and directional acoustic beam fields of these instruments; (b) the relatively high frequencies of the MBES, SBP and TRDI OS ADCP; (c) the motility of both free-ranging marine animals and the vessel; and (d) the fact that an animal's bearing and speed would need to parallel that of the vessel to receive exposure to sound pressure for any significant period of time; harassment of marine mammals is considered to be of low probability. The likelihood of hearing impairment and other physiological effects occurring is considered to be very low.

The LR– and L–ADCP source frequencies of 75 kHz and 300 kHz, respectively, are also not expected to

pose any significant risk to marine mammals. Neither of the ADCP output frequencies overlap the predominant communication frequencies employed by mysticetes (upper hearing threshold of mysticetes is ~30 kHz), which would preclude any significant masking in these species. The L–ADCP generates sound at 300 kHz, which is inaudible to marine mammals. The moored LR–ADCPs would operate at a depth of about 500 m (1640 feet), which exceeds the average diving depths of the majority of marine mammals in the research area. Of the deep diving marine mammals, beaked whales (recorded at depths of 2,000 m) have peak auditory sensitivity between 5 kHz and 80 kHz. Hence, the 75 kHz tone generated by the LR–ADCPs would be at the upper limit of the beaked whales hearing threshold, and not expected to pose a significant risk in terms of TTS or PTS, or result in significant behavioral responses. The sperm whale (recorded at depths of 3,000 m) generates clicks in the 2 to 4 kHz and 10 to16 kHz frequency ranges. No direct testing of hearing has been performed on sperm whales, although it is assumed sperm whales hear at the same frequencies at which they vocalize. As such, significant exposure of sperm whales to the LR–ADCP sound sources would not be expected to occur. Sound generated by the LR–ADCPs is above the auditory threshold of humpback and southern right whales. The fin whale has a known maximum dive depth of 500 m, although the mean depth of dives is substantially less. Given these factors, the fairly rapid attenuation of high-frequency sound in seawater, and the motility of free-ranging marine mammals in the water column, significant exposure of marine mammals to the LR– and L–ADCPs is expected to be of low probability.

Considering the foregoing factors discussed, the potential for the adverse effects of masking, tolerance, TTS/PTS, and non-auditory physiological injury as a result of operation of the MBES, SBP, TRDI OS ADCP, LR–ADCP or L–ADCP is considered to be very low. Marine mammal communication and hearing is not expected to be significantly masked by these instruments, given the relatively low duty cycles and brief period of exposure an individual marine mammal may receive if transiting an acoustic beam field. Any behavioral reactions that result from exposure to these sources are anticipated to be short-term, and limited to avoidance of the sound source.

Based on this assessment, previously conducted oceanographic research using same or similar instrumentation and procedures and environmental studies associated with these previous actions (*e.g.,* NMFS 2004, 2010a, b), and current literature (Boebel *et al.* 2004; Breitzke and Bohlen 2010; Costa *et al.* 2003; Kastak *et al.* 2005; Popper 2008; Popper and Hastings 2009a; Richardson *et al.* 1995; Tyack 2008, 2009), operation of the MBES, SBP, TRDI OS ADCP and deployed ADCPs is not expected to result in any significant adverse impact on marine mammals, their habitats, or food sources. Of the potential adverse effects, short-term behavioral responses primarily in the way of avoidance of the vessel, LR–ADCPs, and L–ADCPs is considered the only type of effect that will likely occur as a result of operation of these acoustic sources.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'' sections).

Anticipated Effects on Marine Mammal Habitat

The proposed seismic survey will not result in any permanent impact on habitats used by the marine mammals in the proposed survey area, including the food sources they use (*i.e.* fish and invertebrates), and there will be no physical damage to any habitat. While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

Anticipated Effects on Fish

One reason for the adoption of airguns as the standard energy source for marine seismic surveys is that, unlike explosives, they have not been associated with large-scale fish kills. However, existing information on the impacts of seismic surveys on marine fish populations is limited. There are three types of potential effects of exposure to seismic surveys: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (*e.g.,* startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to an ultimate pathological effect on individuals (*i.e.,* mortality).

The specific received sound levels at which permanent adverse effects to fish potentially could occur are little studied and largely unknown. Furthermore, the available information on the impacts of seismic surveys on marine fish is from studies of individuals or portions of a population; there have been no studies at the population scale. The studies of individual fish have often been on caged fish that were exposed to airgun pulses in situations not representative of an actual seismic survey. Thus, available information provides limited insight on possible real-world effects at the ocean or population scale.

Hastings and Popper (2005), Popper (2009), and Popper and Hastings (2009a, b) provided recent critical reviews of the known effects of sound on fish. The following sections provide a general synopsis of the available information on the effects of exposure to seismic and other anthropogenic sound as relevant to fish. The information comprises results from scientific studies of varying degrees of rigor plus some anecdotal information. Some of the data sources may have serious shortcomings in methods, analysis, interpretation, and reproducibility that must be considered when interpreting their results (Hastings and Popper, 2005). Potential adverse effects of the program's sound sources on marine fish are then noted.

Pathological Effects—The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question. For a given sound to result in hearing loss, the sound must exceed, by some substantial amount, the hearing threshold of the fish for that sound (Popper, 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population are unknown; however, they likely depend on the number of individuals affected and whether critical behaviors involving sound (*e.g.,* predator avoidance, prey capture, orientation and navigation, reproduction, *etc.*) are adversely affected.

Little is known about the mechanisms and characteristics of damage to fish that may be inflicted by exposure to seismic survey sounds. Few data have

been presented in the peer-reviewed scientific literature. As far as we know, there are only two papers with proper experimental methods, controls, and careful pathological investigation implicating sounds produced by actual seismic survey airguns in causing adverse anatomical effects. One such study indicated anatomical damage, and the second indicated TTS in fish hearing. The anatomical case is McCauley *et al.* (2003), who found that exposure to airgun sound caused observable anatomical damage to the auditory maculae of pink snapper (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) documented only TTS (as determined by auditory brainstem response) in two of three fish species from the Mackenzie River Delta. This study found that broad whitefish (*Coregonus nasus*) exposed to five airgun shots were not significantly different from those of controls. During both studies, the repetitive exposure to sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airguns [less than 400 Hz in the study by McCauley *et al.* (2003) and less than approximately 200 Hz in Popper *et al.* (2005)] likely did not propagate to the fish because the water in the study areas was very shallow (approximately nine m in the former case and less than two m in the latter). Water depth sets a lower limit on the lowest sound frequency that will propagate (the ''cutoff frequency'') at about one-quarter wavelength (Urick, 1983; Rogers and Cox, 1988).

Wardle *et al.* (2001) suggested that in water, acute injury and death of organisms exposed to seismic energy depends primarily on two features of the sound source: (1) The received peak pressure and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. According to Buchanan *et al.* (2004), for the types of seismic airguns and arrays involved with the proposed program, the pathological (mortality) zone for fish would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.,* 1987; La Bella *et al.,* 1996; Santulli *et al.,* 1999; McCauley *et al.,* 2000 a, b, 2003; Bjarti, 2002; Thomsen, 2002; Hassel *et al.,* 2003; Popper *et al.,* 2005; Boeger *et al.,* 2006).

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.,* 1996; Dalen *et al.,* 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. However, Payne *et al.* (2009) reported no statistical differences in mortality/morbidity between control and exposed groups of capelin eggs or monkfish larvae. Saetre and Ona (1996) applied a ''worst-case scenario'' mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological Effects—Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.,* 1994; Santulli *et al.,* 1999; McCauley *et al.,* 2000a, b). The periods necessary for the biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—Behavioral effects include changes in the distribution, migration, mating, and ''catchability'' of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (*e.g.,* Chapman and Hawkins, 1969; Pearson *et al.,* 1992; Santulli *et al.,* 1999; Wardle *et al.,* 2001; Hassel *et al.,* 2003). Typically, in these studies fish exhibited a sharp startle response at the onset of a sound followed by habituation and a return to normal behavior after the sound ceased.

There is general concern about potential adverse effects of seismic operations on fisheries, namely a potential reduction in the catchability of fish involved in fisheries. Although reduced catch rates have been observed in some marine fisheries during seismic testing, in a number of cases the findings are confounded by other sources of disturbance (Dalen and Raknes, 1985; Dalen and Knutsen, 1986; Lokkeborg, 1991; Skalski *et al.,* 1992; Engas *et al.,* 1996). In other airgun experiments, there was no change in catch per unit effort (CPUE) of fish when airgun pulses were emitted, particularly in the immediate vicinity of the seismic survey (Pickett *et al.,* 1994; La Bella *et al.,* 1996). For some species, reductions in catch may have resulted from a change in behavior of the fish, *e.g.,* a change in vertical or horizontal distribution, as reported in Slotte *et al.* (2004).

In general, any adverse effects on fish behavior or fisheries attributable to seismic testing may depend on the species in question and the nature of the fishery (season, duration, fishing method). They may also depend on the age of the fish, its motivational state, its size, and numerous other factors that are difficult, if not impossible, to quantify at this point, given such limited data on effects of airguns on fish, particularly under realistic at-sea conditions.

Anticipated Effects on Invertebrates

The existing body of information on the impacts of seismic survey sound on marine invertebrates is very limited. However, there is some unpublished and very limited evidence of the potential for adverse effects on invertebrates, thereby justifying further discussion and analysis of this issue. The three types of potential effects of exposure to seismic surveys on marine invertebrates are pathological, physiological, and behavioral. Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the pressure component (Popper *et al.,* 2001).

The only information available on the impacts of seismic surveys on marine invertebrates involves studies of individuals; there have been no studies at the population scale. Thus, available information provides limited insight on possible real-world effects at the regional or ocean scale. The most important aspect of potential impacts concerns how exposure to seismic survey sound ultimately affects invertebrate populations and their viability, including availability to fisheries.

Literature reviews of the effects of seismic and other underwater sound on invertebrates were provided by Moriyasu *et al.* (2004) and Payne *et al.* (2008). The following sections provide a synopsis of available information on the effects of exposure to seismic survey sound on species of decapod

crustaceans and cephalopods, the two taxonomic groups of invertebrates on which most such studies have been conducted. The available information is from studies with variable degrees of scientific soundness and from anecdotal information.

Pathological Effects—In water, lethal and sub-lethal injury to organisms exposed to seismic survey sound appears to depend on at least two features of the sound source: (1) The received peak pressure; and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. For the type of airgun array planned for the proposed survey, the pathological (mortality) zone for crustaceans and cephalopods is expected to be less than a few meters of the seismic source; however, very few specific data are available on levels of seismic signals that might damage these animals. This premise is based on the peak pressure and rise/decay time characteristics of seismic airgun arrays currently in use around the world.

Some studies have suggested that seismic survey sound has a limited pathological impact on early developmental stages of crustaceans (Pearson *et al.,* 1994; Christian *et al.,* 2003; DFO, 2004). However, the impacts appear to be either temporary or insignificant compared to what occurs under natural conditions. Controlled field experiments on adult crustaceans (Christian *et al.,* 2003, 2004; DFO, 2004) and adult cephalopods (McCauley *et al.,* 2000a, b) exposed to seismic survey sound have not resulted in any significant pathological impacts on the animals. It has been suggested that exposure to commercial seismic survey activities has injured giant squid (Guerra *et al.,* 2004), but the article provides little evidence to support this claim.

Physiological Effects—Physiological effects refer mainly to biochemical responses by marine invertebrates to acoustic stress. Such stress potentially could affect invertebrate populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses (*i.e.,* changes in haemolymph levels of enzymes, proteins, *etc.*) of crustaceans have been noted several days or months after exposure to seismic survey sounds (Payne *et al.,* 2007). The periods necessary for these biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—There is increasing interest in assessing the possible direct and indirect effects of seismic and other sounds on invertebrate behavior, particularly in relation to the consequences for fisheries. Changes in behavior could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and catchability by fisheries. Studies investigating the possible behavioral effects of exposure to seismic survey sound on crustaceans and cephalopods have been conducted on both uncaged and caged animals. In some cases, invertebrates exhibited startle responses (*e.g.,* squid in McCauley *et al.,* 2000a, b; juvenile cuttlefish in Komak *et al.* 2005). In other cases, no behavioral impacts were noted (*e.g.,* crustaceans in Christian *et al.,* 2003, 2004; DFO 2004). There have been anecdotal reports of reduced catch rates of shrimp shortly after exposure to seismic surveys; however, other studies have not observed any significant changes in shrimp catch rate (Andriguetto-Filho *et al.,* 2005). Similarly, Parry and Gason (2006) did not find any evidence that lobster catch rates were affected by seismic surveys. Any adverse effects on crustacean and cephalopod behavior or fisheries attributable to seismic survey sound depend on the species in question and the nature of the fishery (season, duration, fishing method). In general, data on which to assess the potential adverse effects of GI-gun sounds on invertebrate species is rather ambiguous; however, of the limited data available, crustaceans and cephalopods appear sensitive and responsive to the frequencies of sound generated by airguns, although at sound pressures somewhat higher than that for marine mammals.

In conclusion, NMFS has preliminarily determined that the Navy's proposed marine seismic survey is not expected to have any habitat-related effects that could cause significant or long-term consequences for marine mammals or on the food sources that they utilize.

Proposed Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

The Navy has proposed the following mitigation measures to be implemented for the proposed seismic survey:

Exclusion Zones

The Navy used the exposure threshold isopleths applicable to cetaceans (there is no proposed take for pinnipeds), as well as extant models of same/similar GI-gun sources and water depths, as the basis for their exclusion zones. The proposed exclusion zone is 70 m for the 180 dB exposure thresholds and would be employed for monitoring.

Speed or Course Alteration

If a marine mammal is observed moving on a path toward an exclusion zone, an attempt would be made to adjust the vessel speed or course in order to minimize the likelihood of an animal entering an exclusion zone. Speed and course alterations are not always possible when towing a long GI-gun array, but are considered possible options given the use of a dual GI-gun array.

Shut-Down Procedures

The Navy proposes to shut down the operating airgun array if a marine mammal is seen within or approaching an exclusion zone. The Navy would implement a shut-down if a cetacean is observed within or approaching the 180 dB isopleth (70 m). Airgun activity would not resume until the marine mammal has cleared the exclusion zone or has not been seen for 15 (dolphins) to 30 minutes (whales).

Ramp-Up Procedures

Ramp-up would be comprised of gradually activating the dual GI-guns in sequence over a period of about 30 min until the desired operating level is reached. This should allow any marine mammals in the area to avoid the maximum sound source. Airguns would be activated in a sequence such that the source level of the array would increase in steps not exceeding 6 dB per 5-min periods over a total duration of 30 min. During ramp-up, protected species observers would monitor the exclusion zones for marine mammals and a shutdown would be implemented if an animal is detected in or approaching an exclusion zone.

NMFS has carefully evaluated the applicant's proposed mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following

factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area.

Monitoring

The Navy proposes to sponsor marine mammal monitoring during the proposed activity, in order to implement the proposed mitigation measures that require real-time monitoring, and to satisfy the anticipated monitoring requirements of the IHA. The Navy's proposed Monitoring Plan is described below this section. The Navy understands that this monitoring plan will be subject to review by NMFS, and that refinements may be required.

Vessel-Based Visual Monitoring

The Navy proposes to continuously monitor the harassment isopleths during daytime and nighttime airgun operations. Visual monitoring would be comprised of three protected species observers (PSOs) typically working in shift of 4-hr durations or less. A PSO platform is located one deck below and forward of the bridge (12.5 m [41 ft] above the waterline), providing a relatively unobstructed 180 degree view forward. Aft views can be obtained along both the port and starboard decks. During daytime operations, PSOs would systematically survey the area around the vessel with reticle and big-eye binoculars and the naked eye. A clinometer would be used to determine distances of animals in close proximity to the vessel, and hand-held fixed rangefinders and distance marks on the *Melville's* side rails would be used to measure the exact location of the exclusion zones. During nighttime operations, night vision devices would be available if required.

The PSOs would be in wireless communication with ship's officers on the bridge and scientists in the vessel's operations laboratory, so they can promptly advise of the need for avoidance maneuvers or seismic source shutdown. Shutdown of GI-gun operations would occur immediately upon observation/detection of any marine mammal in an exclusion zone. Following a shutdown, GI-gun ramp-up would not be initiated until PSOs have confirmed the marine mammal is no longer observed/detected for a period of 15 or 30 minutes (depending on species). If a marine mammal is outside of an exclusion zone and observed by a PSO to exhibit abnormal behaviors consistent with signs of harassment (*e.g.,* avoidance, dive patterns, multiple changes in direction), operation of the GI-guns would cease until the animal moves out of the area or is not resighted for a period of 30 min.

PSO Data and Documentation

PSOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially ''taken'' by harassment (as defined in the MMPA). They will also provide information needed to order a power down or shut down of the airguns when a marine mammal is within or nearing the exclusion zone.

When a sighting is made, the following information will be recorded:

1. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare;

2. Species, group size, age, individual size, sex (if determinable);

3. Behavior when first sighted and subsequent behaviors;

4. Bearing and distance from the vessel, sighting cue, exhibited reaction to the airgun sounds or vessel (*e.g.,* none, avoidance, approach, *etc.*), behavioral pace, and depth at time of detection;

5. Fin/fluke characteristics and angle of fluke when an animal submerges to determine if the animal executed a deep or surface dive;

6. Type and nature of sounds heard; and

7. Any other relevant information.

When shutdown is required for mitigation purposes, the following information will be recorded:

1. The basis for decisions resulting in shutdown of the GI-guns;

2. Information needed to estimate the number of marine mammals potentially taken by harassment;

3. Information on the frequency of occurrence, distribution, and activities of marine mammals in the study area;

4. Information on the behaviors and movements of marine mammals during and without operation of the GI-guns; and

5. Any adverse effects the shutdown had on the research.

PSOs would provide estimates of the numbers of marine mammals exposed to the GI-gun source and any disturbance reactions exhibited, or the lack thereof. Observations and data collection would aim to provide estimates of the actual numbers of animals taken, verify the level of harassment, aide in assessment of impacts on populations on conclusion of the study, and increase knowledge of species in the study area. Observations and data collection would also aim to provide information that would allow for verifying or disputing that the takings are negligible.

Reporting Measures

The Navy would submit a report to NMFS within 90 days after the end of the cruise. The report would describe the operations that were conducted and sightings of marine mammals near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report would also include estimates of the number and nature of exposures that could result in ''takes'' of marine mammals.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury (Level A harassment), serious injury, or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), the Navy would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hrs preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hrs preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with the Navy to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Navy may not resume their activities until notified by NMFS via letter, email, or telephone.

In the event that the Navy discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), the Navy would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS. The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS would work with the Navy to determine whether modifications in the activities are appropriate.

In the event that the Navy discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Navy would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS within 24 hrs of the discovery. The Navy would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Only take by Level B harassment is anticipated and proposed to be authorized as a result of the proposed physical oceanographic survey off the southern coast of Africa. Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the dual airgun array may have the potential to cause marine mammals in the survey area to be exposed to sounds at or greater than 160 dB or cause temporary, short-term changes in behavior. There is no evidence that the planned activities would result in injury, serious injury, or mortality within the specified geographic area for which the Navy seeks the IHA. The mitigation and monitoring measures proposed for implementation are expected to minimize any potential risk for injury or mortality.

The following sections describe the Navy's methods to estimate take by incidental harassment and present the applicant's estimates of the numbers of marine mammals that could be taken during the proposed physical oceanographic survey. The estimates are based on a consideration of the number of marine mammals that could be disturbed appreciably by operations with the GI-gun array to be used during multiple transects totaling approximately 2,489 km (1,547 mi).

The Navy assumes that, during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the MBES and SBP would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, marine mammals are expected to exhibit no more than short-term and inconsequential responses to the MBES and SBP given their characteristics (*e.g.,* narrow downward-directed beam) and other considerations described previously. Therefore, the Navy provides no additional allowance for animals that could be affected by sound sources other than airguns.

Density estimates on the marine mammal species in the proposed survey area are based on data derived from a number of sources: The Ocean Biogeographic Information System OBIS Seamap (OBIS–SEAMP); the International Union for Conservation of Nature (IUCN, 2010); the Convention on the Conservation of Migratory Species of Wild Animals (CMS, 2010); NatureServe Explorer (NatureServe, 2010); the International Whaling Commission (IWC); NOAA Fisheries Office of Protected Resources; and the Navy Marine Species Density Database (NMSDD); unless otherwise cited. The NMSDD includes the highest quality, spatially modeled, density data where data is available. For all other geographic areas, data were evaluated using a hierarchical approach and a review process to incorporate the best data available. The NMSDD incorporates density from global predictive relative environmental suitability models for geographic areas where no survey data or density estimates exist. The global predictive estimates for areas beyond survey coverage are available in two forms: (1) Sea Mammal Research Unit Limited (SMRUL) that includes survey-based density estimates in the prediction of densities estimated elsewhere within Food and Agriculture Organization (FAO) areas; and (2) predictions from Kristin Kaschner which are based on using relative environmental suitability as an index in conjunction with a global mean population estimate determined from literature (Kaschner et al., 2006). The resulting data within the NMFSDD provide the best available, single density value for a selected geographic area and time.

One method of estimating takes assumes marine mammals are uniformly distributed throughout a given area, although this is not representative of the real world distribution of marine mammals in any given geographic region. Marine mammals are typically found grouped in pods, concentrate around preferred breeding and foraging habitats, and most species follow seasonal migratory patterns and routes. However, due to lack of substantive information on marine mammal population distributions and densities in the area of the proposed action, informed assumptions on distribution patterns cannot be made, and exposure estimates are based on uniform distribution of marine mammals over the area for which population data are available. Bearing these factors in mind, the exposure estimates provided are considered reasonable approximations of potential exposure, and based on the best available information.

Marine mammal population density estimates for the area and time of year of study provide species of cetacea that would be expected to be present in the study area during the time research activities would be conducted. Many species are unlikely to be significantly populous in the proposed area of study during the research time frame, as the austral summer migration finds many of the migratory species in the Antarctic waters of the Southern Ocean, typically south of 40° S. The only known commonly sighted whales year-round off the South African coast is an in-shore sub-species of Bryde's whale and the Southern right whale. In general, whales are most populous in the study area during the austral winter months, from approximately June to November, and populations are at their lowest during the austral summer.

Table 3 provides estimates of the minimum, average (considered the best estimate), and maximum marine mammal population densities in the area of the proposed study during the austral summer, anticipated occurrence of each species, and requested take authorization. For all species evaluated, average population density estimates were used for calculation of the number of marine mammals that may be exposed. NMFS has used average (or best) population density estimates when analyzing the allowable harassment for ESA-listed marine mammals incidental to marine seismic surveys for scientific research purposes (*e.g.,* see NMFS 2010c, 2011c). The results of the monitoring reports from those surveys, and others, show that the use of the average estimate is appropriate for provision of reasonable estimates of exposure and harassment. Requested takes estimates are based on Navy exposure criteria, which determines take at 0.5 animals exposed for non-ESA-listed marine mammals, and 0.05 animals exposed for ESA-listed species. In other words, if 0.5–0.9 non-ESA animals are expected to be exposed to sounds above 160 dB, the value is rounded up to one; for ESA-listed animals, the value is rounded up to one if 0.05–0.9 individuals are expected to be exposed to sounds above 160 dB.

Because extant mathematical models poorly simulate and predict the natural meander of the AC, ARC, and ARC/ACC frontal system, and due to unpredictable weather conditions, it is not possible to accurately predict the exact location where seismic oceanographic survey transects would occur. For this reason, the minimum, average, and maximum population densities given in Table 3 are the mean of the population densities for each species within the coordinates of 36° S to 43° S, and 19° E to 30° E. Therefore, the mean of the minimum, average, and maximum marine mammal population density values for each square kilometer of this region were used in order to (1) capture the uncertainty as to exactly where the SO survey will take place, and (2) the inherent uncertainty in marine mammal population density estimates. The front is estimated to be phase-locked between 36° S to 40° S, and 21° E to 27° E; however, the position of the front can vary by up to 100 km (generally west, east, and south of this estimated location). Because the precise location of the seismic oceanography survey transects cannot be known in advance, it is not possible to accurately differentiate the numbers of marine mammals that may be exposed in waters of the global commons (high seas), as opposed to within the South African exclusive economic zone (EEZ). Because the specific location of research activities cannot be predetermined, due to the variables described, this assessment conservatively estimates that all exposures occur in waters of the global commons (high seas) where estimated population density estimates are higher.

Based on the best available population density estimates, 2,410 cetacea may potentially be exposed to sound pressure levels ≥160 dB re 1 μPa.rms. Of the total number of cetaceans that are estimated to be exposed, 60 are listed as endangered under the ESA: 29 fin (<0.2% of the southern hemisphere population), 1 humpback (<0.004% of the southern hemisphere population), 10 sei (<0.2% of the population south of 30° S), 1 southern right (<0.004% of the southern hemisphere population), and 19 sperm (<0.02% of the southern hemisphere population) whales. For all species, the number of individuals that would be exposed to sounds ≥160 dB re 1 μPa.rms is less than 0.2 percent of the given species' population for which regional population density estimates are known.

TABLE 3—ESTIMATED NUMBER OF MARINE MAMMALS EXPOSED TO ≥160 DB DURING THE PROPOSED ACTIVITY

Species	ESA [1]	Density			Requested take
		Best	Min	Max	
Mysticetes					
Antarctic minke whale	NL	<0.01	<0.01	0.01	14
Blue whale	E	<0.01	<0.01	<0.01	0
Bryde's whale	NL	<0.01	<0.01	<0.01	0
Common minke whale	NL	0.03	0.02	0.05	103
Fin whale	E	0.01	<0.01	0.01	29
Humpback whale	E	<0.01	<0.01	<0.01	1
Sei whale	E	<0.01	<0.01	<0.01	10
Odontocetes					
Arnoux's beaked whale	NL	<0.01	<0.01	0.01	15
Cuvier's beaked whale	NL	<0.01	<0.01	<0.01	12
Dwarf sperm whale	NL	<0.01	<0.01	<0.01	0
Gray's beaked whale	NL	<0.01	<0.01	<0.01	11
Hector's beaked whale	NL	<0.01	<0.01	<0.01	9
Pygmy right whale	NL	<0.01	<0.01	<0.01	0
Pygmy sperm whale	NL	<0.01	<0.01	<0.01	0
Southern bottlenose whale	NL	<0.01	<0.01	0.01	21
Southern right whale	E	<0.01	<0.01	<0.01	1
Sperm whale	E	0.01	<0.01	0.01	19
Strap-toothed whale	NL	<0.01	<0.01	<0.01	9
True's beaked whale	NL	<0.01	<0.01	<0.01	10
Common bottlenose dolphin	NL	0.04	0.01	0.10	141
Dusky dolphin	NL	<0.01	<0.01	<0.01	0
False killer whale	NL	<0.01	<0.01	<0.01	1

TABLE 3—ESTIMATED NUMBER OF MARINE MAMMALS EXPOSED TO ≥160 dB DURING THE PROPOSED ACTIVITY—Continued

Species	ESA [1]	Density			Requested take
		Best	Min	Max	
Fraser's dolphin	NL	n/a	n/a	n/a	0
Heaviside's dolphin	NL	< 0.01	< 0.01	0.01	0
Hourglass dolphin	NL	< 0.01	< 0.01	< 0.01	3
Indo-pacific bottlenose dolphin	NL	n/a	n/a	n/a	0
Indo-pacific hump-backed dolphin	NL	n/a	n/a	n/a	0
Killer whale	NL	0.01	< 0.01	0.01	30
Long-beaked common dolphin	NL	< 0.01	< 0.01	< 0.01	1
Long-finned pilot whale	NL	0.05	< 0.01	0.10	180
Pantropical spotted dolphin	NL	0.01	< 0.01	0.01	20
Pygmy killer whale	NL	< 0.01	< 0.01	< 0.01	1
Risso's dolphin	NL	0.06	0.04	0.10	210
Rough-toothed dolphin	NL	< 0.01	< 0.01	< 0.01	2
Short-beaked common dolphin	NL	0.24	0.13	0.38	799
Short-finned pilot whale	NL	0.03	0.01	0.04	86
Southern right whale dolphin	NL	0.01	< 0.01	0.02	29
Spinner dolphin	NL	< 0.01	< 0.01	0.01	16
Striped dolphin	NL	0.19	0.03	0.31	626
Pinnipeds					
Cape fur seal	NL	0.04	n/a	n/a	0

Exposure estimates are based on marine mammal population density estimates relative to the total area ensonified by the GI-gun array, and evaluated for exposure to the 160 dB isopleth. Multiplying the total area ensonified during the seismic oceanography survey by the population estimate for each species, yields the estimated number of marine mammals exposed to sound pressures > 160 dB. The total ensonified area is about 3,335 km^2 and assumes no area of overlap during the survey transects, which would cover a total distance of 2,489 km.

Negligible Impact and Small Numbers Analysis and Preliminary Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to:

(1) The number of anticipated mortalities;

(2) The number and nature of anticipated injuries;

(3) The number, nature, and intensity, and duration of Level B harassment; and

(4) The context in which the takes occur.

As mentioned previously, NMFS estimates that 29 species of marine mammals could be potentially affected by Level B harassment over the course of the IHA. For each species, these numbers are small (less than one percent) relative to the population size.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of the Navy's planned physical oceanographic survey, and none are proposed to be authorized by NMFS. Additionally, for reasons presented earlier in this document, temporary hearing impairment (and especially permanent hearing impairment) is not anticipated to occur during the proposed specified activity. Only short-term behavioral disturbance is anticipated to occur due to the brief and sporadic duration of the survey activities. No mortality or injury is expected to occur, and due to the nature, degree, and context of behavioral harassment anticipated, the activity is not expected to impact rates of recruitment or survival.

NMFS has preliminarily determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of conducting a physical oceanographic survey off the southern coast of Africa, January through February, 2012, may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals.

Of the ESA-listed marine mammals that may potentially occur in the proposed survey area, blue and southern right whale populations are thought to be increasing; population trends for fin, humpback, sei, and sperm whales are not well known in the southern hemisphere. There is no designated critical habitat for marine mammals in the proposed survey area. There are also no important habitat areas (*e.g.,* breeding, calving, feeding, etc.) for marine mammals known around the area that would overlap with the proposed survey. While behavioral modifications, including temporarily vacating the area during the operation of the airgun(s), may be made by these species to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas and the short and sporadic duration of the research activities, have led NMFS to preliminarily determine that this action will have a negligible impact on the species in the specified geographic region.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that the Navy's planned research activities would result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the physical oceanographic survey would have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has

determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey area, six are listed as endangered under the ESA, including the blue, fin, humpback, sei, southern right, and sperm whales. Under section 7 of the ESA, the Navy has initiated formal consultation with NMFS, Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on this proposed survey. NMFS' Office of Protected Resources, Permits and Conservation Division, has also initiated formal consultation under section 7 of the ESA with NMFS' Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, to obtain a Biological Opinion evaluating the effects of issuing the IHA on threatened and endangered marine mammals and, if appropriate, authorizing incidental take. NMFS will conclude formal section 7 consultation prior to making a determination on whether or not to issue the IHA. If the IHA is issued, the Navy, in addition to the mitigation and monitoring requirements included in the IHA, would be required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS' Biological Opinion issued to both the Navy and NMFS' Office of Protected Resources, Permits and Conservation Division.

National Environmental Policy Act (NEPA)

The Navy has prepared a draft Overseas Environmental Assessment (OEA) to address the potential environmental impacts that could occur as a result of the proposed activity. To meet NMFS' National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requirements for the issuance of an IHA to the Navy, NMFS will either adopt the OEA (if sufficient) or prepare an independent NEPA analysis. This analysis will be completed prior to issuance of a final IHA.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the Navy for conducting a physical oceanographic survey off the southern coast of Africa, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: November 15, 2011.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–30010 Filed 11–18–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2011–OS–0129]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness/ National Security Education Program, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness/National Security Education Program announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 20, 2012.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title 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: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense for Personnel and Readiness/National Security Education Program, *Attn:* Dr. Michael Nugent, PO Box 12221, Arlington, VA 22209–2221, or call at (703) 696–5673.

Title; Associated Form; and OMB Number: National Language Service Corps; DD Forms 2932, 2933, and 2934; OMB Number 0704–0449.

Needs and Uses: The information collection requirement is necessary to identify individuals with language and special skills who potentially qualify for employment or service opportunities in the public section during periods of national need or emergency.

Affected Public: Individuals or households.

Annual Burden Hours: 750.

Number of Respondents: 2,500.

Responses per Respondent: 1.807.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The DD Form 2932, *National Language Service Corps (NLSC) Pilot Application,* is the initial document used to collect information from members of the public. The NLSC Pilot Application form contains a brief set of screening questions and provides background data on where the applicant learned the foreign language and whether the applicant has used the language professionally. Applicants fill this out for basic information (age, citizenship, Foreign Language), and if they meet eligibility criteria, they proceed to the supplemental documents. Members are required to renew their DD Form 2932 information every four years. Those who enrolled in 2008 will need to start their renewals in 2012. Renewing applicants are in addition to those initially applying.

The supplemental documents are used to determine eligibility for membership in the NLSC. The DD Form 2934, *National Language Service Corps (NLSC) Global Language Self-Assessment,* provides an overall assessment of the applicant's foreign language ability. The DD Form 2933, *National Language Service Corps (NLSC) Pilot Detailed Skills Self-Assessment,* is a detailed description of the applicant's skills with respect to specific foreign language tasks. These two supplemental documents are used in conjunction for the certification of

language skills for entry into the NLSC and quality assurance of certification.

The information collected in the application and the supplemental documents is used solely by the NLSC.

Dated: November 16, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–29995 Filed 11–18–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

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

DATES: Monday, December 5, 2011, 9 a.m.–4:45 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Kristen G. Ellis, Designated Federal Officer, EMAB (EM–42), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Phone (202) 586–5810; fax (202) 586–0293 or email: *kristen.ellis@em.doe.gov*.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of EMAB is to provide the Assistant Secretary for Environmental Management (EM) with advice and recommendations on corporate issues confronting the EM program. EMAB contributes to the effective operation of the program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing EM and by helping to secure consensus recommendations on those issues.

Tentative Agenda Topics:

- EM Update
- EMAB Acquisition and Project Management Subcommittee Report
- Tank Waste Strategy Update
- Management Excellence

Public Participation: The meeting is open to the public. Individuals who would like to attend must RSVP to Kristen G. Ellis no later than 5 p.m. on Friday, November 25, 2011, at *kristen.ellis@em.doe.gov.* An early confirmation of attendance will help facilitate access to the building more quickly. Please provide your name, organization, citizenship and contact information. Space is limited. Entry to the DOE Forrestal building will be restricted to those who have confirmed their attendance in advance. Anyone attending the meeting will be required to present government issued photo identification, such as a passport, driver's license, or government identification. EMAB welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kristen G. Ellis at least seven days in advance of the meeting at the phone number or email address listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda should contact Kristen G. Ellis at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Time allotted for individuals wishing to make public comments will depend on the number of individuals who wish to speak, but will not exceed five minutes.

Minutes: Minutes will be available by writing or calling Kristen G. Ellis at the address or phone number listed above. Minutes will also be available at the following Web site *http://www.em.doe.gov/stakepages/emabmeetings.aspx*.

Issued at Washington, DC on November 14, 2011.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–29716 Filed 11–18–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–14249–000]

KC Hydro LLC of New Hampshire; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 8, 2011, KC Hydro LLC of New Hampshire, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Lebanon Mascoma River Hydropower Project (project) to be located on the Mascoma River, near the Town of Lebanon, Grafton County, New Hampshire. 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 consist of two developments with an installed capacity of 1.2 megawatts (MW) and an average annual generation of 5,000 megawatt-hours which would be sold to Public Service of New Hampshire. The two developments include:

Mascoma Lake Dam Development

The proposed Mascoma Lake Dam Development consists of: (1) The existing 575-foot-long, 18-foot-high, concrete gravity Mascoma Lake Dam equipped with a 125-foot-long spillway, four 6-foot-wide outlet gates, and seven 35-foot-wide stoplog bays; (2) an existing 1,155-acre impoundment with a normal maximum pool elevation of 750 feet National Geodetic Vertical Datum; (3) a new 80-foot-long, 20 to 30-foot-wide power canal located below the existing outlet works; (4) a minimum flow turbine generator and a new 2,000-square-foot powerhouse containing one or two submersible or tubular-type turbine generators with a total installed capacity of 0.36 MW; (5) a new 150-foot-long tailrace; (6) a new 700-foot-long, 4.16-kilovolt (kV) transmission line; and (7) appurtenant facilities.

Riverside Dam Development

The proposed Riverside Dam Development consists of: (1) Reconstructing a 125-foot-long, 7-foot-high dam with 2-foot-high flashboards and impounding; (2) a new 0.25-acre impoundment with a normal maximum pool elevation of 541.5 feet mean sea level; (3) a new 470-foot-long, 7.5-foot-diameter steel penstock; (4) a new 1,800-square-foot powerhouse containing a single inclined shaft Kaplan turbine-generating unit with a total installed capacity of 0.84 MW; (5) a new 135-foot-long transmission line; and (6) appurtenant facilities.

Applicant Contact: Ms. Kelly Sackheim, Principal, KC Hydro LLC of New Hampshire, 5096 Cocoa Palm Way, Fair Oaks, California 95628; phone: (301) 401–5978.

FERC Contact: Michael Watts; phone: (202) 502–6123.

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–14249–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29930 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14244–000]

KC Hydo LLC of New Hampshire; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 5, 2011, KC Hydo LLC of New Hampshire filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Alton Dam Hydropower Project (Alton Dam Project or project) to be located on Merrymeeting River, near the Town of Alton, Belknap County, New Hampshire. 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 consist of the following: (1) The existing 190-foot-long, 16-foot-high Alton dam, which is owned by the New Hampshire Fish and Game Department and includes a 85-foot-long concrete spillway; (2) an existing 720 square acre impoundment; (3) a newly constructed powerhouse; (4) new electrical generating equipment with total hydraulic capacity of 160 cubic feet per second (cfs) and total installed generating capacity of 0.16 megawatts connected to a rehabilitated 60-inch-diameter penstock; (5) rehabilitated intake gate structure and trash racks; (6) a newly excavated 200-foot-long tailrace; (7) an approximately 500-foot-long transmission line; and (8) appurtenant facilities. The estimated annual generation of the Alton Dam Project would be 0.650 gigawatt-hours (GWH).

Applicant Contact: Ms. Kelly Sackheim, Principal, KC Hydro LLC of New Hampshire, 5096 Cocoa Palm Way, Fair Oaks, CA 95628; *phone:* (301) 401–5978.

FERC Contact: John Ramer; *phone:* (202) 502–8969.

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–14244–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29934 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14247–000]

KC Hydro LLC of New Hampshire; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 8, 2011, KC Hydro LLC of New Hampshire filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Nashua Main Street Dam Hydropower Project (Main Street Dam Project or project) to be located on Salmon Brook, near the City of Nashua, Hillsborough County, New Hampshire. 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 consist of the following: (1) The existing 75-foot-long, 18-foot-high Main Street dam, which is owned by Pennichuck Water Works Company and includes a 31-foot-long crested weir spillway and a 54-inch-diameter cast iron penstock; (2) the existing Salmon Brook Reservoir having a total storage capacity of 40 acre-feet and a surface area of 10-acres at the spillway elevation of 130 feet mean sea level (msl); (3) connecting new electrical

generating equipment with total hydraulic capacity of 80 cubic feet per second (cfs) and total installed generating capacity of 0.085 megawatts to the existing penstock; (4) rehabilitating an existing intake gate structure and installing new trash racks; (5) installing 30-inch-high flashboards on the crest of the spillway; (6) excavating a new 125-foot-long tailrace; (7) installing an approximately 100-foot-long transmission line; and (8) appurtenant facilities. The estimated annual generation of the Main Street Dam Project would be 0.425 gigawatt-hours (GWH).

Applicant Contact: Ms. Kelly Sackheim, Principal, KC Hydro LLC of New Hampshire, 5096 Cocoa Palm Way, Fair Oaks, CA 95628; *phone:* (301) 401–5978.

FERC Contact: John Ramer; *phone:* (202) 502–8969.

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–14247–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29936 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14246–000]

KC Hydro LLC of New Hampshire; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 8, 2011, KC Hydro LLC of New Hampshire filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Manchester Goffs Falls Dam Hydropower Project (Goffs Falls Dam Project or project) to be located on Great Cohas Brook, near the City of Manchester, Hillsborough County, New Hampshire. 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 consist of the following: (1) The existing 150-foot-long, 19-foot-high Goffs Falls Dam, which is owned by the City of Manchester and includes a 75-foot-long spillway; (2) an existing 54 acre impoundment with 243 acre-feet of storage capacity at the spillway crest elevation; (3) a newly constructed powerhouse; (4) new electrical generating equipment with total hydraulic capacity of 246 cubic feet per second (cfs) and total installed generating capacity of between 0.265 megawatts (MW) to .585 MW; (5) a 260-foot-long to 1,060-foot-long penstock; (6) rehabilitated intake gate structure and trash racks; (7) a newly excavated 125-foot-long tailrace; (8) an approximately 150-foot-long to 750-foot-long transmission line; and (9) appurtenant facilities. The estimated annual generation of the Goffs Falls Dam Project would be between 0.85 gigawatt-hours (GWH) to 1.85 GWH.

Applicant Contact: Ms. Kelly Sackheim, Principal, KC Hydro LLC of New Hampshire, 5096 Cocoa Palm Way, Fair Oaks, CA 95628; phone: (301) 401–5978.

FERC Contact: John Ramer; phone: (202) 502–8969.

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–14246–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29935 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–11–000]

Elba Express Company, L.L.C.; Notice of Application

Take notice that on October 31, 2011, Elba Express Company, L.L.C. (EEC), 569 Brookwood Village, Suite 501, Birmingham, Alabama 35209, filed an application in the above referenced docket pursuant to section 385.207 and 385.2001 of the Commission's

regulations under the Natural Gas Act (NGA) to amend their certificate issued in Docket No. CP06–471–000. EEC proposes to change the location of the compressor station site authorized to be constructed as Phase B of the certificated project from Jenkins County, Georgia to Elbert County, Georgia. EEC states that there will be no change with respect to the Phase B compression previously authorized. EEC notes that the incremental capacity associated with the Phase B Compression will be reduced from the initially filed 230 million cubic feet per day (MMcf/d) to 220 MMcf/d because of the change in flow pattern resulting from a transposition of receipt and delivery points, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Glenn A. Sheffield, Director, Rates & Regulatory Affairs, Elba Express Company, L.L.C., 569 Brookwood Village, Suite 501, Birmingham, Alabama 35209, by telephone at (205) 325–3813 or by email at *glenn.sheffield@elpaso.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. 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.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: November 30, 2011

Dated: November 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29931 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14245–000]

KC Hydo LLC of New Hampshire; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 5, 2011, KC Hydo LLC of New Hampshire filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Pittsfield Mill Dam Hydropower Project (Pittsfield Mill Dam Project or project) to be located on Suncook River, near the Town of Pittsfield, Merrimack County, New Hampshire. 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 consist of the following: (1) The existing 470-foot-long, 16-foot-high Pittsfield Mill dam, which is owned by the New Hampshire Department of Environmental Services and includes a 159-foot-long ogee spillway; (2) an existing 20 acre impoundment with 112 acre-feet of storage capacity at the spillway crest elevation of 474.5 feet mean sea level

(MSL); (3) a newly constructed powerhouse; (4) new electrical generating equipment with total hydraulic capacity of 423 cubic feet per second (cfs) and total installed generating capacity of 0.530 megawatts connected to a rehabilitated 96-inch-diameter penstock; (5) rehabilitated intake gate structure and trash racks; (6) a newly excavated 100-foot-long tailrace; (7) an approximately 200-foot-long transmission line; and (8) appurtenant facilities. The estimated annual generation of the Pittsfield Mill Dam Project would be 2.120 gigawatt-hours (GWH).

Applicant Contact: Ms. Kelly Sackheim, Principal, KC Hydro LLC of New Hampshire, 5096 Cocoa Palm Way, Fair Oaks, CA 95628; *phone:* (301) 401–5978.

FERC Contact: John Ramer; *phone:* (202) 502–8969.

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–14245–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29929 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No., P–14250–000]

KC Hydro LLC of New Hampshire; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 8, 2011, KC Hydro LLC of New Hampshire, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Weare Horace Lake Dam Hydropower Project (project) to be located on the Piscataquog River, near the Town of Weare, Hillsborough County, New Hampshire. 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 consist of: (1) The existing 340-foot-long, 34-foot-high, concrete gravity Weare Reservoir Dam equipped with a 157-foot-long ogee spillway, a 25-foot-long stoplog section with 5 sets of stoplog bays; (2) a new 100-foot-long, 36-inch-diameter steel penstock; (3) an existing 323-acre impoundment with a normal maximum pool elevation of 655.49 feet National Geodetic Vertical Datum; (4) a new powerhouse containing two submersible or tubular turbine-generators with a total installed capacity of 150 kilowatts; (5) a new 125-foot-long tailrace; (6) a new 400-foot-long, 4.16-kilovolt transmission line; and (7) appurtenant facilities. The project would have an estimated average annual energy generation of 600 megawatt-hours, which would be sold to Public Service of New Hampshire.

Applicant Contact: Ms. Kelly Sackheim, Principal, KC Hydro LLC of New Hampshire, 5096 Cocoa Palm Way, Fair Oaks, California 95628; phone: (301) 401–5978.

FERC Contact: Michael Watts; phone: (202) 502–6123.

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–14250–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29927 Filed 11–18–11; 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: ER11–3594–001.

Applicants: City of Anaheim, California.

Description: Offer of Settlement and Settlement Agreement to be effective 7/1/2011.

Filed Date: 11/09/2011.

Accession Number: 20111109–5163.

Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER11–4287–000.

Applicants: Michigan Electric Transmission Company.
Description: Filing of a Refund Report to be effective N/A.
Filed Date: 11/09/2011.
Accession Number: 20111109–5185.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER11–4347–000.
Applicants: ITC Midwest LLC.
Description: Filing of a Refund Report to be effective N/A.
Filed Date: 11/09/2011.
Accession Number: 20111109–5191.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER11–4405–001.
Applicants: Southwest Power Pool, Inc.
Description: Compliance Revisions Modifying Appendix 3 of 1876R1 KEPCO NITSA NOA to be effective 8/1/2011.
Filed Date: 11/09/2011.
Accession Number: 20111109–5063.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER11–4665–001.
Applicants: North Branch Resources, LLC.
Description: Supplement to Category 1 Status Request to be effective 11/9/2011.
Filed Date: 11/09/2011.
Accession Number: 20111109–5138.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER12–366–000.
Applicants: Vision Power, LLC.
Description: Vision Power, LLC reports no wholesales of electric energy and energy transactions.
Filed Date: 11/07/2011.
Accession Number: 20111109–0201.
Comment Date: 5 p.m. ET on 11/28/2011.

Docket Numbers: ER12–367–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Phase-In Agreement, Niagara Mohawk Rate Schedule No. 500 to be effective 11/10/2011.
Filed Date: 11/09/2011.
Accession Number: 20111109–5054.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER12–368–000.
Applicants: ITC Midwest LLC.
Description: ITC Midwest LLC submits tariff filing per 35.13(a)(2)(iii: Filing of an Amended Agreement to be effective 1/20/2012.
Filed Date: 11/09/2011.
Accession Number: 20111109–5139.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER12–369–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Cancellation of ATSI-First Energy IA, SA 1509 to be effective 6/1/2011.
Filed Date: 11/09/2011.
Accession Number: 20111109–5146.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER12–370–000.
Applicants: Puget Sound Energy, Inc.
Description: Network Transmission Agreements to be effective 10/1/2011.
Filed Date: 11/09/2011.
Accession Number: 20111109–5156.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER12–371–000.
Applicants: Puget Sound Energy, Inc.
Description: Network Operating Agreements to be effective 10/1/2011.
Filed Date: 11/09/2011.
Accession Number: 20111109–5162.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER12–372–000.
Applicants: ITC Midwest LLC.
Description: Filing of a Relocation Agreement to be effective 1/10/2012.
Filed Date: 11/09/2011.
Accession Number: 20111109–5179.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER12–373–000.
Applicants: Pennsylvania Electric Company.
Description: Cancel Duplicate Records to be effective 11/9/2011.
Filed Date: 11/09/2011.
Accession Number: 20111109–5180.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER12–374–000.
Applicants: Pennsylvania Electric Company.
Description: Revision to Correctly Label Ancillary Services to be effective 4/20/2011.
Filed Date: 11/09/2011.
Accession Number: 20111109–5181.
Comment Date: 5 p.m. ET on 11/30/2011.

Docket Numbers: ER12–375–000.
Applicants: Southern California Edison Company.
Description: True-Up SGIA WDAT SERV AG SCE–GBU 1466 Merrill Ave Rialto Roof Top Solar Project to be effective 1/10/2012.
Filed Date: 11/10/2011.
Accession Number: 20111110–5001.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER12–376–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. filing to cancel various Service Agreements of ATSI/FirstEnergy.
Filed Date: 11/09/2011.
Accession Number: 20111109–5208.
Comment Date: 5 p.m. ET on 11/30/2011.

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: November 10, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–29923 Filed 11–18–11; 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: RP12–140–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Amended Negotiated Rate Filing—Indicated Shippers to be effective 9/1/2011.
Filed Date: 11/09/2011.
Accession Number: 20111109–5058.
Comment Date: 5 p.m. ET on 11/21/2011.

Docket Numbers: RP12–141–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: MN365 Enhancement Service to be effective 3/1/2012.
Filed Date: 11/09/2011.
Accession Number: 20111109–5113.
Comment Date: 5 p.m. ET on 11/21/2011.

Docket Numbers: RP12–142–000.
Applicants: CenterPoint Energy Gas Transmission Company, LLC

Description: Submits tariff filing per 154.204: Housekeeping Filing—Nov 2011 to be effective 1/1/2012.
Filed Date: 11/10/2011.
Accession Number: 20111110–5043.
Comment Date: 5 p.m. ET on 11/22/2011.

Docket Numbers: CP07–44–000, CP07–45–000, CP07–46–000, and CP07–47–000.
Applicants: Southeast Supply Headers, LLC.
Description: Cost and Revenue Study.
Filed Date: 09/06/2011.
Accession Number: 20110906–5084.
Comment Date: 5 p.m. ET on 11/18/2011.

Docket Numbers: CP12–14–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Application for an order permitting the abandonment Rate Schedules X–122, X–143, X–224, and X–227.
Filed Date: 11/03/2011.
Accession Number: 20111103–5159.
Comment Date: 5 p.m. ET on 11/18/2011.

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: RP12–141–001.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: Amendment to RP12–141–000 Filing to be effective 3/1/2012.
Filed Date: 11/09/2011.
Accession Number: 20111109–5197.
Comment Date: 5 p.m. ET on 11/21/2011.

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: November 10, 2011.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2011–29924 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3125–002.
Applicants: Old Dominion Electric Cooperative.
Description: Amendment to MBR Tariff to be effective 9/13/2010.
Filed Date: 11/10/2011.
Accession Number: 20111110–5064.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER11–3902–002.
Applicants: Jersey Central Power & Light.
Description: Correction to Seller Category to be effective 6/29/2011.
Filed Date: 11/10/2011.
Accession Number: 20111110–5045.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER11–4124–000.
Applicants: Michigan Electric Transmission Company, LLC.
Description: Filing of a Refund Report to be effective N/A.
Filed Date: 11/10/2011.
Accession Number: 20111110–5042.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER11–4156–000.
Applicants: ITC Midwest LLC.
Description: Filing of a Refund Report to be effective N/A.
Filed Date: 11/10/2011.
Accession Number: 20111110–5025.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER11–4302–000.
Applicants: ITC Midwest LLC.
Description: Filing of a Refund Report to be effective N/A.
Filed Date: 11/10/2011.
Accession Number: 20111110–5033.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER12–377–000.
Applicants: El Paso Marketing, L.P.
Description: El Paso Marketing, L.P. MBR Baseline Filing to be effective 11/10/2011.
Filed Date: 11/10/2011.
Accession Number: 20111110–5044.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER12–378–000.
Applicants: South Carolina Electric & Gas Company.
Description: Compliance filing for 3 Tap Agreements 11.10.2011 to be effective 11/10/2011.
Filed Date: 11/10/2011.
Accession Number: 20111110–5071.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER12–379–000.
Applicants: NV Energy, Inc.
Description: Servic Agreement No. 10–01251 Amended & Restated SGIA–CC Landfill to be effective 10/20/2011.
Filed Date: 11/10/2011.
Accession Number: 20111110–5073.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: ER12–380–000.
Applicants: Pacific Gas and Electric Company.
Description: Notice of Termination for Hercules IA and Transmission Facilities Agreement to be effective 1/10/2012.
Filed Date: 11/10/2011.
Accession Number: 20111110–5082.
Comment Date: 5 p.m. ET on 12/1/2011.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC12–1–000.
Applicants: Le Plateau Wind Power L.P.
Description: Self-Certification of Foreign Utility Company Status of Le Plateau Wind Power L.P.
Filed Date: 11/10/2011.
Accession Number: 20111110–5031.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: FC12–2–000.
Applicants: Wind Invest Sp. z.o.o.
Description: Notice of Self-Certification of Foreign Utility Company Status of Wind Invest Sp. z.o.o..
Filed Date: 11/10/2011.
Accession Number: 20111110–5029.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: FC12–3–000.
Applicants: Dobieslaw Wind Invest z.o.o..
Description: Notice of Self-Certification of Foreign Utility Company Status of Dobieslaw Wind Invest z.o.o.
Filed Date: 11/10/2011.
Accession Number: 20111110–5038.
Comment Date: 5 p.m. ET on 12/1/2011.

Docket Numbers: FC12–4–000.
Applicants: Jezycki Wind Invest Sp. z.o.o.
Description: Notice of Self-Certification of Foreign Utility Company Status of Jezycki Wind Invest Sp. z.o.o.

Filed Date: 11/10/2011.

Accession Number: 20111110–5039.

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: November 10, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–29926 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commissioner and Staff Attendance at Reliability*First* Corporation Meetings

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and/or Commission staff may attend the following meetings:

Reliability*First* Corporation, Annual Meeting of Members and Board of Directors Meetings, Grand Hyatt Washington, 1000 H Street NW., Washington, DC 20001.

December 1, 2011 (8:15 a.m.—10:15 a.m. and 10:30 a.m.—2 p.m., respectively)

The discussions at the meetings, which are open to the public, may address matters at issue in the following Commission proceedings:

Docket No. RC08–5, North American Electric Reliability Corporation
Docket No. RC11–1, North American Electric Reliability Corporation
Docket No. RC11–2, North American Electric Reliability Corporation
Docket No. RC11–5, North American Electric Reliability Corporation
Docket No. RC11–6, North American Electric Reliability Corporation
Docket No. RR08–4, North American Electric Reliability Corporation
Docket No. RR10–11, North American Electric Reliability Corporation
Docket No. RR11–1, North American Electric Reliability Corporation
Docket No. RR11–2, North American Electric Reliability Corporation
Docket No. RR11–4, North American Electric Reliability Corporation
Docket No. RR11–5, North American Electric Reliability Corporation
Docket No. RR11–7, North American Electric Reliability Corporation
Docket No. RD09–11, North American Electric Reliability Corporation
Docket No. RD10–2, North American Electric Reliability Corporation
Docket No. RD11–3, North American Electric Reliability Corporation
Docket No. RD11–8, North American Electric Reliability Corporation
Docket No. RD11–9, North American Electric Reliability Corporation
Docket No. RD11–10, North American Electric Reliability Corporation
Docket No. RD11–11, North American Electric Reliability Corporation
Docket No. RD11–12, North American Electric Reliability Corporation
Docket No. NP11–238, North American Electric Reliability Corporation

For further information, please contact Jonathan First, (202) 502–8529, or *jonathan.first@ferc.gov.*

Dated: November 14, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29932 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–9–000]

TC Ravenswood, LLC v. New York Independent System Operator, Inc., New York State Reliability Council, LLC; Notice of Complaint

Take notice that on November 8, 2011, pursuant to sections 206 and 306 of the Federal Power Act, and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedures, 18 CFR 385.206, TC Ravenswood, LLC (Complainant) filed a complaint against the New York Independent System Operator, Inc. (NYISO) and the New York State Reliability Council, L.L.C. (NYSRC), alleging that NYISO and NYSRC violated NYISO's Market Administration and Control Area Services Tariff and a Commission order issued on September 27, 2011 [1] by indicating that both entities continue to treat Complainant's Units 10, 20, and 30 as Black Start Facilities based on a declaratory ruling issued by the New York Public Service Commission.

The Complainant certifies that copies of the complaint were served on representatives of the NYISO, the NYSRC, and the New York Public Service Commission.

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 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on November 29, 2011.

Dated: November 15, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–30025 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

[1] *TC Ravenswood, LLC,* 136 FERC ¶ 61,213 (2011).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12740–003–VA]

Jordan Hydroelectric Limited Partnership; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an original license for the 3.0-megawatt (MW) Flannagan Hydroelectric Project located on the Pound River, at the U.S. Army Corps of Engineers' (Corps) John W. Flannagan Dam and Reservoir, near the Town of Clintwood, in Dickenson County, Virginia, and prepared a final Environmental Assessment (EA). In the final EA, Commission staff assess the potential environmental effects of licensing the project and conclude that issuing a license for the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the final EA is on file with the Commission and is available for public inspection. The final EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: November 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29928 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13351–000]

Marseilles Land & Water Company, IL; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the application for an original license for the Marseilles Lock and Dam Hydroelectric Project (FERC Project No. 13351–000), to be located on the Illinois River, in the city of Marseilles, in LaSalle County, Illinois, and prepared an environmental assessment (EA).

In the EA, we analyzed the potential environmental effects of licensing the project and conclude that issuing a license for the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–(866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the issuance date of this notice, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1–A, Washington, DC 20426. Please affix ''Marseilles Lock and Dam Project No. 13351–000'' to all comments. Comments may be filed electronically via Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. For further information, contact Janet Hutzel at (202) 502–8675 or by email at *janet.hutzel@ferc.gov.*

Dated: November 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29933 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications

listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP10–477–000	11–7–11	Kent Harrington.
2. CP11–515–000	11–10–11	Janice O'Keeffe, Kevin O'Keeffe.
Exempt:		
1. CP11–56–000	11–7–2011	Judith Joan Sullivan.[1]
2. RM10–23–000	11–1–2011	John Trued.
3. CP11–46–000	11–1–2011	Raymond Bransfield.

[1] Memo to file providing privileged comments regarding the Ramapough Lenape Indian Nation for the New Jersey—New York Expansion Project.

Dated: November 10, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–29925 Filed 11–18–11; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: November 14, 2011.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10412	Community Bank of Rockmart	Rockmart	GA	11/10/2011

[FR Doc. 2011–29898 Filed 11–18–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATES: *Date & Time:* Wednesday, November 16, 2011 at 3:45 p.m. and Thursday, November 17, 2011 at 10:30 a.m.

PLACE: 999 E Street NW., Washington, DC

STATUS: These meetings are closed to the public.

ITEMS TO BE DISCUSSED:

Internal personnel rules and procedures or matters affecting a particular employee.

Investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

FOR FURTHER INFORMATION CONTACT: *Person to Contact for Information:* Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2011–30055 Filed 11–17–11; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the

Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before December 12, 2011.

ADDRESSES: You may submit comments, identified by *FR Y–9C* 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.
- *Email: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

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

Additionally, commenters should send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 ((202) 452–3829) Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

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

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal to approve under OMB delegated authority the revision, without extension, of the following report:

Report title: Financial Statements for Bank Holding Companies.[1]

Agency form number: FR Y–9C.

OMB control number: 7100–0128.

Frequency: Quarterly.

Reporters: Bank holding companies.

Estimated annual reporting hours: 192,561 hours.

Estimated average hours per response: 47.15 hours.

Number of respondents: 1,021.

General description of report: This information collection is mandatory (12 U.S.C. 1844(c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6), and (b)(8) of FOIA (5 U.S.C. 522(b)(4), (b)(6), and (b)(8)).

Abstract: The FR Y–9C consists of standardized financial statements similar to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No. 7100–0036) filed by commercial banks. The FR Y–9C collects consolidated data from bank holding companies (BHCs). The FR Y–9C is filed by top-tier BHCs with total consolidated assets of $500 million or more. (Under certain circumstances defined in the General Instructions, BHCs under $500 million may be required to file the FR Y–9C.) The Federal Reserve proposes several changes to the FR Y–9C reporting requirements to better understand BHCs' risk exposures, to better support macroeconomic analysis and monetary policy purposes, and to collect certain information prescribed by changes in accounting standards.

Current Actions: The Federal Reserve proposes the following revisions and clarifications to the FR Y–9C effective June 30, 2012: (1) Add a section to Schedule HC–C, Loans and Lease Financing Receivables, to collect information on the allowance for loan and lease losses by loan category; (2) add two data items to Schedule HC–P, 1–4 Family Residential Mortgage Banking Activities, to collect the amount of representation and warranty reserves for 1–4 family residential mortgage loans sold; (3) add a data item to Schedule HC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets, to collect the outstanding balance of purchased credit impaired loans by past due and nonaccrual status; (4) add a schedule to Schedule HC–U, Loan Origination Activity in Domestic Offices, to collect information on loan originations; and (5) modify the reporting instructions to clarify the reporting and accounting treatment of specific valuation allowances.

For the June 30, 2012, report date, institutions may report reasonable

[1] This family of reports also contains the following mandatory reports, which are not being revised: 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), and the Supplement to the Consolidated Financial Statements for Bank Holding Companies (FR Y–9CS).

estimates for any new or revised data items in their FR Y–9C report for if the information is not readily available.

Proposed Revisions—FR Y–9C

A. Proposed Revisions Related to Call Report Revisions

The Federal Reserve proposes to make the following revisions to the FR Y–9C to parallel proposed changes to the Call Report. In the past, BHCs have commented that changes should be made to the FR Y–9C in a manner consistent with changes to the Call Report to reduce reporting burden.

A.1 Allowance for Loan and Lease Losses by Loan Category (ALLL)

In July 2010, the Financial Accounting Standards Board (FASB) published Accounting Standards Update No. 2010–20, Disclosures about the Credit Quality of Financing Receivables and the Allowance for Credit Losses (ASU 2010–20), which amended Accounting Standards Codification (ASC) Topic 310, Receivables. The main objective of the update was to provide financial statement users with greater transparency about an entity's allowance for credit losses and the credit quality of its financing receivables. Examples of financing receivables included loans, credit cards, notes receivable, and leases (other than an operating lease). The update was intended to provide additional information to assist financial statement users in assessing an entity's credit risk exposures and evaluating the adequacy of its allowance for credit losses.

To achieve its main objective, ASU 2010–20 requires, in part, that an entity disclose by portfolio segment ''[t]he balance in the allowance for credit losses at the end of each period disaggregated on the basis of the entity's impairment method'' and ''[t]he recorded investment in financing receivables at the end of each period related to each balance in the allowance for credit losses, disaggregated * * * in the same manner.'' [2] As defined in the ASC Master Glossary, a portfolio segment is ''[t]he level at which an entity develops and documents a systematic methodology to determine its allowance for credit losses.'' For each portfolio segment, the disaggregation based on impairment method requires separate disclosure of the allowance and the related recorded investment amounts for financing receivables collectively evaluated for impairment, individually evaluated for impairment, and acquired with deteriorated credit quality.[3] This disaggregated disclosure requirement is effective for public entities for the first interim or annual reporting period ending on or after December 15, 2010, and for nonpublic entities for annual reporting periods ending on or after December 15, 2011.

Consistent with the ASU 2010–20 disclosure requirements described above, the Federal reserve proposes to revise the June 2012 FR Y–9C report to capture disaggregated detail of institutions' allowances for loan and lease losses (ALLL) and related recorded investments for loans and leases from institutions with $1 billion or more in total assets. Disaggregated data would be reported for key loan categories for which the recorded investments are reported in Schedule HC–C, Loans and Lease Financing Receivables. The Federal Reserve also proposes to collect this information on the basis of impairment method for each loan category. To the extent that an institution uses multiple impairment methods for a given loan category, the institution would report the ALLL and recorded investment for each applicable impairment method for that loan category. The Federal Reserve believes that the use of key loan categories reported on Schedule HC–C for the proposed new disaggregated disclosures is consistent with the meaning of the term portfolio segment in ASU 2010–20 and with the banking agencies' supervisory guidance on ALLL methodologies.[4] More specifically, the Federal Reserve proposes to collect from institutions with $1 billion or more in total assets disaggregated allowance and recorded investment data on the basis of impairment method (collectively evaluated for impairment,[5] individually evaluated for impairment, and acquired with deteriorated credit quality) for following loan categories:

- Construction, land development, and other land loans;
- Revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit;
- Closed-end loans secured by 1–4 family residential properties;
- Loans secured by multifamily (5 or more) residential properties;
- Loans secured by nonfarm nonresidential properties; [6]
- Commercial and industrial loans;
- Credit card loans to individuals for household, family, and other personal expenditures;
- All other loans to individuals for household, family, and other personal expenditures; and
- All other loans and all lease financing receivables.

Currently, the FR Y–9C report does not provide detail on the components of the ALLL disaggregated by loan category in the manner prescribed by ASU 2010–20. Rather, only the amount of the overall ALLL is reported with separate disclosure of the total amount of the allowance for loans acquired with deteriorated credit quality.[7] Therefore, when conducting off-site evaluations of the level of an individual institution's overall ALLL and changes therein, examiners and analysts cannot determine whether the institution is releasing loan loss allowances in some loan categories and building allowances in others. Collecting more detailed ALLL information would allow the Federal Reserve to more finely focus efforts related to the ALLL and credit risk management and, in conjunction with past due and nonaccrual data currently reported by loan category that are used in a general assessment of an institution's credit risk exposures, to better evaluate the appropriateness of its ALLL. As an example, it is currently not possible to differentiate the ALLL allocated to commercial real estate (CRE) loans from the remainder of the ALLL at institutions with CRE concentrations. By collecting more detailed ALLL information, examiners and analysts would then better understand how institutions with such concentrations are building or releasing allowances, the extent of ALLL coverage in relation to their CRE portfolios, and

[2] ASC paragraphs 310–10–51–11B(g) and (h).

[3] ASC paragraph 310–10–51–11C. Allowances for amounts collectively evaluated for impairment are determined under ASC Subtopic 450–20, Contingencies–Loss Contingencies (formerly FASB Statement No. 5, ''Accounting for Contingencies''), allowances for amounts individually evaluated for impairment are determined under ASC Section 310–10–35, Receivables–Overall–Subsequent Measurement (formerly FASB Statement No. 114, ''Accounting by Creditors for Impairment of a Loan''), and allowances for loans acquired with deteriorated credit quality are determined under ASC Subtopic 310–30, Receivables–Loans and Debt Securities Acquired with Deteriorated Credit Quality (formerly AICPA Statement of Position 03–3, ''Accounting for Certain Loans or Debt Securities Acquired in a Transfer'').

[4] See the banking agencies' July 2001 ''Policy Statement on Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions'' at *http://www.federalreserve.gov/boarddocs/srletters/2001/SR0117a1.pdf.*

[5] For loans collectively evaluated for impairment, an institution would also report the amount of any unallocated portion of its ALLL.

[6] The first five loan categories would be reported on a domestic office only basis.

[7] Credit card specialty banks and other institutions with a significant volume of credit card receivables also disclose the amount, if any, of ALLL attributable to retail credit card fees and finance charges.

how this might differ among institutions.

The proposed additional detail on the composition of the ALLL by loan category would also be useful for analysis of the depository institution system. As of June 30, 2011, institutions with $1 billion or more in total assets, which would report the additional detail under this proposal, held nearly 92 percent of the ALLLs held by all institutions. More granular ALLL information would assist the Federal Reserve in understanding industry trends related to the build-up or release of allowances for specific loan categories. The information would also support comparisons of ALLL levels by loan category, including the identification of differences in ALLL allocations by institution size. Understanding how institutions' ALLL practices and allocations differ over time for particular loan categories as economic conditions change may also provide insights that can be used to more finely tune supervisory procedures and policies.

The Federal Reserve requests public comment on the degree to which the proposed disaggregated detail of institutions' ALLLs corresponds to institutions' current allowance methodologies, both with respect to the key loan categories included in the proposal and the separate reporting of allowance amounts on the basis of impairment method for each loan category. In addition, comment is invited on the appropriateness of including an item in the FR Y–9C report in which institutions would report the amount of any unallocated portion of the ALLL for loans collectively evaluated for impairment.[8] To the extent that the proposed information is not captured in institutions' automated data collection systems, the Federal Reserve requests comment on institutions' ability to begin to capture this ALLL and related recorded investment information associated with outstanding loans.

A.2 Loan Origination Activity

As highlighted by the recent financial crisis and its aftermath, the ability to assess credit availability is a key consideration for monetary policy, financial stability, and the supervision and regulation of the banking system. However, the information currently available to policymakers both within and outside the Federal Reserve is insufficient to accurately monitor the extent to which depository institutions are providing credit to households and businesses. In its current form, the FR Y–9C report collects data on the amount of loans to both households and businesses that are outstanding on institutions' books at the end of each quarter. However, the underlying flow of loan originations cannot be deduced from these quarter-end data owing to the myriad of factors and banking activities (other than charge-offs for which data are reported) that routinely affect the amount of outstanding loans held by institutions, including activities such as loan paydowns, extensions, purchases and sales, securitizations, and repurchases. Direct reporting of loan originations would allow the Federal Reserve to isolate the flow of credit creation from the effects of these other banking activities.

Economic research points to a crucial link between the availability of credit and macroeconomic outcomes.[9] For example, the rapid contraction in both total loans held on institutions' balance sheets and in credit lines held off their balance sheets in the volatile period following the collapse of Lehman Brothers in the fall of 2008 likely contributed to the depth of the economic recession as well as to the subsequent weakness in the recovery in economic activity. As a result, encouraging the expansion of banking organization loan supply was a primary goal of most of the emergency liquidity facilities established during the height of the crisis and of the Troubled Asset Relief Program (TARP).[10] Likewise, numerous authors have shown a relationship between bank lending and changes in bank capital.[11] For example, during the early 1990s, lending was also significantly depressed while banking organizations' capital cushions were being rebuilt, leading some analysts to describe the period as a ''credit crunch'' that resulted in a materially slower recovery in economic activity.

However, the lack of data on loan originations made it very difficult for policymakers to assess the sources of the steep declines in outstanding loans and credit lines during the recent crisis and during the early 1990s ''credit crunch.'' In fact, a fall in outstanding loans could be driven by reduced demand for credit, reduced supply of credit by banking organizations, or both. Looking only at changes in outstanding loan balances can give misleading signals and mask important shifts in the supply of, and demand for, credit. Policymakers may react differently in each of these cases.

The sources of loan growth—such as whether loans were made under commitment or not under commitment—also contain important insights for those monitoring financial stability or developing macroprudential regulatory policies.[12] As observed in the fall of 2008, strong loan growth that is driven primarily by customers drawing down funds from preexisting lending commitments can be a sign of stresses in financial markets, and therefore a signal that the economy could be slowing down. In contrast, strong growth in credit that includes robust extensions to new customers could signal a broad pickup in demand for financing and hence renewed economic growth, or it could suggest that institutions have eased their lending standards. Accordingly, rapid loan growth can be an important indicator of the safety and soundness of individual institutions.[13] Loan origination data, if collected from depository institutions, would better identify when such developments warrant greater supervisory scrutiny.

Credit availability to small businesses is widely considered an important driver of economic growth. As a result, the significant contraction in business loans on institutions' books over the past several years has generated calls from policymakers (and the public) to better understand the credit flows of

[8] The Federal Reserve notes that the table in ASC paragraph 310–10–55–7 illustrating the required disclosure by portfolio segment of the end-of-period balance of the ALLL disaggregated on the basis of impairment method and the end-of-period recorded investment in financing receivables related to each ALLL balance includes an unallocated portion of the ALLL.

[9] See, for example, A. K. Kashyap and J. C. Stein (2000), ''What Do a Million Observations on Banks Say About the Transmission of Monetary Policy,'' *The American Economic Review,* Vol. 90, No. 3, pages 407–428. See also Michael Woodford, ''Financial Intermediation and Macroeconomic Analysis,'' *Journal of Economic Perspectives,* Fall 2010, volume 24, issue 4, pages 21–44.

[10] Chairman Ben S. Bernanke, ''Troubled Asset Relief Program and the Federal Reserve's liquidity facilities,'' Testimony before the Committee on Financial Services, U.S. House of Representatives, November 18, 2008, at *http://www.federalreserve.gov/newsevents/testimony/bernanke20081118a.htm.*

[11] See, for example, Joe Peek and Eric Rosengren (1995), ''The Capital Crunch: Neither a Borrower nor a Lender Be,'' *Journal of Money, Credit and Banking,* volume 27(3), pages 625–638, August. See also Ben Bernanke and Cara Lown (1991), ''The Credit Crunch,'' *Brookings Papers on Economic Activity,* 2:1991, pages 205–239.

[12] Moritz Schularick and Alan M. Taylor, ''Credit Booms Gone Bust: Monetary Policy, Leverage Cycles and Financial Crises, 1870–2008,'' 2009, National Bureau of Economic Research, Inc., NBER Working Papers: 15512.

[13] William R. Keeton, ''Does Faster Loan Growth Lead to Higher Loan Losses?'' *Federal Reserve Bank of Kansas City Economic Review,* 2nd Quarter 1999, volume 84, issue 2, pages 57–75, and Deniz Igan and Marcelo Pinheiro, ''Exposure to Real Estate in Bank Portfolios,'' *Journal of Real Estate Research,* January–March 2010, volume 32, issue 1, pages 47–74.

small businesses.[14] The collection of data on originations of loans to businesses by the size of the original loan would provide a window into the functioning of the important small business market.[15]

In addition, if loan origination information were available, it would also be valuable in designing, and assessing the effectiveness of, government policies for depository institutions and other financial markets. For instance, policymakers would be keenly attuned to whether, and if so, to what extent, the changes to the capital and liquidity requirements for large institutions that will be contained in regulations implementing the Dodd-Frank Act and the international Basel III agreement affect depository institution loan supply. Although these new regulations would only directly affect a few dozen large banking organizations, smaller banking organizations also may adjust their lending policies in response to the changes at large banking organizations.

Loan data currently available to the Federal Reserve provide insufficient detail to accurately monitor credit creation by depository institutions. The FR Y–9C report currently collects data on the recorded amounts of a wide variety of loan categories in Schedule HC–C, Loans and Lease Financing Receivables. Schedule HI–B, Part I, Charge-Offs and Recoveries on Loans and Leases, collects the flow of gross charge-offs and recoveries in many of the loan categories for which recorded amounts are reported in Schedule HC–C. On Schedule HC–P, 1–4 Family Residential Mortgage Banking Activities (in Domestic Offices), which was added to the FR Y–9C report in 2006, certain bank holding companies report originations and purchases of residential mortgage loans held for sale, but not originations of loans held for investment. On Schedule HC–S, Servicing, Securitization, and Asset Sale Activities, bank holding companies report the outstanding principal balance of seven categories of loans sold and securitized for which the institution has retained servicing or has provided recourse or other credit enhancements.[16] For these same seven loan categories, bank holding companies also report the unpaid principal balance of loans they have sold (not in securitizations) with recourse or other seller-provided credit enhancements. No data exist for those loans bank holding companies have sold without recourse or seller-provided credit enhancements when servicing has not been retained.

In contrast, savings associations currently report data on loan originations, sales, and purchases in the Thrift Financial Report (TFR) (OTS 1313; OMB No. 1550–0023). On TFR Schedule CF, Consolidated Cash Flow Information, savings associations report by major loan category the dollar amount of loans that were closed or disbursed, loans and participations purchased, and loan sales during the quarter. In addition, on TFR Schedule LD, Loan Data, savings associations report the amount of net charge-offs, purchases, originations, and sales of certain 1–4 family and multifamily residential mortgages with high loan-to-value ratios.[17]

The Federal Reserve proposes to begin collecting data on loan originations because, as outlined in detail above, this information would be of substantial benefit in light of the fact that the data currently available for banking organizations are inadequate for monetary policy and financial stability regulators to monitor and analyze credit flows and because the proposed data will support the Federal Reserve's supervisory efforts.

More specifically, the Federal Reserve proposes to collect quarterly information on loan originations for several important loan categories by introducing a new Schedule HC–U, Loan Origination Activity (in Domestic Offices). Under this proposal, all institutions would report in column A of Schedule HC–U, for certain loan categories reported in Schedule HC–C, Loans and Lease Financing Receivables, the quarter-end balance sheet amount for those loans originated during the quarter that ended on the report date.[18] Institutions with $1 billion or more in total assets would also report, for relevant loan categories, (1) the portion of this quarter-end amount that was originated under a newly established commitment[19] (column B of Schedule HC–U) and (2) the portion that was not originated under a commitment (column C of Schedule HC–U). In general, the additional data that would be reported in columns B and C of Schedule HC–U by institutions with $1 billion or more in total assets represent two ways that institutions originate new loans, both of which affect the amounts of loans on institutions' balance sheets.

In the proposed originations schedule, all institutions would report the amounts reported in Schedule HC–C, as of the quarter-end report date that were originated during the quarter that ended on the report date for the following loan categories:

- 1–4 family residential construction loans;
- Other construction loans and all land development and other land loans;
- Revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit;
- Closed-end loans secured by first liens on 1–4 family residential properties;
- Closed-end loans secured by junior liens on 1–4 family residential properties;
- Loans secured by multifamily (5 or more) residential properties;
- Loans secured by nonfarm nonresidential properties;[20]
- Loans to commercial banks and other depository institutions in the U.S.;
- Loans to banks in foreign countries;
- Loans to finance agricultural production and other loans to farmers;
- Commercial and industrial loans to U.S. addressees with original amounts of $1,000,000 or less;

[14] See Federal Reserve Board, Report to Congress on the Availability of Credit to Small Business, 2007, at *http://www.federalreserve.gov/boarddocs/rptcongress/smallbusinesscredit/sbfreport2007.pdf.* See also testimony before the House Financial Services Committee (May 18, 2010) at *http://cybercemetery.unt.edu/archive/cop/20110401231854/http://cop.senate.gov/documents/testimony-051810-atkins.pdf* and Congressional Oversight Panel Oversight Report, The Small Business Credit Crunch and the Impact of the TARP (May 13, 2010), at *http://cybercemetery.unt.edu/archive/cop/20110402035902/http://cop.senate.gov/documents/cop-051310-report.pdf.*

[15] The Call Report and TFR currently collect the outstanding amount of small dollar loans to businesses and farms where, for loans to businesses, ''small dollar'' is defined as loans (not made under commitments) that have original amounts of $1 million or less and draws on commitments where the total commitment amount is $1 million or less.

[16] The seven categories are (1) 1–4 family residential mortgages, (2) home equity loans, (3) credit card loans, (4) auto loans, (5) other consumer loans, (6) commercial and industrial loans, and (7) all other loans, all leases, and all other assets (commercial real estate loans, for example, are subsumed in this category).

[17] Savings associations will discontinue filing the TFR after the December 31, 2011, report date, which means that these data, as currently reported in the TFR, will no longer be collected going forward.

[18] For example, a loan was originated for $120,000 during the quarter. As a result of principal payments received during the quarter, the recorded amount of the loan as reported on the institution's balance sheet (Schedule HC) and in the loan schedule (Schedule HC–C) at quarter-end was $101,000. The institution would report the $101,000 quarter-end recorded amount for this loan in column A of proposed Schedule HC–U. In general, in reporting amounts in column A, if a loan origination date is unknown, the reporting institution would be instructed to use the date that the loan was first booked by the institution.

[19] A newly established commitment is one for which the terms were finalized and the commitment became available for use during the quarter that ended on the report date. A newly established commitment also includes a commitment that was renewed during the quarter that ended on the report date.

[20] The first seven loan categories would be reported on a domestic office only basis.

• Commercial and industrial loans to U.S. addressees with original amounts of more than $1,000,000;
• Consumer credit card loans;
• Consumer automobile loans;
• Other consumer loans; and
• Loans to nondepository financial institutions.

In addition, for each of the preceding loan categories, except as noted below, institutions with $1 billion or more in total assets would separately disclose the portion of the quarter-end amount of loans originated during the quarter that was originated under a newly established commitment and the portion that was not originated under a commitment. Closed-end loans secured by first liens on 1–4 family residential properties, closed-end loans secured by junior liens on 1–4 family residential properties, and consumer automobile loans would be excluded from both of these additional disclosures. Consumer credit card loans and revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit would be excluded from the disclosure of loans not originated under a commitment because it is assumed such loans are always extended under commitment.

Loan originations that were made under a newly established commitment or a commitment that was renewed during the quarter are likely to more closely reflect the current lending standards and loan terms being applied by an institution, so an expansion or contraction in this subset of loans is indicative of current supply and demand conditions. In this regard, research has shown that loans not made under a commitment are more sensitive to changes in monetary policy than loans made under a commitment.[21] In contrast, loans drawn under previous commitments reflect lending standards and terms that were in place at the time the loan agreements were reached. Hence, changes in outstanding balances associated with previously committed lines are more indicative of demand for funds from the firms that have these lines, as institutions are less able to ration such credit.

As mentioned above, all savings associations, many of which are small, have for many years reported in the TFR the dollar amount of loans that were closed or disbursed, loans and participations purchased, and loan sales during the quarter by major loan category. Thus, the additional reporting burden of proposed Schedule HC–U may be manageable for such institutions. Nevertheless, because bank holding companies have not previously been required to report data pertaining to loan originations for FR Y–9C reporting purposes, the Federal Reserve recognizes that institutions' data systems may not at present be designed to identify and capture data on loans originated during the quarter that ended on the report date. The Federal Reserve requests comment on the ability of institutions' existing loan systems to generate the proposed data for Schedule HC–U, and if this information is not currently available, how burdensome it would be to adapt current systems to report origination data as proposed in Schedule HC–U. To the extent that existing loan systems enable institutions to track data on loans originated during the quarter by loan category in a different manner than has been proposed, institutions are invited to suggest alternative ways in which such origination data could be collected in the FR Y–9C report and to explain how an alternative would meet the Federal Reserve's data needs as described above in this section.

A.3 Past Due and Nonaccrual Purchased Credit Impaired Loans

The FR Y–9C report currently collects information regarding the past due and nonaccrual status of loans, leases, and other assets in Schedule HC–N. To determine whether an asset is past due for purposes of completing this schedule, an institution must look to the borrower's performance in relation to the contractual terms of the asset. Over the past few years, there has been a substantial increase in the amount of assets reported in Schedule HC–N as past due 90 days or more and still accruing. At some institutions, a large portion of this increase is related to loans subject to the accounting requirements set forth in ASC Subtopic 310–30, Receivables—Loans and Debt Securities Acquired with Deteriorated Credit Quality (formerly American Institute of Certified Public Accountants Statement of Position 03–3, ''Accounting for Certain Loans or Debt Securities Acquired in a Transfer''), *i.e.,* purchased credit-impaired loans, that were acquired in business combinations, including acquisitions of failed institutions, and other transactions. Loans accounted for under ASC Subtopic 310–30 are initially recorded at their purchase price (in a business combination, fair value). To the extent that the cash flows expected to be collected exceed the purchase price of the loans acquired and the acquiring institution has sufficient information to reasonably estimate the amount and timing of these cash flows, the institution recognizes interest income using the interest method. Otherwise, the loans should be placed in nonaccrual status.

Because loans accounted for under ASC Subtopic 310–30 are impaired at the time of purchase, it is possible for institutions to hold on-balance sheet assets purchased at a deep discount that are contractually 90 days or more past due, but on which interest is being accrued because the amount and timing of the expected cash flows on the assets can be reasonably estimated. Currently, insufficient information is collected in Schedule HC–N to determine the volume of purchased credit-impaired loans included in the loan amounts reported as ''past due 90 days or more and still accruing'' (or reported in the other past due and nonaccrual categories in the schedule). As the volume of assets reported in the three past due and nonaccrual columns in Schedule HC–N has increased at many institutions that also report holdings of loans accounted for under ASC Subtopic 310–30, the Federal Reserve cannot determine whether this growth is due to purchased credit-impaired loans or whether the source of the increase has been deterioration in the credit quality and performance among the assets the institution originated (or purchased without evidence of credit problems at acquisition). Better understanding the source of these increases would assist the Federal Reserve in determining the need to adjust supervisory strategies for individual institutions.

Because of the significant number of acquisitions by depository institutions of loans accounted for under ASC 310–30 over the past few years and the expected number of future acquisitions, the Federal Reserve proposes to collect additional information in Schedule HC–N to segregate the amount of purchased credit-impaired loans that are included in the past due and nonaccrual loans reported in this schedule. New Memorandum items would be added to Schedule HC–N to separately collect from all institutions the total outstanding balance of purchased credit-impaired loans accounted for under ASC 310–30 that are past due 30 through 89 days and still accruing, past due 90 days or more and still accruing, and in nonaccrual status. The related carrying amount of these loans (before any post-acquisition loan loss allowances) would also be reported by past due and nonaccrual status. This information would mirror the data

[21] Donald P. Morgan, ''The Credit Effects of Monetary Policy: Evidence Using Loan Commitments,'' *Journal of Money, Credit and Banking,* Vol. 30, No. 1 (Feb. 1998), pages 102–118.

reported in Memorandum item 5, ''Purchased impaired loans held for investment accounted for in accordance with AICPA Statement of Position 03–3,'' in Schedule HC–C. Based on the information reported in Memorandum item 5, there are less than 300 institutions that hold purchased credit-impaired loans and would be affected by the proposed new Schedule HC–N Memorandum items.

A.4 Representation and Warranty Reserves

When institutions sell or securitize mortgage loans, they typically make certain representations and warranties to the investors or other purchasers of the loans at the time of the sale and to financial guarantors of the loans sold. The specific representations and warranties may relate to the ownership of the loan, the validity of the lien securing the loan, and the loan's compliance with specified underwriting standards. Under ASC Subtopic 450–20, Contingencies—Loss Contingencies (formerly FASB Statement No. 5, ''Accounting for Contingencies''), institutions are required to accrue loss contingencies relating to the representations and warranties made in connection with their mortgage securitization activities and mortgage loan sales when it is probable that a loss has been incurred and the amount of the loss can be reasonably estimated. In October 2010, the Division of Corporation Finance of the Securities and Exchange Commission (SEC) sent a letter to certain public companies reminding them of the need to ''provide clear and transparent disclosure regarding your obligations relating to the[se] various representations and warranties.'' [22] A review of a sample of disclosures about mortgage loan representations and warranties by public banking organizations in their SEC filings since October 2010 reveals that these disclosures tend to distinguish between obligations to U.S. government-sponsored entities and other parties.

At present, BHCs with $1 billion or more in total assets and smaller BHCs with significant 1–4 family residential mortgage banking activities are required to complete Schedule HC–P, 1–4 Family Residential Mortgage Banking Activities. These BHCs report the amount of 1–4 family residential mortgage loans previously sold subject to an obligation to repurchase or indemnify that have been repurchased or indemnified during the quarter. However, the amount of representation and warranty reserves attributable to residential mortgages as of quarter-end included in other liabilities on these institutions' balance sheets is not separately reported in Schedule HC–P.

Accordingly, building on the SEC's guidance concerning transparent disclosure in this area, the Federal Reserve proposes to add two data items to Schedule HC–P in which institutions required to complete this schedule would report the quarter-end amount of representation and warranty reserves for 1–4 family residential mortgage loans sold (in domestic offices), including those mortgage loans transferred in securitizations accounted for as sales. The amount of reserves for representations and warranties made to U.S. government-sponsored entities (the Federal National Mortgage Association or Fannie Mae, the Federal Home Loan Mortgage Corporation or Freddie Mac, and the Government National Mortgage Association or Ginnie Mae) (Schedule HC–P, data item 7.a) would be reported separately from the amount of reserves for representations and warranties made to other parties (Schedule HC–P, data item 7.b).

A.5 Instructional Revisions

A.5.(1) Specific Valuation Allowances

Savings associations that currently file a Thrift Financial Report (TFR) may create a ''Specific Valuation Allowance'' (SVA) in lieu of taking a charge-off to record the loss associated with a loan when the institution determines that it is likely that the amount of the loss classification will change due to market conditions. The use of an SVA allows a savings association to reduce or increase the amount of the SVA as market conditions change. When a charge-off is taken, however, the only way an institution can recover the loss is through an actual cash recovery. A savings association is not permitted to use an SVA in lieu of a charge-off when it classifies certain credits as losses such as unsecured loans, consumer loans, and credit cards, and in instances where the collateral underlying a secured loan will likely be acquired through foreclosure or repossession. In those cases, only a charge-off is appropriate.

As announced in 76 FR 53129 published on August 25, 2011, many savings and loan holding companies (SLHCs) will be required to file the FR Y–9C report, which would consolidate the SLHC savings association subsidiary, beginning with the March 31, 2012, reporting period (unless the institution elects to begin filing the FR Y–9C before that time). Once SLHCs begin to file the FR Y–9C and savings associations begin to file the Call Report, they will be required to follow FR Y–9C and Call Report reporting instructions and the banking agencies' policies regarding loss classifications, which would require a charge-off for all confirmed losses and do not allow the creation or use of a SVA as described above. Therefore, the use of SVAs will not be permitted for any SLHC after December 31, 2011. Existing reporting instructions will be modified to clarify this point. Also the Federal Reserve will issue additional supplemental guidance to explain how any existing SVAs should be treated when an institution no longer files the TFR.

A.5.(2) Capital Contributions in the Form of Cash or Notes Receivable

The Federal Reserve often encounters or receives questions about capital contributions in the form of a note receivable. The capital contribution may involve a sale of capital stock or a contribution to additional paid-in capital (surplus) that often takes place, or is expected to take place, at or shortly before a quarter-end report date. In other cases, capital contributions are in the form of cash, with some occurring before quarter-end and others occurring after quarter-end. The regulatory reporting issue that arises with respect to these capital contributions is when and under what circumstances can they be reflected as an increase in the amount of equity capital reported on the balance sheet and thereby be included in regulatory capital.

Although the accounting for capital contributions is not currently addressed in the FR Y–9C reporting instructions, institutions are expected to report capital contributions in their FR Y–9C report in accordance with generally accepted accounting principles (GAAP). In summary, capital contributions in the form of cash are appropriately recognized in equity capital on the balance sheet when received. Capital contributions in the form of a note receivable, executed prior to quarter-end, increase an institution's equity capital at quarter-end only when the note is collected prior to issuance of the institution's financial statements (including its FR Y–9C) for that quarter. To provide guidance to institutions and examiners on the appropriate reporting of these capital contributions, the Federal Reserve proposes to add a new Glossary entry to the FR Y–9C instructions.

[22] The Division of Corporation Finance's ''Sample Letter Sent to Public Companies on Accounting and Disclosure Issues Related to Potential Risks and Costs Associated with Mortgage and Foreclosure-Related Activities or Exposures'' can be accessed at *http://www.sec.gov/divisions/corpfin/guidance/cfoforeclosure1010.htm.*

Capital Contributions of Cash and Notes Receivable: An institution may receive cash or a note receivable as a contribution to its equity capital. The transaction may be a sale of capital stock or a contribution to paid-in capital (surplus), both of which are referred to hereafter as capital contributions. The accounting for capital contributions in the form of notes receivable is set forth in ASC Subtopic 505–10, Equity—Overall (formerly EITF Issue No. 85–1, ''Classifying Notes Received for Capital Stock'') and SEC Staff Accounting Bulletin No. 107 (Topic 4.E., Receivables from Sale of Stock, in the Codification of Staff Accounting Bulletins). This Glossary entry does not address other forms of capital contributions, for example, nonmonetary contributions to equity capital such as a building.

A capital contribution of cash should be recorded in an institution's balance sheet and income statement when received. Therefore, a capital contribution of cash prior to a quarter-end report date should be reported as an increase in equity capital in the institution's reports for that quarter (in Schedule HI–A, item 5 or 6, as appropriate). A contribution of cash after quarter-end should not be reflected as an increase in the equity capital of an earlier reporting period.

When an institution receives a note receivable, rather than cash, as a capital contribution, ASC Subtopic 505–10 states that it is generally not appropriate to report the note as an asset. As a consequence, the predominant practice is to offset the note and the capital contribution in the equity capital section of the balance sheet, i.e., the note receivable is reported as a reduction of equity capital. In this situation, the capital stock issued or the contribution to paid-in capital should be reported in Schedule HC, item 23, 24, or 25, as appropriate, and the note receivable should be reported as a deduction from equity capital in Schedule HC, item 26.c, ''Other equity capital components.'' No net increase in equity capital should be reported in Schedule HI–A, Changes in Bank Holding Company Equity Capital. In addition, when a note receivable is offset in the equity capital section of the balance sheet, accrued interest receivable on the note also should be offset in equity (and reported as a deduction from equity capital in Schedule HC, item 26.c), consistent with the guidance in ASC Subtopic 505–10. Because a nonreciprocal transfer from an owner or another party to an institution does not typically result in the recognition of income or expense, the accrual of interest on a note receivable that has been reported as a deduction from equity capital should be reported as additional paid-in capital rather than interest income.

However, ASC Subtopic 505–10 provides that an institution may record a note received as a capital contribution as an asset, rather than a reduction of equity capital, only if the note is collected in cash ''before the financial statements are issued.'' The note receivable must also satisfy the existence criteria described below. When these conditions are met, the note receivable should be reported separately from an institution's other loans and receivables in Schedule HC–F, item 6, ''Other [assets].''

For purposes of these reports, the financial statements are considered issued at the earliest of the following dates:

(1) The submission deadline for the FR Y–9C (40 calendar days after the quarter-end report date, except for year-end reporting, for which the deadline is 45 calendar days after quarter-end);

(2) Any other public financial statement filing deadline to which the institution is subject; or

(3) The actual filing date of the institution's public financial reports, including the filing of its FR Y–9C report or a public securities filing by the institution.

To be reported as an asset, rather than a reduction of equity capital, as of a quarter-end report date, a note received as a capital contribution (that is collected in cash as described above) meet the definition of an asset under generally accepted accounting principles by satisfying all of the following existence criteria:

(1) There must be written documentation providing evidence that the note was contributed to the institution prior to the quarter-end report date by those with authority to make such a capital contribution on behalf of the issuer of the note;

(2) The note must be a legally binding obligation of the issuer to fund a fixed and determinable amount by a specified date; and

(3) The note must be executed and enforceable before quarter-end.

If a note receivable for a capital contribution obligates the note issuer to pay a variable amount, the institution must offset the note and equity capital. Similarly, an obligor's issuance of several notes having fixed face amounts, taken together, would be considered a single note receivable having a variable payment amount, which would require all the notes to be offset in equity capital as of the quarter-end report date.

Dated: November 15, 2011.

Board of Governors of the Federal Reserve System.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–29874 Filed 11–18–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY: Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829) Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW.,Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following reports:

Report title: Report of Changes in Organizational Structure, Annual Report of Bank Holding Companies, and Annual Report of Foreign Banking Organizations.

Agency form number: FR Y–10, FR Y–6, and FR Y–7.

OMB control number: 7100–0297.

Effective Date: The proposed changes to the FR Y–6 and FR Y–7 reporting forms and instructions will be effective December 31, 2011. However, the requirement for institutions to provide the state and country of incorporation for each entity provided in organization chart of the FR Y–6 and FR Y–7 is being delayed for implementation until fiscal years beginning December 31, 2012. The proposed changes to the FR Y–10 reporting form and instructions will be effective January 1, 2012.

Frequency: FR Y–10: Event-generated; FR Y–6 and FR Y–7: Annual.

Reporters: Bank holding companies (BHCs), foreign banking organizations (FBOs), state member banks, Edge and agreement corporations, and nationally chartered banks that are not controlled by a BHC.

Estimated annual reporting hours: FR Y–10: 17,850 hours; FR Y–6: 26,507 hours; FR Y–7: 694 hours.

Estimated average hours per response FR Y–10: 1.75 hours; FR Y–6: 5.25 hours; FR Y–7: 3.75 hours.

Number of respondents: FR Y–10: 3,400; FR Y–6: 5,049; FR Y–7: 185.

General description of report: These information collections are mandatory under the Federal Reserve Act, the Bank Holding Company Act (BHC Act), and the International Banking Act (12 U.S.C. 248 (a)(1), 321, 601, 602, 611a, 615, 625, 1843(k), 1844(c)(1)(A), 3106(a), and 3108(a)), and Regulations K and Y (12 CFR 211.13(c), 225.5(b) and 225.87). Individual respondent data are not considered confidential. However, respondents may request confidential treatment for any information that they believe is subject to an exemption from disclosure under the Freedom of Information Act(FOIA), 5 U.S.C. 552(b).

Abstract: The FR Y–10 is an event generated information collection submitted by FBOs; top-tier BHCs; state member banks unaffiliated with a BHC; Edge and agreement corporations that are not controlled by a state member bank, a domestic BHC, or an FBO; and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only), to capture changes in their regulated investments and activities. The Federal Reserve uses the data to monitor structure information on subsidiaries and regulated investments of these entities engaged in banking and nonbanking activities. The FR Y–6 is an annual information collection submitted by top-tier BHCs and nonqualifying FBOs. It collects financial data, an organization chart, verification of domestic branch data, and information about shareholders. The Federal Reserve uses the data to monitor holding company operations and determine holding company compliance with the provisions of the BHC Act and Regulation Y (12 CFR 225). The FR Y–7 is an annual information collection submitted by qualifying FBOs to update their financial and organizational information with the Federal Reserve. The Federal Reserve uses information to assess an FBO's ability to be a continuing source of strength to its U.S. operations and to determine compliance with U.S. laws and regulations.

Current Actions: On August 11, 2011, the Federal Reserve published a notice in the **Federal Register** (76 FR 49769) requesting public comment for 60 days on the extension, with revision, of the Report of Changes in Organizational Structure, Annual Report of Bank Holding Companies, and Annual Report of Foreign Banking Organizations. The comment period for this notice expired on October 11, 2011. The Federal Reserve received two comment letters on the proposed revisions to the FR Y–10 and the FR Y–6: one from a bankers' organization, the other, from a BHC.

No comments were received on the following FR Y–10 revisions that were proposed to take effect as of January 1, 2012, and therefore the Federal Reserve will implement these revisions as proposed: (1) Adding a new business organization type for limited liability limited partnership, (2) adding a check box to report whether ownership is in the form of a general partner or limited partner, and (3) requiring the reporting of the representative office when there are no other reportable offices in the United States.

No comments were received on the following FR Y–6 revisions that were proposed to take effect as of December 31, 2011, and therefore the Federal Reserve will implement these revisions as proposed: (1) Clarifying the language regarding confidentiality of the reporter's submission, (2) adding the rounding definition from the FR Y–10 to ensure the reporting of percentage ownership is consistent across all structure reporting forms, (3) modifying the language for securities holders to include persons working in concert, including families, and (4) revising the insiders information to include options, warrants, or other securities as reportable voting securities and to include families in the definition of a principal securities holder.

The following section of this notice describes the remaining proposed FR Y–10, FR Y–7, and FR Y–6 report changes and discusses the Federal Reserve's evaluation of the comments received on the proposed changes. After considering the comments, the Federal Reserve will move forward with the proposed revisions after making certain modifications in response to the comments.

FR Y–10

Banking and Nonbanking Schedules. The Federal Reserve proposed to add ''State and Country of Incorporation'' to item 3.a. In addition, the Federal Reserve proposed to add ''If Relocation or Correction, Prior State and Country of Incorporation'' in item 3.b. These revisions are necessary to provide more consistent data on physical location versus the state and country of incorporation. One commenter stated that reporting state of incorporation on the Banking and Nonbanking Schedules would be burdensome with respect to non-U.S. entities. The Federal Reserve did not intend for foreign respondents to provide the equivalent of a U.S. state. The Federal Reserve will revise the FR Y–10 instructions to make it clear that foreign respondents should report only the country of incorporation.

One commenter suggested that self-regulatory organizations, such as the Financial Industry Regulatory Authority (FINRA) and National Futures Association (NFA), be added to the list of functional regulators on the Nonbanking Schedule. The Federal Reserve will assess the need for additional regulators in a future proposal.

4(k) Schedule. The Federal Reserve proposed to add the following event types for large merchant banking or insurance company investments: initial investment, changes to initial investment, and divestitures. Both commenters expressed concern about the proposed revisions to the large merchant banking or insurance company (LMBI) section of the FR Y–10 4(k) Schedule. Both commenters stated that the proposed revision to require reporting of changes in the ownership and assets of LMBIs would be burdensome and requested that these revisions not be made. In addition, the BHC asked the Federal Reserve to add a selection for ''No Longer Reportable'' to the LMBI section of the 4 (k) Schedule. After considering these comments, the Federal Reserve will add to this section of the 4(k) Schedule selections for ''No Longer Reportable'' and ''Name Changes'' and remove the selection for ''Changes to Initial Investment.'' The BHC expressed concern that the 4(k) Schedule contains both financial-in-nature activities as well as non-financial activities commenced by a financial holding company. The Federal Reserve will clarify the instructions by adding a

definition of a nonfinancial company in the Y–10 glossary.

Instructional Revisions. The Federal Reserve proposed to revise and clarify the FR Y–10 instructions to conform with the proposed changes to the reporting form. On the Banking, Nonbanking, and 4(k) Schedules, the Federal Reserve proposed to remove Appendix B— North American Industry Classification System (NAICS) Activity Codes and add the URL to the U.S. Census Bureau's Web site where reporters may retrieve current NAICS Activity Codes.

One commenter suggested that infrequent reporters might find it useful to retain a modified version of the table mapping the financial-in-nature activities of the old Federal Reserve alphanumeric codes to the corresponding NAICS codes. The Federal Reserve agrees and recommends including this table as Appendix B. A footnote would be added to clarify that the Federal Reserve converted from alphanumeric activity codes to NAICS codes in 2004.

A bankers' organization made several comments with regard to the instructional revision requiring that certain entities organized to hold other real estate owned properties be reported on the FR Y–10 Nonbanking Schedule. The commenter stated that reporting the entities holding debts previously contracted would not provide enhanced information to the Federal Reserve and recommended that this proposed revision not be included in the final FR Y–10 instructions. After considering these comments, the Federal Reserve will clarify the FR Y–10 instructions to indicate that a company that holds only foreclosed properties should not be reported. However, a company that holds a mixture of foreclosed properties and non-performing loans that are not yet in default should be reported.

FR Y–6 and FR Y–7

The Federal Reserve proposed to change *legal address* to *physical address* on the FR Y–6 and FR Y–7. Also, the Federal Reserve proposed to add *state and country of incorporation* to the FR Y–6. Both commenters expressed concern regarding the proposal to require institutions to provide the state and country of incorporation for each entity provided in organization chart of the FR Y–6. After considering these comments, the Federal Reserve continues to believe that reporting the state and country of incorporation at the entity level is important in connection with section 165(d) of the Dodd-Frank Act, which requires institutions to submit annual resolution plans to regulators. These plans will include, among other things, information on legal entities. However, the Federal Reserve recognizes that the reporting of the state and country of incorporation at the entity level may be particularly burdensome for some BHCs to report effective with the December 31, 2011, as-of date. Therefore, the Federal Reserve recommends delaying implementation of this requirement until fiscal years beginning December 31, 2012.

Although no comments were received on a similar proposed requirement to provide the country of incorporation for each entity provided in organization chart on the FR Y–7, the Federal Reserve also recommends delaying implementation of this requirement until fiscal years beginning December 31, 2012.

Proposal to approve under OMB delegated authority the extension for three years, without revision of the following report:

Report title: Supplement to the Report of Changes in Organizational Structure.

Agency form number: FR Y–10E.

OMB control number: 7100–0297.

Frequency: Event-generated.

Reporters: BHCs, FBOs, state member banks, Edge and agreement corporations, and nationally chartered banks that are not controlled by a BHC.

Estimated annual reporting hours: 1,700 hours.

Estimated average hours per response: 0.50 hours.

Number of respondents: 3,400.

General description of report: This information collection is mandatory under the Federal Reserve Act, the Bank Holding Company Act (BHC Act), and the International Banking Act (12 U.S.C. 248(a)(1), 321, 601, 602, 611a, 615, and 625, 1843(k), 1844(c)(1)(A), 3106(a)) and Regulation K and Y (12 CFR 211.13(c), 225.5(b) and 225.87). Individual respondent data are not considered confidential. However, respondents may request confidential treatment for any information that they believe is subject to an exemption from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. 552(b).

Abstract: The FR Y–10E is a free-form supplement that may be used to collect additional structural information deemed to be critical and needed in an expedited manner.

Current Actions: On August 11, 2011, the Federal Reserve published a notice in the **Federal Register** (76 FR 49769) requesting public comment for 60 days on the extension, with revision, of the Supplement to the Report of Changes in Organizational Structure. The comment period for this notice expired on October 11, 2011. The Federal Reserve did not receive any comments.

Board of Governors of the Federal Reserve System, November 16, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–29984 Filed 11–18–11; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Update of the NICEATM–ICCVAM Five-Year Plan: Request for Comments

AGENCY: Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Request for Comments.

SUMMARY: The NIEHS and the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) request public comments that can be considered by the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and agencies' program offices in updating *The NICEATM–ICCVAM Five-Year Plan (2008–2012)* (ICCVAM, 2008). The current plan addresses: (1) Identification of areas of high priority for new and revised non-animal and alternative assays to reduce, refine (enhance animal well-being and lessen or avoid pain and distress), and replace the use of animals in testing and (2) research, development, translation, and validation of new and revised non-animal and other alternatives assays for integration of relevant and reliable methods into Federal agencies' testing programs.

DATES: Submit comments on or before January 15, 2012.

ADDRESSES: NICEATM prefers that comments be submitted electronically via the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov/contact/FR_pubcomment.htm*) or via email to *niceatm@niehs.nih.gov*. Written comments may also be sent by mail or fax to Dr. William S. Stokes, Director, NICEATM, NIEHS, P.O. Box 12233, Mail Stop: K2–16, Research Triangle Park, NC 27709; (fax) 919–541–0947. Courier address: NICEATM, NIEHS, Room 2034, 530 Davis Drive, Morrisville, NC 27560.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Stokes: (telephone) (919) 541–2384, (fax) (919) 541–0947, or (email) *niceatm@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

Congress established ICCVAM to promote development, validation, and regulatory acceptance of new or revised alternative toxicological test methods that protect human and animal health and the environment while reducing, refining (enhancing animal well-being and lessening or avoiding pain and distress), or replacing animal tests and ensuring human safety and product effectiveness (42 U.S.C. 285*l*–3). In 2008 NICEATM and ICCVAM published a five-year plan for the years 2008 through 2012. The plan addressed (1) identification of areas of high priority for new and revised non-animal and alternative assays for reduction, refinement, and replacement of animal tests and (2) research, development, translation, and validation of new and revised non-animal and other alternative assays for integration into Federal agency testing programs (ICCVAM, 2008). Progress relevant to the five-year plan can be found in the Biennial *Progress Report: Interagency Coordinating Committee on the Validation of Alternative Methods—2008–2009* (ICCVAM, 2010) and on the ICCVAM Web site (*http://iccvam.niehs.nih.gov*). ICCVAM and agencies' program offices are preparing to update the plan and identify goals and priorities for the years 2013–2017.

Request for Public Comments

The NIEHS and NICEATM invite public comments for consideration by ICCVAM and agencies' program offices in updating the current NICEATM–ICCVAM five-year plan. With regard to reducing, refining, and replacing animal use, ICCVAM identified and ranked the types of regulatory safety tests in the 2008–2012 plan that it considered the highest priority for the development and validation of alternative test methods. These priorities were based on the severity of unrelieved pain and distress and the number of animals involved in each type of testing, as well as individual agency's priorities. The priorities were as follows:

- Highest priority testing areas: Acute eye irritation and corrosion, acute skin toxicity (including irritation/corrosion, sensitization, absorption), acute systemic toxicity (acute poisoning)—oral/dermal/inhalation, and biologics/vaccines.
- Other priority testing areas: immunotoxicity, endocrine disruptors, pyrogenicity, reproductive/developmental toxicity, and chronic toxicity/carcinogenicity.
- Other testing areas of interest: neurotoxicity.

The NIEHS and NICEATM seek public input on the following questions:

1. Do you have comments on the priority areas for the development and validation of alternative test methods listed above?

2. Considering available science and technology, what development, translation, and validation activities are most likely to have the greatest impacts within the next five years on reducing, refining, or replacing animal use in the priority areas?

3. What research and development activities hold the greatest promise in the long-term for reducing, refining, or replacing animal use in the priority areas?

4. What are appropriate measures for evaluating progress in enhancing the development and use of alternative test methods in the priority areas?

Individuals submitting comments should include appropriate contact information (name, affiliation, mailing address, phone, fax, email, and sponsoring organization, if applicable). All comments received by January 15, 2012, will be posted on the NICEATM–ICCVAM Web site (*http://ntp-apps.niehs.nih.gov/iccvampb/searchPubCom.cfm*) and identified by the individual's name and affiliation, as well as sponsoring organization, if applicable.

Background Information on NICEATM and ICCVAM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative testing methods with regulatory applicability and promotes the scientific validation and regulatory acceptance of toxicological and safety testing methods that more accurately assess the safety and hazards of chemicals and products and that reduce, refine (enhance animal well-being and lessen or avoid pain and distress), or replace animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*-3) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts independent validation studies to assess the usefulness and limitations of new, revised, and alternative test methods and strategies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies applicable to the needs of Federal agencies. Additional information about NICEATM and ICCVAM can be found on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov*).

References

ICCVAM. 2008. The NICEATM–ICCVAM Five-Year Plan (2008–2012). NIH Publication No. 08–6410. Research Triangle Park, NC: National Institute of Environmental Health Sciences. Available: *http://iccvam.niehs.nih.gov/docs/5yearplan.htm.*

ICCVAM. 2010. Biennial Progress Report: Interagency Coordinating Committee on the Validation of Alternative Methods—2008–2009. NIH Publication No. 10–7612. Research Triangle Park, NC: National Institute of Environmental Health Sciences. Available: *http://iccvam.niehs.nih.gov/about/ICCVAMrpts.htm.*

Dated: November 10, 2011.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2011–30001 Filed 11–18–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Interstate Referral Guide (IFR).

OMB No.: 0970–0209.

Description: The Intergovernmental Referral Guide (IRG) is a centralized and automated repository of state and Tribal profiles, which contain high-level descriptions of each state and Tribe's child support enforcement (CSE) program. These profiles provide state and Tribal CSE agencies, and foreign countries with an effective and efficient method for updating and accessing information needed to process intergovernmental child support cases.

Respondents: All state and Tribal CSE agencies; foreign countries and Canadian provinces with federal reciprocity; and, with limited access, the general public.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
IFG (States and Territories)	54	18	0.30	291.60
IFR: State User Guide—Foreign Countries	26	2	0.10	5.20
IFR: Tribal Profile Guidance	52	18	0.30	280.80

Estimated Total Annual Burden Hours: 577.60.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–29913 Filed 11–18–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Health Resources and Services Administration

Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, codified at 5 U.S.C. App. 2), notice is hereby given of the following meeting:

Name: Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation (MIECHVE).

Dates and Times: Tuesday, December 6, 2011: 9 a.m.–5 p.m. EST. Wednesday, December 7, 2011: 9 a.m.–1 p.m. EST.

Place: Four Points by Sheraton Washington DC Downtown, 1201 K Street NW., Washington, DC 20005. (202) 289–7600.

The Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation (Committee) will meet for its third session on December 6, 2011, from 9 a.m.–5 p.m. EST, and on December 7, 2011, from 9 a.m.—1 p.m. EST. The purpose of the meeting is to allow the Committee to comment on the progress of the evaluation design of the MIECHV program.

Meeting Registration: General public participants are asked to register for the conference by going to the registration Web site *http://www.regonline.com/advisorycommitteeHV.*

Agenda: The meeting will primarily focus on measurement issues related to the revised evaluation design. Specifically, this will include a discussion by benchmark domain/participant outcome for impact, implementation measurement, cost analysis measurement, and administrative data. Agenda items are subject to change as priorities dictate.

Public Comments: Members of the public may submit written comments that will be distributed to Committee members prior to the meeting. In order to be considered, written comments should be received by Friday, December 2, 2011. Comments can be submitted via email to T'Pring Westbrook at *tpring.westbrook@acf.hhs.gov.*

Special Accommodations: Attendees with special needs requiring accommodations (such as large print materials or other reasonable adjustments) may make requests when registering at the online Web site by clicking on the ''Special Accommodations'' link on the registration page *http://www.regonline.com/advisorycommitteeHV.*

FOR FURTHER INFORMATION CONTACT: Any person interested in obtaining other relevant information can contact Carolyn Swaney via email at *cSwaney@icfi.com.*

SUPPLEMENTARY INFORMATION: The Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation is authorized by subsection 511(g)(1) of Title V of the Social Security Act (42 U.S.C. 711(g)(1)) as amended by section 2951 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) (the Affordable Care Act). The purpose of the Committee is to advise the Secretary of Health and Human Services on the design, plan, progress, and findings of the evaluation required for the home visiting program under the Affordable Care Act. More specifically, the Committee is to review, and make recommendations on, the design and plan for this evaluation; maintain and advise the Secretary regarding the progress of the evaluation; and comment, if the Committee so desires, on the report submitted to Congress under subsection 511(g)(3) of Title V.

The Department of Health and Human Services has contracted with MDRC (a nonprofit, nonpartisan education and social policy research organization formerly known as Manpower Demonstration Research Corporation), to conduct the evaluation of the MIECHV program.

As specified in the legislation, the evaluation will provide a state-by-state analysis of the needs assessments and

the States' actions in response to the assessments. Additionally, as specified in the legislation, the evaluation will provide an assessment of: (a) The effect of early childhood home visiting programs on outcomes for parents, children, and communities with respect to domains specified in the Affordable Care Act (*e.g.,* maternal and child health status, school readiness, and domestic violence); (b) the effectiveness of such programs on different populations, including the extent to which the ability to improve participant outcomes varies across programs and populations; and (c) the potential for the activities conducted under such programs, if scaled broadly, to enhance health care practices, eliminate health disparities, improve health care system quality, and reduce costs.

Dated: November 15, 2011.

Mary K. Wakefield,

Administrator, Health Resources and Services Administration.

Dated: November 15, 2011.

George H. Sheldon,

Acting Assistant Secretary, Administration for Children and Families.

[FR Doc. 2011–29945 Filed 11–18–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–P–0176]

SEDASYS Computer-Assisted Personalized Sedation System; Ethicon Endo-Surgery, Incorporated's Petition for Review of the Food and Drug Administration's Denial of Premarket Approval; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The topic to be discussed is the Center for Device and Radiological Health's (CDRH's) denial of a premarket approval application (PMA) for the SEDASYS computer-assisted personalized sedation system (SEDASYS) submitted by Ethicon Endo-Surgery Inc. (EES)—the sponsor for SEDASYS. The meeting will be open to the public.

Name of Committee: Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on scientific disputes between CDRH and sponsors, applicants, and manufacturers

Date and Time: The meeting will be held on December 14, 2011, from 8 a.m. to 6 p.m.

Location: The meeting will be held at the Hilton Washington, DC/North, Salons A, B, C, and D of the Ballroom, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Nancy Braier, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5454, Silver Spring, MD 20993, (301) 796–5676, FAX: (301) 847–8510, email: *nancy.braier@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–(800) 741–8138 (301) 443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Registration and Presentations: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions from persons other than EES and CDRH may be made to the docket on or before December 7, 2011. Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD, 20852. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify all written and electronic comments and submissions with the docket number found in brackets in the heading of this document. All written and electronic comments and submissions will be considered to be publicly disclosable.

Oral presentations from persons other than EES and CDRH will be scheduled between approximately 8:15 to 8:45 a.m., and 2:15 to 2:45 p.m. on December 14, 2011. If you wish to make an oral presentation during the meeting, you should register on or before November 30, 2011. Send registration information (including name, title, firm name, address, telephone, and FAX number), and requests to make oral presentations to Nancy Braier (see *Contact Person*). You should provide the docket number appearing in the heading of this notice. You also should submit a brief summary of the presentation, including the discussion topic(s) that will be addressed and the approximate time requested for your presentation. The amount of time to be allotted to each presenter may be limited to provide opportunities to as many persons wishing to present as possible. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for that session. We encourage individuals and organizations with common interests to consolidate or coordinate their presentations to allow adequate time for each request for presentation. Nancy Braier will notify interested persons regarding their request to speak by December 5, 2011. On the day of the meeting scheduled open public speakers should identify themselves at the registration desk.

After the scheduled speakers have spoken, the Chair of the advisory committee may ask them to remain if the advisory committee wishes to question them further. The Chair may recognize unscheduled speakers should time allow.

I. Background

FDA is announcing that, in accordance with section 515(g)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360e(g)(2)), a public advisory committee will review CDRH's denial of a PMA for the SEDASYS Computer-Assisted Personalized Sedation System submitted by EES—the sponsor for SEDASYS.

On March 25, 2008, EES submitted a PMA (PMA P080009) for SEDASYS. SEDASYS is an integrated patient monitoring and drug delivery system. The device's proposed indication is for the intravenous administration of 1 percent (10 milligrams per milliliter (mg/mL)) propofol injectable emulsion for the initiation and maintenance of minimal-to-moderate sedation in adult patients (American Society of Anesthesiology physical status I and II) undergoing colonoscopy and esophagogastroduodenoscopy (EGD) procedures.

At a May 28, 2009 meeting, the Anesthesiology and Respiratory Therapy Devices Panel met to discuss, and provide recommendations regarding, the PMA. The panel recommended, by a vote of 8–2, that the PMA be found ''approvable with conditions.''

On February 26, 2010, CDRH issued a letter to EES indicating that PMA P080009 was not approvable under § 814.44(f) (21 CFR 814.44(f)) because CDRH concluded that the data and information offered in support of the PMA did not provide a reasonable assurance that the device is safe under the conditions of use prescribed, recommended, or suggested in the proposed labeling, as required by section 515(d)(2)(A) of the FD&C Act.

On March 25, 2010, EES requested review of the not approvable letter. Submitted in the form of a petition for reconsideration under 21 CFR 10.33 (see § 814.44(f)(2)), EES's petition stated that, in accordance with § 814.44(f), EES considered the not approvable letter to be a denial of approval of PMA P080009 under § 814.45 (21 CFR 814.45). In accordance with section 515(d)(4) of the FD&C Act, EES requested review of this denial under section 515(g)(2) of the FD&C Act.

Subsequently, on October 26, 2010, CDRH issued an order denying approval of the SEDASYS PMA (Denial Order), as required by § 814.45(e)(3). On November 5, 2010, in accordance with section 515(g)(2) of the FD&C Act, FDA granted EES's petition for review of the order denying PMA P080009.

In accordance with section 515(g)(2) of the FD&C Act, the Office of the Commissioner referred PMA P080009 and the basis for the order denying its approval to the Medical Devices Dispute Resolution Panel, an advisory committee of experts established, in part, to receive referrals of petitions for advisory committee review under section 515(g)(2)(B) of the FD&C Act. (See 76 FR 15321, March 21, 2011.) The advisory committee of experts for this review consists of nine persons, qualified by training and experience to evaluate the clinical and scientific basis of CDRH's order denying approval of the PMA. After independent study of the data and information furnished to it by the Office of the Commissioner, and other data and information before it, this advisory committee will submit to the Chief Scientist and Deputy Commissioner for Science and Public Health (Chief Scientist), the Commissioner's designee and an official authorized to perform all delegable functions of the Commissioner, a report and recommendation with respect to the order, together with the underlying data and information and a statement of the reasons or basis for the recommendation. (See section 515(g)(2)(A) of the FD&C Act.)

The Office of the Commissioner will make the report and recommendation public in accordance with section 515(g)(2)(C) of the FD&C Act. The Office of the Commissioner will also provide a copy of that report and recommendation to EES and CDRH, and will offer EES and CDRH the opportunity to submit comments on the report and recommendation before a final order is rendered. In accordance with section 515(g)(2)(C) of the FD&C Act, the Chief Scientist will issue an order either affirming or reversing the order denying PMA P080009 and, if appropriate, approving or denying approval of the PMA.

II. Meeting Issues and Process

A. Issues

Two major disputed clinical and scientific issues raised in CDRH's Denial Order are as follows: (1) Whether, given CDRH's view that, as it states in that order, ''the SEDASYS System is associated with an increased incidence of deeper-than-intended sedation'' in the pivotal study, the PMA provides a reasonable assurance that SEDASYS is safe for its proposed intended use by health care providers who have not been trained in the administration of general anesthesia; and (2) the adequacy and appropriateness of the control arm used by EES in the pivotal clinical trial for the device.

Regarding the first issue, CDRH's Denial Order maintained that the data provided demonstrates that ''the SEDASYS System is associated with an increased incidence of deeper-than-intended sedation, including episodes of general anesthesia, compared to the 'Current Standard of Care' arm that was used as a control.'' CDRH asserted in that order that it considered these observations to represent a ''serious safety signal'' that would require restricting use of the device to persons trained in the administration of general anesthesia. EES's position is that the five patients experiencing transient episodes of general anesthesia do not represent a safety concern because none experienced any apnea or oxygen desaturation, that the device has built-in safety features designed to avoid progression to apnea or oxygen desaturation, and that SEDASYS was associated with a significant reduction in the primary safety endpoint (AUC_{Desat}), among other reasons.

CDRH's Denial Order also maintained that EES's ''current proposal to mitigate the risks associated with the observed increased incidence of deeper-than-intended sedation, namely a targeted-training program, is inadequate because an outcome-based clinical study that would enable evaluation of the proposed training protocol has not been conducted.'' EES's petition for review of CDRH's Not Approvable determination countered that EES's proposed training program for SEDASYS ''is validated by the training the pivotal study investigators received prior to the start of the study and the outcomes of the study.''

With respect to the control arm used in the clinical trial, EES's pivotal study was a non-blinded comparison of propofol administration by gastroenterology teams via SEDASYS with administration of benzodiazepine/opioid combinations by gastroenterology teams. CDRH maintains that, given the risks involved in administering propofol with SEDASYS that it believed were demonstrated in the pivotal study, the use of the device by the intended group of clinicians needs to be compared to propofol administration in a treatment arm without the device by health care professionals trained in the administration of general anesthesia, as contemplated by the drug labeling for propofol. EES's position is that the clinical trial design appropriately compares the device with the ''current standard of care''—benzodiazepine/opioid combinations—that it would supplant and provides reasonable assurance of safety and effectiveness.

Questions for the advisory committee to consider relative to the safety issue are:

1. Do the incidents of deeper-than-intended sedation observed in the SEDASYS pivotal trial, including general anesthesia in five patients in the SEDASYS group compared to one patient in the control group, represent a clinically significant safety concern?

2. Do any probable benefits to health from use of SEDASYS outweigh any probable risks?

3. Was the clinical trial comparing propofol administration by gastroenterology teams via SEDASYS with administration of benzodiazepine/opioid combinations by gastroenterology teams appropriate to determine whether there is a reasonable assurance that the device is safe for its proposed intended use?

4. Should a clinical trial instead compare administration of propofol by gastroenterology teams via SEDASYS with administration of propofol without the device by persons trained in the administration of general anesthesia?

5. Does the PMA demonstrate that the training EES proposed for the intended user group adequately addresses the risk of incidents of deeper-than-intended sedation, including the incidents of general anesthesia seen in the pivotal

trial, and the possible consequences of these events?

6. Does the training program need to be validated to ensure that it adequately mitigates such risks, and, if so, how could this be done?

B. Process

Although no statute or regulation requires that separation of functions be applied to this proceeding, the Agency is observing separation of functions as a matter of policy in this matter. As the Center responsible for the action under review, CDRH will be, like EES, a party to the advisory committee meeting and will be responsible for presenting its position at that meeting.

In addition, as a corollary to its decision to observe a separation of functions, until the Commissioner issues an order either affirming or reversing the order denying approval of PMA P080009, the Office of the Commissioner will not engage in any ex parte communication (see 21 CFR 10.3(a)) with anyone participating as a party or any person outside the Agency with respect to the matter under consideration. Any written ex parte communication has been and will continue to be immediately served on the two parties and filed in the docket. Any oral ex parte communication has been and will continue to be immediately memorialized in writing, served on both parties, and filed in the docket.

At the meeting, each party will be provided 2 hours during the first portion of the meeting to present relevant information or views orally. The parties may use the allotted time as desired, consistent with an orderly meeting, and may be accompanied by additional persons, who may present relevant information or views. The parties will subsequently be allowed 15 minutes for rebuttal. During the advisory committee's open discussion, the advisory committee members may pose questions to, or requests for clarification from, EES and/or CDRH. Thereafter, each party will be allocated 15 minutes for summation, after which advisory committee deliberation and voting will occur.

FDA welcomes the public's attendance at this advisory committee meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you need special accommodations due to a disability, please contact Nancy Braier (see *Contact Person*) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Because this is a public meeting before an advisory committee, it is subject to our regulations concerning the policy and procedures for electronic media coverage of public agency administrative proceedings (§§ 10.200 through 10.206 (21 CFR 10.200 through 10.206)). These procedures are primarily intended to expedite media access to our public proceedings. Representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record our public administrative proceedings, including the testimony of witnesses in the proceedings. Accordingly, the parties and nonparty participants, and all other interested persons, are directed to § 10.200 through 10.206, for a more complete explanation of those regulations' effect on this meeting.

All documents filed or posted in this matter are available for public review under Docket No. FDA–2010–P–0176 in the Division of Dockets Management (see *Registration and Presentations*) between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain documents at *http://www.regulations.gov*. FDA intends to make background material, including briefing materials for the advisory committee provided by CDRH and EES, available to the public no later than 2 business days before the meeting. If FDA is unable to provide the background material prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be available in the Division of Dockets Management (see *Registration and Presentations*) and at *http://www.regulations.gov* after the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

III. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov*. It may be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD.

Dated: November 14, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–29888 Filed 11–18–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0557]

Advancing Regulatory Science for Highly Multiplexed Microbiology/Medical Countermeasure Devices; Public Meeting; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for the notice announcing a public meeting for the ''Advancing Regulatory Science for Highly Multiplexed Microbiology/Medical Countermeasure Devices'' that published in the **Federal Register** of August 8, 2011 (76 FR 48169). In the notice, FDA requested public comments regarding matters to be discussed at the October 13, 2011, meeting, including the performance evaluation of highly multiplexed microbiology/medical countermeasure (MCM) devices, their clinical application and public health/clinical needs, and quality criteria for establishing the accuracy of reference databases. FDA is reopening the comment period to receive comment updates or any new information on the concept paper entitled ''Advancing Regulatory Science for Highly Multiplexed Microbiology/Medical Countermeasure Devices,'' for FDA's proposed evaluation approach for assessing the performance of highly multiplexed microbiology/MCM devices.

DATES: Submit either electronic or written comments and information by December 21, 2011.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Raquel Peat, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5561, Silver Spring,

MD 20993–0002, (301) 796–6218, email: *raquel.peat@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 8, 2011, FDA published a notice announcing a public meeting for the ''Advancing Regulatory Science for Highly Multiplexed Microbiology/Medical Countermeasure Devices,'' and opening of a public docket to seek input and comments from interested stakeholders to discuss the concept paper [1] for FDA's proposed evaluation approach for assessing the performance of highly multiplexed microbiology/MCM devices, including the following topics:

1. *Clinical Application of Highly Multiplexed Microbiology Devices:* Their clinical application and public health/clinical needs; inclusion of MCM-related pathogens that are expected to be rarely present in the tested specimens; the composition of clinically relevant panels of pathogens; the interpretation of the test results taking into consideration the possible detection of microorganisms that are not clinically relevant, and what is known and unknown about co-infections.

2. *Device Evaluation:* How to evaluate the analytical and clinical performance of highly multiplexed microbiology devices; approaches to device validation when positive specimens are not easily available, which is the case for many MCM pathogens; the sufficiency, feasibility, and practicality of the proposed FDA evaluation approach to establish device performance.

3. *Reference Databases:* Quality criteria for establishing the accuracy of reference databases; methods for curating, maintaining, and updating these databases; what is the current practice for creating and maintaining reference databases.

In the **Federal Register** notice of August 8, 2011, interested persons were originally given until September 13, 2011, to submit comments.

II. Request for Comments

Following publication of the August 8, 2011, **Federal Register** notice and posting of the concept paper, FDA received requests to allow interested persons additional time to comment. The Agency has considered the requests and is reopening the comment period until December 21, 2011.

[1] This concept paper may be found at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/ucm267410.htm.*

III. How To Submit Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. In addition, when responding to specific questions as outlined in Section I of this document, please identify the question you are addressing. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–29937 Filed 11–18–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 11, 2012, from 8 a.m. to 6 p.m.

Location: Hilton Washington DC North/Gaithersburg, salons A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is (301) 977–8900.

Contact Person: Avena Russell, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1535, Silver Spring, MD 20993–0002, *Avena.Russell@fda.hhs.gov,* (301) 796–3805, or FDA Advisory Committee Information Line, 1–(800) 741–8138 (301) 443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On January 11, 2012, the committee will discuss, make recommendations, and vote on information related to the premarket approval application, sponsored by Torax Medical, Inc., for the LINX Reflux Management System, a sterile, single use, surgically placed device used to treat the symptoms associated with gastroesophageal reflux disease.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before December 30, 2011. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before December 22, 2011. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by December 23, 2011.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact James Clark, at *James.Clark@fda.hhs.gov* or (301) 796–5293, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 14, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–29890 Filed 11–18–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). To request a copy of the clearance requests submitted to OMB for review, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–0165.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995.

Proposed Project: Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program Administrative Requirements (Regulations and Policy) (OMB No. 0915–0047)—[Extension]

The regulations for the Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program contain a number of reporting and recordkeeping requirements for schools and loan applicants. The requirements are essential for assuring that borrowers are aware of rights and responsibilities, know the history and status of each loan account in order to pursue aggressive collection efforts to reduce default rates, and that they maintain adequate records for audit and assessment purposes. Schools are free to use improved information technology to manage the information required by the regulations.

The estimated total burden is 49,487 hours. The burden estimates are as follows:

RECORDKEEPING REQUIREMENTS

Regulatory/section requirements	Number of record-keepers	Hours per year	Total burden hours
HPSL Program:			
57.206(b)(2), Documentation of Cost of Attendance	435	1.17	509
57.208(a), Promissory Note	435	1.25	544
57.210(b)(1)(i), Documentation of Entrance Interview	435	1.25	544
57.210(b)(1)(ii), Documentation of Exit Interview	*477	0.33	157
57.215(a) & (d), Program Records	*477	10	4,770
57.215(b), Student Records	*477	10	4,770
57.215(c), Repayment Records	*477	18.75	8,944
HPSL Subtotal	.....	.....	20,238
NSL Program:			
57.306(b)(2)(ii), Documentation of Cost of Attendance	304	0.3	91
57.308(a), Promissory Note	304	0.5	152
57.310(b)(1)(i), Documentation of Entrance Interview	304	0.5	152
57.310(b)(1)(ii), Documentation of Exit Interview	*486	0.17	83
57.315(a)(1) & (a)(4), Program Records	*486	5	2,430
57.315(a)(2), Student Records	*486	1	486
57.215(b)(3), Repayment Records	*486	2.51	1,220
NSL Subtotal	.....	.....	4,614

*Includes active and closing schools.

HPSL data include active and closing Loans for Disadvantaged Students (LDS) program schools.

REPORTING REQUIREMENTS

Regulatory/Section requirements	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total burden hours
HPSL:					
57.206(a)(2), Student Financial Aid Transcript	4,600	1	4,600	0.25	1,150
57.208(c), Loan Information Disclosure	435	68.73	29,898	0.0833	2,490
57.210(b)(1)(i), Entrance Interview	435	68.73	29,898	0.167	4,993
57.210(b)(1)(ii), Exit Interview	*477	12	5,724	0.5	2,862
57.210(b)(1)(iii), Notification of Repayment	*477	30.83	14,706	0.167	2,456

REPORTING REQUIREMENTS—Continued

Regulatory/Section requirements	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total burden hours
57.210(b)(1)(iv), Notification During Deferment	*477	24.32	11,601	0.0833	966
57.210(b)(1)(vi), Notification of Delinquent Accounts	*477	10.28	4,904	0.167	819
57.210(b)(1)(x), Credit Bureau Notification	*477	8.03	3,830	0.6	2,298
57.210(b)(4)(i), Write-off of Uncollectable Loans	20	1	20	3	60
57.211(a), Disability Cancellation	10	1	10	0.75	8
57.215(a)(2), Administrative Hearings	0	0	0	0	0
57.215(a)(d), Administrative Hearings	0	0	0	0	0
HPSL Subtotal					18,102
NSL:					
57.306(a)(2), Student Financial Aid Transcript	4,100	1	4,100	0.25	1,025
57.310(b)(1)(i), Entrance Interview	304	23.51	7,147	0.167	1,193
57.310(b)(1)(ii), Exit Interview	*486	3.77	1,832	0.5	916
57.310(b)(1)(iii), Notification of Repayment	*486	6.18	3,003	0.167	501
57.310(b)(1)(iv), Notification During Deferment	*486	0.65	316	0.083	26
57.310(b)(1)(vi), Notification of Delinquent Accounts	*486	4.61	2,240	0.167	374
57.310(b)(1)(x), Credit Bureau Notification	*486	8.3	4,034	0.6	2,420
57.310(b)(4)(i), Write-off of Uncollectable Loans	20	1	20	3.5	70
57.311(a), Disability Cancellation	10	1	10	0.8	8
57.315(a)(1)(ii), Administrative Hearings	0	0	0	0	0
57.316(a)(d), Administrative Hearings	0	0	0	0	0
NSL Subtotal					6,533

* Includes active and closing schools.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to (202) 395–6974. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Dated: November 15, 2011.

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2011–29981 Filed 11–18–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Topics in Molecular Neurodevelopment.

Date: December 1, 2011.

Time: 2:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, (301) 435–6878, *wedeenc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: November 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–30016 Filed 11–18–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Group, Research on Children in Military Families: The Impact of Parental Military Deployment and Reintegration on Child and Family Functioning.

Date: December 6, 2011.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Anne Krey, Ph.D., Scientific Review Officer, Division Of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5b01, Bethesda, MD 20892, (301) 435–6908, *ak41o@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–30014 Filed 11–18–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development; Special Emphasis Panel; Ob/Gyn Postdoctoral Training Programs.

Date: December 13, 2011.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David H. Weinberg, Ph.D., Scientific Review Officer, Division Of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01, Rockville, MD 20852, (301) 435–6973, *David.Weinberg@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–30012 Filed 11–18–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Ancillary Studies Review.

Date: December 9, 2011.

Time: 8 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, (301) 435–0725, *creazzotl@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–30007 Filed 11–18–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, HBV and HIV Ancillary Studies.

Date: December 16, 2011.

Time: 11:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health,Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4721 *rw175w@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–30006 Filed 11–18–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Drug Abuse Special Emphasis Panel, December 13, 2011, 9 a.m. to December 13, 2011, 5 p.m., Embassy Suites at the

Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015 which was published in the **Federal Register** on October 20, 2011, 76; 204 FR 2011–27294.

The location of the meeting was changed to The Dupont Circle Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036. The meeting is closed to the public.

Dated: November 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–30004 Filed 11–18–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research.

The meeting will be open to the public, 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.

Name of Committee: National Advisory Board on Medical Rehabilitation Research.

Date: December 12, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: NICHD Director's Report presentation, NCMRR Director's Report presentation and various reports on Medical Research Initiatives.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Date: December 13, 2011.

Time: 8:30 a.m. to 3:30 p.m.

Agenda: Other business dealing with NABMRR Board.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Ralph M. Nitkin, Ph.D., Director, B.S.C.D., Biological Sciences and Career Development, NCMRR, Eunice Kennedy Shriver National Institute of Child Health & Human Development, National Institutes of Health, Department of Health and Human Services, 6100 Executive Boulevard, Room 2A03, Bethesda, MD 20892–7510, (301) 402–4206, *nitkinr@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.

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/ncmrr.htm,* where the agenda and any additional information for the meetings will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment program, National Institutes of Health, HHS)

Dated: November 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–29999 Filed 11–18–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Global Health.

Date: December 5, 2011.

Time: 8 a.m. to 6 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: Michele C. Hindi-Alexander, Ph.D., Scientific Review Officer, Division Of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–8382, *hindialm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 15, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–29998 Filed 11–18–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2011–0854]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collections of information: 1625–0045, Adequacy Certification for Reception Facilities and Advance Notice—33 CFR Part 158, 1625–0060, Vapor Control Systems for Facilities and Tank Vessels, 1625–0081, Alternate Compliance Program, 1625–0083, Operational Measures for Existing Tank Vessels Without Double Hulls and l625–0113, Crewmember Identification Documents. Our ICRs describe the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before December 21, 2011.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2011–0854] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by email via: *OIRA-submission@omb.eop.gov.*

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140,

1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

(4) *Fax:* (a) To DMF, (202) 493–2251. (b) To OIRA at (202) 395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–611), Attn: Paperwork Reduction Act Manager, US Coast Guard, 2100 2ND ST SW., STOP 7101, Washington DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Ms. Kenlinishia Tyler, Office of Information Management, telephone (202) 475–3652 or fax (202) 475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, (202) 366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICRs referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2011–0854], and must be received by December 21, 2011. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2011–0854], indicate the specific section of the document to which each comment applies, providing a reason for each comment. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2011–0854'' in the ''Keyword'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2011–0854'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Numbers: 1625–0045, 1625–0060, 1625–0081, 1625–0083 and 1625–0113.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (76 FR 57749, September 16, 2011) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

1. *Title:* Adequacy Certification for Reception Facilities and Advance Notice—33 CFR Part 158.

OMB Control Number: 1625–0045.

Type of Request: Revision of a currently approved collection.

Respondents: Owners and operators of reception facilities, and owners and operators of vessels.

Abstract: This information helps ensure that waterfront facilities are in compliance with reception facility standards. Advance notice information from vessels ensures effective management of reception facilities.

Forms: CG–5401, CG–5401A, CG–5401B, CG–5401C.

Burden Estimate: The estimated burden has decreased from 1,529 hours to 1,497 hours a year.

2. *Title:* Vapor Control Systems for Facilities and Tank Vessels.

OMB Control Number: 1625–0060.

Type of Request: Revision of a currently approved collection.

Respondents: Owners and operators of facilities and tank vessels, and certifying entities.

Abstract: The information is needed to ensure compliance with U.S. regulations for the design of facility and tank vessel vapor control systems (VCS). The information is also needed to determine the qualifications of a certifying entity.

Forms: None.

Burden Estimate: The estimated burden has increased from 2,724 hours to 2,789 hours a year.

3. *Title:* Alternate Compliance Program.

OMB Control Number: 1625–0081.

Type of Request: Revision of a currently approved collection.

Respondents: Owners and operators of U.S.-flag inspected vessels.

Abstract: This information is used by the Coast Guard to assess vessels participating in the voluntary Alternate Compliance Program (ACP) before issuance of a Certificate of Inspection.

Forms: CG–3752 & CG–3752A.

Burden Estimate: The estimated burden has decreased from 212 hours to 176 hours a year.

4. *Title:* Operational Measures for Existing Tank Vessels Without Double Hulls.

OMB Control Number: 1625–0083.

Type of Request: Revision of a currently approved collection.

Respondents: Owners, operators and masters of certain tank vessels.

Abstract: The information is needed to ensure compliance with U.S. regulations regarding operational measures for certain tank vessels while operating in the U.S. waters.

Forms: None.

Burden Estimate: The estimated burden has decreased from 3,474 hours to 1,684 hours a year.

5. *Title:* Crewmember Identification Documents.

OMB Control Number: 1625–0113.

Type of Request: Revision of a currently approved collection.

Respondents: Crewmembers, and operators of certain vessels.

Abstract: This information collection covers the requirement that crewmembers on vessels calling at U.S. ports must carry and present on demand an identification that allows the identity of crewmembers to be authoritatively validated.

Forms: None.

Burden Estimate: The estimated burden has decreased from 34,553 hours to 30,275 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: November 10, 2011.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2011–29966 Filed 11–18–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2011–0035; OMB No. 1660–0008]

Agency Information Collection Activities: Proposed Collection; Comment Request, Elevation Certificate/Floodproofing Certificate

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Elevation Certificate and the Floodproofing Certificate for Non-Residential Structures.

DATES: Comments must be submitted on or before January 20, 2012.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2011–0035. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *Email.* Submit comments to *FEMA-POLICY@dhs.gov*. Include Docket ID FEMA–2011–0035 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Ann Chang, Insurance Examiner, Mitigation Division, (703) 605–0421 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) requires the elevation or floodproofing of new or substantially improved structures in designated Special Flood Hazard Areas. As part of the agreement for making flood insurance available in a community, the NFIP requires the community to adopt a floodplain management ordinance that meets or exceeds the minimum requirements of the NFIP. Title 44 CFR 61.7 and 61.8 require proper investigation to estimate the risk premium rates necessary to provide flood insurance.

Collection of Information

Title: Elevation Certificate/Floodproofing Certificate.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0008.

Form Numbers: FEMA Form 81–31, Elevation Certificate, FEMA Form 81–65, Floodproofing Certificate.

Abstract: The Elevation Certificate and Floodproofing Certificate are used in conjunction with the application for flood insurance. The certificates are required for properly rate post Flood Insurance Rate Map (FIRM) structures, which are buildings constructed after the publication of the initial FIRM or December 31, 1974, for flood insurance in Special Flood Hazard Areas. In addition, the Elevation Certificate is needed for pre-FIRM structures, which are buildings constructed before the initial FIRM or December 31, 1974, that are being rated under post-FIRM flood insurance rules. The certificates provide community officials and others standardized documents to readily record needed building elevation information. NFIP policyholders/applicants provide the appropriate certificate to insurance agents. The

certificate is then used in conjunction with the insurance application so that the building can be properly rated for flood insurance.

Affected Public: Individuals and households, business or other for-profit, State, local or Tribal Government.

Number of Respondents: 6,575.

Number of Responses: 6,575.

Estimated Total Annual Burden Hours: 24,649 hours.

Estimated Cost: The estimated cost to respondents for purchasing professional services required to complete the certificates is $1,251,250.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Gary L. Anderson,

Acting Chief Administrative Officer, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2011–29946 Filed 11–18–11; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0017; OMB No. 1660–0040]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Standard Flood Hazard Determination Form

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a correction to the previous notice that was published on October 19, 2011, 76 FR 64957. FEMA is requesting revision of OMB control number 1660–0040, FEMA Form 086–0–32 (previously FEMA Form 81–93), Standard Flood Hazard Determination Form (SFHDF). The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe 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 the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before December 21, 2011.

ADDRESSES: 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 the 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) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: FEMA received two comments from two commenters, the Association of State Floodplain Managers (ASFPM) and the National Flood Determination Association (NFDA). ASFPM submitted five suggestions. In Section I; box 2 (description of the collateral) of the form, it was suggested that FEMA include a broader list of descriptive information to assist those using and reading the form. This has been done. In Section II; Part C; Box 3 (discussing the Coastal Barrier Resources Act (CBRA) and Otherwise Protected Areas (OPA), the commenter requested that FEMA clarify the information in this area; FEMA has made this change. In Section II; Part D. FEMA has restated the choice for when flood insurance is not required by the Flood Disaster Protection Act of 1973 to encourage property owners to remember there is still a flood risk outside the Special Flood Hazard Areas (SFHA) as requested.

FEMA was not able to make two other suggested changes, both involved information that might not be readily available to the entity that fills out the form, and in one instance there were concerns about privacy issues.

The second commenter, NFDA, requested to see the FEMA planned changes prior to final publication, noting that they believe an extension of the Standard Flood Hazard Determination Form, SFHDF without change is acceptable. The changes will be available to the public when those changes are published in the **Federal Register**.

Collection of Information

Title: Standard Flood Hazard Determination Form.

Type of information collection: Revision of a currently approved collection.

OMB Number: 1660–0040.

Form Titles and Numbers: FEMA Form 086–0–32 (previously FEMA Form 81–93), Standard Flood Hazard Determination Form (SFHDF).

Abstract: FEMA Form 086–0–32 (previously FEMA Form 81–93), SFHDF is used by regulated lending institutions, federal agency lenders, related lenders/regulators, and the Government. Federally regulated lending institutions complete this form when making, increasing, extending, renewing or purchasing each loan for the purpose is of determining whether flood insurance is required and available. The form may also be used by property owner, insurance agents, realtors, community officials for flood insurance related documentation.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 46,456,460.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: Standard Flood Hazard Determination Form (SFHDF), 20 minutes.

Estimated Total Annual Burden Hours: 15,330,632 hours.

Estimated Cost: There are no operation and maintenance, or capital and start-up costs associated with this collection of information.

Gary L. Anderson,

Acting Chief Administrative Officer, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2011–29940 Filed 11–18–11; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0033; OMB No. 1660–0024]

Agency Information Collection Activities: Proposed Collection; Comment Request, Federal Assistance for Offsite Radiological Emergency Planning

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Federal Emergency Management Agency's request for information from the licensee of a nuclear power plant that is needed in order form a decision as to whether or not a condition of ''decline or fail'' exists at the State and local government level in the preparation of emergency planning responses.

DATES: Comments must be submitted on or before January 20, 2012.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2011–0033. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *Email.* Submit comments to *FEMA-POLICY@dhs.gov.* Include Docket ID FEMA–2011–0033 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Deborah J. Mauldin, Policy Specialist, Technological Hazards Division, Radiological Emergency Preparedness Branch, at (202) 212–2127 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: Executive Order 12657, dated November 18, 1988, charged the Federal Emergency Management Agency (FEMA) and other Federal agencies with emergency planning response in cases where State and local governments have declined or failed to prepare emergency plans. To implement Executive Order 12657, FEMA worked with the Nuclear Regulatory Commission (NRC) and other Federal agencies on the Federal Radiological Preparedness Coordinating Committee to develop 44 CFR part 352, Commercial Nuclear Power Plants: Emergency Preparedness Planning. This regulation establishes policies and procedures for a licensee submission of a certification of ''decline or fail'', and for FEMA determination concerning Federal assistance to the licensee; and also establishes policies and procedures for providing Federal support for offsite planning and preparedness.

Collection of Information

Title: Federal Assistance for Offsite Radiological Emergency Planning.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0024.

FEMA Forms: No form.

Abstract: This collection of information establishes policies and procedures for submission by a commercial nuclear power plant licensee of a certification for Federal assistance under Executive Order 12657. It contains policies and procedures for FEMA's determinations, with respect to a certification. It also establishes a framework for providing Federal assistance to licensees, and procedures for review and evaluation of the adequacy of licensee offsite radiological emergency planning and preparedness.

Affected Public: Business and other for profits.

Number of Respondents: 1.

Number of Responses: 1.

Estimated Total Annual Burden Hours: 40.

Estimated Cost: There are no annual record keeping, capital, startup, nor maintenance costs associated with this information collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Gary L. Anderson,

Acting Chief Administrative Officer, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2011–29948 Filed 11–18–11; 8:45 am]

BILLING CODE 9110–21–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0038; OMB No. 1660–0034]

Agency Information Collection Activities: Proposed Collection; Comment Request, Emergency Management Institute Course Evaluation Form

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Emergency Management Institute Course Evaluation Form, which is used

to evaluate the quality of course deliveries, facilities, and instructors at the Emergency Management Institute (EMI).

DATES: Comments must be submitted on or before January 20, 2012.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2011–0038. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Regulatory Affairs Division, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *Email.* Submit comments to *FEMA-POLICY@dhs.gov.* Include Docket ID FEMA–2011–0038 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jacqueline Martin, Training Support Specialist, Emergency Management Institute, at (301) 447–1216 or *jacqueline.martin@dhs.gov* for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: EMI develops courses and administers resident and nonresident training programs in areas such as natural hazards, technical hazards, instructional methodology, professional development, leadership, exercise design and evaluation, information technology, public information, integrated emergency management, and train-the-trainer. In order to meet current information needs of EMI staff and management, EMI uses course evaluation forms to identify problems with course materials, delivery, facilities, and instructors. Information received through the course evaluations is used to recommend revisions to course materials, student selection criteria, training experience, and classroom environment. Section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196) authorizes training programs for emergency preparedness for State, local, Tribal and territorial government personnel.

Collection of Information

Title: Emergency Management Institute Course Evaluation Form.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0034.

Form Titles and Numbers: FEMA Form 092–0–3, Emergency Management Institute Course Evaluation Form.

Abstract: Students attending the Emergency Management Institute resident program courses at the Federal Emergency Management Agency's National Emergency Training Center will be asked to complete a course evaluation form upon completion of each course they attend. The information will be used by EMI staff and management to identify problems with course materials, and will evaluate the quality of the course delivery facilities, and instructors.

Affected Public: State, Local, or Tribal Government, Individuals or households.

Estimated Total Annual Burden Hours: 2,746.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/ form No.	Number of respondents	Number of responses per respondent	Total number of responses	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate	Total annual respondent cost
State, Local or Tribal Government.	Emergency Management Institute Residential Course Evaluation Form/ FEMA Form 092–0–3 (electronic).	17,500	1	17,500	.05 (3 minutes)	875	$37.25	$32,593.75
Individuals or Households.	Emergency Management Institute Residential Course Evaluation Form/ FEMA Form 092–0–3 (electronic).	2,500	1	2,500	.05 (3 minutes)	125	29.89	3,736.25
State, Local or Tribal Government.	Emergency Management Institute Residential Course Evaluation Form/ FEMA Form 092–0–3 (paper).	14,444	1	14,444	.1667 (10 minutes)	2,408	37.25	89,698.00

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS—Continued

Type of respondent	Form name/ form No.	Number of respondents	Number of responses per respondent	Total number of responses	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate	Total annual respondent cost
Individuals or Households.	Emergency Management Institute Residential Course Evaluation Form/ FEMA Form 092–0–3 (paper).	2,000	1	2,000	.1667 (10 minutes)	333	29.89	9,953.37
Total	.....	36,444	.....	36,444	.....	3,741	.....	135,981.37

Estimated Cost: The estimated annual cost to respondents for the hour burden is $135,981.37. There is no estimated annual cost to respondents for operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal government is $77,775.50.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Gary L. Anderson,

Acting Chief Administrative Officer, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2011–29939 Filed 11–18–11; 8:45 am]

BILLING CODE 9111–72–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: TSA Claims Management Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0039, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on March 25, 2011 (76 FR 16799). TSA received one comment. The collection involves the submission of information from claimants in order to thoroughly examine and resolve tort claims against the agency.

DATES: Send your comments by December 21, 2011. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3651; email *TSAPRA@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov*. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: TSA Claims Management System.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0039.

Forms(s): Supplemental Information Form, Payment Form.

Affected Public: Members of the traveling public who believe they have experienced property loss or damage, a personal injury, or other damages due to the negligent or wrongful act or omission of a TSA employee and decide to seek compensation by filing a Federal tort claim against TSA.

Abstract: OMB Control Number 1652–0039, TSA Claims Management System, allows the agency to collect information from claimants in order to thoroughly examine and resolve tort claims against the agency. TSA receives approximately 1,000 tort claims per month arising from airport screening activities and other circumstances, including motor vehicle accidents and employee loss. The Federal Tort Claims Act (28 U.S.C. 1346(b), 1402(b), 2401(b), 2671–2680) is the authority under which the TSA Claims Management Branch adjudicates tort claims.

The data is collected whenever an individual believes s/he has experienced property loss or damage, a personal injury, or other damages due to the negligent or wrongful act or omission of a TSA employee, and decides to file a Federal tort claim against TSA. Submission of a claim is entirely voluntary and initiated by individuals. The claimants (or respondents) to this collection are typically the traveling public. Currently, claimants file a claim by submitting to TSA a Standard Form 95 (SF–95), which has been approved under OMB control number 1105–0008. Because TSA requires further clarifying information, claimants are asked to complete a Supplemental Information page added to the SF–95. These forms have been approved under OMB control number 1652–0039.

Claim instructions and forms are available through the TSA Web site at *http://www.tsa.gov*. Claimants must download these forms and mail or fax them to TSA. On the Supplemental Information page, claimants are asked to provide additional claim information including: (1) Email address, (2) airport, (3) location of incident within the airport, (4) complete travel itinerary, (5) whether baggage was delayed by airline, (6) why they believe TSA was negligent, (7) whether they used a third-party baggage service, (8) whether they were traveling under military orders, and (9) whether they submitted claims with the airlines or insurance companies.

If TSA determines payment is warranted, TSA sends the claimant a form requesting: (1) Claimant signature, (2) banking information (routing and account number), and (3) Social Security number (required by the U.S. Treasury for all Government payments to the public pursuant to 31 U.S.C. 3325).

Number of Respondents: 12,000.

Estimated Annual Burden Hours: An estimated 6,000 hours annually.

Issued in Arlington, Virginia, on November 15, 2011.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2011–29941 Filed 11–18–11; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2011–0045]

Advisory Committee on Commercial Operations of Customs and Border Protection (COAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) will meet on December 7, 2011, in Washington, DC. The meeting will be open to the public. As an alternative to on-site attendance, U.S. Customs and Border Protection (CBP) will also offer a live webcast of the COAC meeting via the Internet.

DATES: COAC will meet on Wednesday, December 7, 2011, from 1 p.m. to 6 p.m. Please note that the meeting may close early if the committee has completed its business.

Registration: If you plan on attending via webcast, please register online at *https://apps.cbp.gov/te_registration/?w=65* by close-of-business on December 5, 2011. Please feel free to share this information with interested members of your organizations or associations. If you plan on attending on-site, please register either online at *https://apps.cbp.gov/te_registration/?w=64,* or by email to *tradeevents@dhs.gov,* or by fax to (202) 325–4290 by close-of-business on December 5, 2011.

ADDRESSES: The meeting will be held at U.S. Access Board, 1331 F Street NW., Suite 800 in Washington, DC 20004–1111. All visitors report to the lobby in the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection at (202) 344–1661 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below.

Comments must be submitted in writing no later than December 2, 2011, and must be identified by USCBP–2011–0045 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Tradeevents@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 325–4290
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 5.2A, Washington, DC 20229.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the COAC, go to *http://www.regulations.gov.*

There will be three public comment periods held during the meeting on December 7, 2011. On-site speakers are requested to limit their comments to three (3) minutes. Contact the individual listed below to register as a speaker. Please note that the public comment period for on-site speakers may end before the time indicated on the schedule that is posted on the CBP web page at the time of the meeting. Comments can also be made electronically anytime during the COAC meeting webcast, but please note that webcast participants will not be able to provide oral comments. Comments submitted electronically will be read into the record during the three (3) public comment periods.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 5.2A, Washington, DC 20229; telephone (202) 344–1440; facsimile (202) 325–4290.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The COAC provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters

pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury.

Agenda

The COAC will hear from the following subcommittees on the topics listed below and then will review, deliberate, and formulate recommendations on how to proceed on those topics:

- *Subcommittee:* The Global Supply Chain Security Land Border.

Topics: Expansion of the Customs and Trade Partnership Against Terrorism (C–TPAT) program, Pre-inspection pilots, and Enhancement of the Free and Secure Trade (FAST) program.

- *Subcommittee:* One U.S. Government at the Border.

Topic: Update on discussions with members of the Border Interagency Executive Council (BIEC).

- *Subcommittee:* Intellectual Property Rights (IPR) Enforcement.

Topic: Results of the two IPR surveys (IPR Partnership Program Survey and IPR Distribution Chain Management survey).

- *Subcommittee:* Antidumping/ Countervailing Duty.

Topic: Analysis of various duty collection systems.

Prior to the COAC taking action on any of these topics of the four above-mentioned subcommittees, members of the public will have an opportunity to provide comments orally or, for comments submitted electronically during the meeting, by reading the comments into the record.

The COAC will also receive an update and discuss the following CBP Initiatives and Subcommittee topics that were discussed at its October 4, 2011 meeting:

- Status update on the automation of Ocean and Rail manifest, Cargo Release, and other CBP automation pilots in the Automated Commercial Environment (ACE).
- Centralization of single transaction bonds and Coordination of bond issues that apply to other subcommittees—Report by the Bond Subcommittee.
- The Air Cargo Advance Screening (ACAS) pilot and the industry input provided towards finalizing a working strategy document for public release.—Report by the Global Supply Chain Security Air Cargo Subcommittee.
- Status update on feedback received by the agency on previously submitted recommendations. Report by the Trade Facilitation Subcommittee.
- Status update on the feedback received by the agency on previously submitted recommendations. Report by the Role of the Broker Subcommittee.

Dated: November 16, 2011.

Maria Luisa O'Connell,

Senior Advisor for Trade, Office of Trade Relations.

[FR Doc. 2011–29953 Filed 11–18–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–117]

Notice of Submission of Proposed Information Collection to OMB Community Challenge Planning Grant Program

AGENCY: Office of the Chief Information Officer, HUD

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Department of Housing and Urban Development's Community Challenge Planning Grant Program fosters reform and reduces barriers to achieving affordable, economically vital, and sustainable communities. Such efforts may include amending or replacing local master plans, zoning codes, and building codes, either on a jurisdiction-wide basis or in a specific neighborhood, district, corridor, or sector to promote mixed-use development, affordable housing, the reuse of older buildings and structures for new purposes, and similar activities with the goal of promoting sustainability at the local or neighborhood level. This Program also supports the development of affordable housing through the development and adoption of inclusionary zoning ordinances and other activities to support plan implementation.

DATES: *Comments Due Date:* December 21, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2501–0025) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: (202) 395–5806. Email: *OIRA_Submission@omb.eop.gov;* fax: (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at Colette.*Pollard@hud.gov* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice Also Lists the Following Information

Title of Proposal: Community Challenge Planning Grant Program.

OMB Approval Number: 2501–0025.

Form Numbers: 2501–0025.

Description of the Need for the Information and Its Proposed Use: The Department of Housing and Urban Development's Community Challenge Planning Grant Program fosters reform and reduces barriers to achieving affordable, economically vital, and sustainable communities. Such efforts may include amending or replacing local master plans, zoning codes, and building codes, either on a jurisdiction-wide basis or in a specific neighborhood, district, corridor, or sector to promote mixed-use development, affordable housing, the reuse of older buildings and structures for new purposes, and similar activities with the goal of promoting sustainability at the local or neighborhood level. This Program also supports the development of affordable housing through the development and adoption of inclusionary zoning ordinances and other activities to support plan implementation.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	900	1		6		5,400

Total Estimated Burden Hours: 5,400.

Status: Revision of a currently previously approved collection

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 15, 2011.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2011–30019 Filed 11–18–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–115]

Notice of Submission of Proposed Information Collection to OMB; Protection and Enhancement of Environmental Quality

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The information collection applies to applicants seeking HUD financial assistance for their project proposals and is used by HUD for the performance of the Department's compliance with the National Environmental Policy Act and related federal environmental laws and authorities in accordance with HUD environmental regulations at 24 CFR part 50.

DATES: *Comments Due Date:* December 21, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0177) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: (202) 395–5806. Email: *OIRA_Submission@omb.eop.gov;* fax: (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov.* Or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Protection and Enhancement of Environmental Quality.

OMB Approval Number: 2506–0177.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The information collection applies to applicants seeking HUD financial assistance for their project proposals and is used by HUD for the performance of the Department's compliance with the National Environmental Policy Act and related federal environmental laws and authorities in accordance with HUD environmental regulations at 24 CFR part 50.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	2,600	1		2		5,200

Total Estimated Burden Hours: 5,200.

Status: Extension without change of a currently previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 15, 2011.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2011–30021 Filed 11–18–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–116]

Notice of Submission of Proposed Information Collection to OMB; Capacity Building for Sustainable Communities Program

AGENCY: Office of the Chief Information Officer, HUD

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Capacity Building for Sustainable Communities Program (Program), through a Notice of Funding Availability, will identify intermediary organizations that can provide capacity building support for communities engaged in planning efforts that support community involvement and integrate housing, land use, land cleanup and preparation for reuse, economic and

workforce development, transportation, and infrastructure investments.

DATES: *Comments Due Date:* December 21, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2501–0026) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: (202) 395–5806. Email: *OIRA_Submission@omb.eop.gov;* fax: (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at Colette. *Pollard@hud.gov* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Capacity Building for Sustainable Communities Program

OMB Approval Number: 2501–0026

Form Numbers: HUD 424 CBW, SF 424, SF 424 Supp, HUD 96011, HUD 2880, SF LLL

Description of the Need for the Information and Its Proposed Use:

The Capacity Building for Sustainable Communities Program (Program), through a Notice of Funding Availability, will identify intermediary organizations that can provide capacity building support for communities engaged in planning efforts that support community involvement and integrate housing, land use, land cleanup and preparation for reuse, economic and workforce development, transportation, and infrastructure investments.

Frequency of Submission: Other, The results of this information collection will not be published.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	100	1		6		600

Total Estimated Burden Hours: 600.

Status: Revision of a currently previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 15, 2011.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2011–30020 Filed 11–18–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Renewal of Information Collection: 1090–0008 American Customer Satisfaction Index (ACSI) E-Government Web Site Customer Satisfaction Surveys

AGENCY: National Business Center, Federal Consulting Group, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Business Center, Department of the Interior announces that it has submitted a request for proposed extension of an information collection to the Office of Management and Budget (OMB), and requests public comments on this submission. 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 collection request, but may respond after 30 days; therefore, public comments should be submitted to OMB by December 21, 2011, in order to be assured of consideration.

ADDRESSES: Send your written comments by facsimile to (202) 395–5806 or email (*OIRA_DOCKET@omb.eop.gov*) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior (OMB 1090–0008) Desk Officer. Also, please send a copy of your comments to Federal Consulting Group, Attention: Richard Tate, 1849 C St, NW MS 314, Washington, DC 20240–0001, or by facsimile to (202) 513–7686, or via email to *Richard_Tate@nbc.gov.* Individuals providing comments should reference Web site Customer Satisfaction Surveys.

FOR FURTHER INFORMATION CONTACT: To request additional information or copies of the form(s) and instructions, please write to the Federal Consulting Group, Attention: Richard Tate, 1849 C St, NW MS 314, Washington, DC 20240–0001, or call him on (202) 513–7655, send an email to *Richard_Tate@nbc.gov,* or visit *http://www.reginfo.gov.*

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. The Office of the Secretary, National Business Center has submitted a request to OMB to renew its approval of this collection of information for three years.

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 1090–0008. The control number will be displayed on the surveys used. For expeditious administration of the surveys, the expiration date will not be displayed on the individual instruments. Response is not required to obtain a benefit.

Title: American Customer Satisfaction Index (ACSI) E-Government Web site Customer Satisfaction Surveys.

OMB Control Number: 1090–0008.

SUMMARY: This information collection activity provides a means to consistently assess, benchmark and improve customer satisfaction with Federal government agency Web sites within the Executive Branch. The Federal Consulting Group of the Department of the Interior serves as the executive agent for this methodology and has partnered with ForeSee to offer this assessment to federal agencies.

ForeSee is a leader in customer satisfaction and customer experience management on the web and related media. It utilizes the methodology of the most respected, credible, and well-known measure of customer satisfaction in the country, the American Customer Satisfaction Index (ACSI). This methodology combines survey data and a patented econometric model to precisely measure the customer satisfaction of Web site users, identify specific areas for improvement and determine the impact of those improvements on customer satisfaction and future customer behaviors.

The ACSI is the only cross-agency methodology for obtaining comparable measures of customer satisfaction with Federal government programs and/or Web sites. Along with other economic objectives—such as employment and growth—the quality of output (goods and services) is a part of measuring living standards. The ACSI's ultimate purpose is to help improve the quality of goods and services available to American citizens, including those from the Federal government.

The ACSI E-Government Web site Customer Satisfaction Surveys will be completed subject to the Privacy Act 1074, Public Law 93–579, December 31, 1974 (5 U.S.C. 522a). The agency information collection is an integral part of conducting an ACSI survey. The contractor will not be authorized to release any agency information upon completion of the survey without first obtaining permission from the Federal Consulting Group and the participating agency. In no case shall any new system of records containing privacy information be developed by the Federal Consulting Group, participating agencies, or the contractor collecting the data. In addition, participating Federal agencies may only provide information used to randomly select respondents from among established systems of records provided for such routine uses.

There is no other agency or organization which is able to provide the information that is accessible through the surveying approach used in this information collection. Further, the information will enable Federal agencies to determine customer satisfaction metrics with discrimination capability across variables. Thus, this information collection will assist Federal agencies in improving their customer service in a targeted manner which will make best use of resources to improve service to the public.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Frequency of Collection: Once per survey.

Description of Respondents: Individuals who have visited Government Web sites.

Total Annual Burden Hours: 57,292.

Current Expiration Date: December 31, 2011.

Type of Review: Renewal.

Affected Public: Individuals and households, businesses and organizations, State, Local or Tribal Government.

Estimated Number of Respondents: Participation by Federal agencies in the ACSI is expected to vary as new customer segment measures are added or deleted. However, based on historical records, projected average estimates for the next three years are as follows:

Average Expected Annual Number of Customer Satisfaction Surveys: 275.

Respondents: 1,375,000.

Annual Responses: 1,375,000.

Average Minutes per Response: 2.5.

Note: it is expected that the first year there will be approximately 225 surveys initiated, the second year 275 surveys initiated, and the third year 325 surveys initiated due to expected growth in the program. The figures above represent an expected average per year over the three-year period.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collection of information was published on July 25, 2011 (Vol. 76, No. 142. Pages 44351–44352). No comments were received. This notice provides the public with an additional 30 days in which to comment on the proposed information collection activity.

Request for Comments: Comments are invited on: (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 estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection by appointment with the Federal Consulting Group at the contact information given in the ''For Further Information Contact'' section. The comments, with names and addresses, will be available for public view during regular business hours. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to extent allowable by law.

Dated: November 14, 2011.

Ron Oberbillig,

Chief Operating Officer, Federal Consulting Group.

[FR Doc. 2011–29979 Filed 11–18–11; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[USGS GX12EE000101000]

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of an existing information collection (1028–0084).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the U.S. Geological Survey (USGS) is inviting comments on an information collection request (ICR) that we have sent to the Office of Management and Budget (OMB) for review and approval. The ICR concerns

the paperwork requirements for the National Spatial Data Infrastructure, Cooperative Agreements Program (NSDI CAP) and describes the nature of the collection and the estimated burden and cost. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this ICR. This Information Collection is scheduled to expire on January 31, 2012. To submit a proposal for the NSDI CAP, three standard OMB forms and project narrative must be completed and submitted via Grants.gov.

DATES: Submit written comments by December 21, 2011.

ADDRESSES: Please submit comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of Interior via email [*OIRA_DOCKET@omb.eop.gov*]; or fax (202) 395–5806; and identify your submission as 1028–0084. Please also submit a copy of your comments to Information Collection Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192 (mail); or *smbaloch@usgs.gov* (email). Please reference Information Collection 1028–0084, NSDI CAP in the subject line.

FOR FURTHER INFORMATION CONTACT: To request additional information concerning this ICR, contact Brigitta Urban-Mathieux, by mail NSDI CAP Coordinator, Federal Geographic Data Committee, U.S. Geological Survey, MS 590 National Center, Reston, VA 20192; by telephone at (703) 648–5175 or by email *burbanma@usgs.gov.*

SUPPLEMENTARY INFORMATION:

Title: National Spatial Data Infrastructure Cooperative Agreements Program (NSDI CAP).

OMB Control Number: 1028–0084.

Abstract: To date, the NSDI CAP awards have created collaborations at all levels of government, developed an understanding of geospatial information in organizations and disciplines new to the NSDI, provided seed money to enable geospatial organizations to participate in the national effort to implement the NSDI, promoted the development of standardized metadata in hundreds of organizations, and funded numerous implementations of OGC Web Mapping Services and Web Feature Services. The program is open to State, local and Tribal governments, academia, commercial, and non-profit organizations and provides small seed grants to initiate sustainable on-going NSDI implementations. The program emphasizes partnerships, collaboration and the leveraging of geospatial resources in achieving its goals. Since the funding level is limited, organizations must compete to be awarded funds. Respondents are submitting proposals to acquire funding for projects to help build the infrastructure necessary for the geospatial data community to effectively discover, access, share, manage, and use digital geographic data. The NSDI consists of the technologies, policies, organizations, and people necessary to promote cost-effective production, and the ready availability and greater utilization of geospatial data among a variety of sectors, disciplines, and communities. Specific NSDI areas of emphasis include: Metadata documentation, clearinghouse establishment, framework development, standards implementation, and building organizational collaboration and cooperation among organizations to leverage of geospatial resources.

This notice concerns the collection of information that is sufficient and relevant to evaluate and select proposals for funding. We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR Part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked. We intend to release the project abstracts and primary investigators for awarded/funded projects only.

Frequency of Collection: Annually.

Affected Public: Private Sector; State, Local, and Tribal governments; academia, non-profit organizations.

Respondent Obligation: Voluntary (necessary to receive benefits).

Estimated Number and Description of Respondents: We expect to receive approximately 60 proposals during the grant application process. We anticipate issuing 25 grants per year. The program is open to State, local and Tribal governments, academia, commercial, and non-profit organizations.

Estimated Number of Responses: Approximately 60 applications and 50 reports per year.

Estimated Completion Time per Response: Based on comments received from our consultation, we have adjusted our original burden request by 10 hours from 25 to 35 hours per respondent. We expect to receive approximately 60 applications, taking each applicant approximately 35 hours to complete, totaling 2,100 burden hours. We anticipate awarding an average of 25 grants per year. The 25 award recipients are required to submit 2 reports: an interim 6 months after the start of the project and a final report on or before 90 working days after the expiration of the agreement. We estimate that it will take approximately 5 hours to complete and submit the reports totaling 10 hours. Therefore, the annual burden for report preparation is 250 hours. We estimate that the total burden for this collection will be 2,350 hours.

Annual Burden Hours: 2,350.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have not identified any ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: To comply with the public consultation process, on July 25, 2011, we published a **Federal Register** notice (76 FR 44354) announcing our intent to submit this information collection to OMB for approval. In that notice we solicited public comments for 60 days, ending on September 23, 2011. We did not receive any public comments in response to the notice.

We again invite comments concerning this information collection on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

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

(4) Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: November 3, 2011.

Kevin T. Gallagher,

Associate Director, Core Science Systems.

[FR Doc. 2011–29967 Filed 11–18–11; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Patent, Trademark & Copyright Acts

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of Prospective Intent to Award Exclusive License.

SUMMARY: The United States Geological Survey (USGS) is contemplating awarding an exclusive license to: Geosyntec Consultants, 1255 Roberts Boulevard NW., Suite 200, Kennesaw, GA 30144, on U.S. Patent Application Serial No. 12/133,666, and a divisional patent application to be filed shortly at the Patent and Trademark Office, both entitled ''Anaerobic Microbial Composition and Methods of Using Same.''

Inquiries: If other parties are interested in similar activities, or have comments related to the prospective awards, please contact Neil Mark, USGS, 12201 Sunrise Valley Drive, MS 201, Reston, Virginia 20192, *voice* (703) 648–4344, *fax* (703) 648–7219, or *email nmark@usgs.gov.*

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the requirements of 35 U.S.C. 208 *et seq.*

Dated: November 14, 2011.

Karen D. Baker,

Associate Director for Administration and Enterprise Information.

[FR Doc. 2011–29974 Filed 11–18–11; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ956000.L14200000.BJ0000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Arizona.

SUMMARY: The plats of survey of the described lands were officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona, on dates indicated.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona:

The plat representing the survey of a portion of the Seventh Standard Parallel North (south boundary), the east and north boundaries, a portion of the subdivisional lines, the subdivision of certain sections and metes-and-bounds surveys of Tracts 37 and 38, Township 29 North, Range 21 East, accepted November 7, 2011, and officially filed November 9, 2011, for Group 1081, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

A person or party who wishes to protest against any of these surveys must file a written protest with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

Dated: November 9, 2011.

Stephen K. Hansen,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2011–29975 Filed 11–18–11; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON06000–L17110000–DP0000]

Notice of Change in Date for December Meeting of the Dominguez-Escalante Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Dominguez-Escalante Advisory Council (Council) will meet as indicated below.

DATES: The December meeting of the Dominguez-Escalante Advisory Council has been rescheduled to December 14, 2011, from 3–6 p.m. A meeting scheduled for December 7, 2011, and previously announced in the **Federal Register** has been canceled due to scheduling conflicts.

ADDRESSES: The meeting will be held at the Delta Performing Arts Center, 822 Grand Ave., Delta, Colorado 81416.

FOR FURTHER INFORMATION CONTACT: Katie Stevens, Advisory Council Designated Federal Official, 2815 H Road, Grand Junction, CO 81506. *Phone:* (970) 244–3049. *Email: kasteven@blm.gov.*

SUPPLEMENTARY INFORMATION: The 10-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the resource management planning process for the Dominguez-Escalante National Conservation Area and Dominguez Canyon Wilderness.

Topics of discussion during the meeting may include informational presentations from various resource specialists working on the resource management plan, as well as Council reports relating to the following topics: Recreation, fire management, land-use planning process, invasive species management, travel management, wilderness, land exchange criteria, cultural resource management and other resource management topics of interest to the Council raised during the planning process.

These meetings are anticipated to occur monthly, and may occur as frequently as every two weeks during intensive phases of the planning process. Dates, times and agendas for additional meetings may be determined at future Advisory Council Meetings, and will be published in the **Federal Register**, announced through local media and available on the BLM's Web site for the Dominguez-Escalante planning effort, *www.blm.gov/co/st/en/nca/denca/denca_rmp.html.*

These meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will have time allocated at the beginning and end of each meeting for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual, oral

comments may be limited at the discretion of the chair.

Helen M. Hankins,

State Director.

[FR Doc. 2011–29973 Filed 11–18–11; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA00000.L12200000.DF0000]

Notice of Public Meeting, Albuquerque District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Albuquerque District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting date is December 13, 2011, at the BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM, from 9 a.m.–4 p.m. The public may send written comments to the RAC, 435 Montano Rd., Albuquerque, NM 87107.

FOR FURTHER INFORMATION CONTACT: Gina Melchor, BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM 87107, (505) 761–8935. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in New Mexico.

Planned agenda items include a welcome and introduction of new Council members, election of a chair and vice chair, discussion of charter and operating procedures, and presentations by the Socorro and Rio Puerco Field Office Managers.

The comment period during which the public may address the RAC is scheduled to begin at 2:30 p.m. on December 13, 2011. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and time available, the time for individual oral comments may be limited.

Robert A. Casias,

Acting State Director.

[FR Doc. 2011–29977 Filed 11–18–11; 8:45 am]

BILLING CODE 4310–AG–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–HPPC–1011–8639; 2030–A056–409]

Draft Environmental Impact Statement for the Susquehanna to Roseland 500-kilovolt Transmission Line

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service announces the availability of the draft environmental impact statement for the Susquehanna to Roseland 500-kilovolt transmission line, which will affect the Appalachian National Scenic Trail, Delaware Water Gap National Recreation Area, and Middle Delaware National Scenic and Recreational River.

DATES: The National Park Service will accept comments on the draft environmental impact statement from the public for a period of 60 days following publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register.** You may check the Web site of Delaware Water Gap National Recreation Area at *http://www.nps.gov/dewa* for dates, times, and places of public meetings to be conducted by the National Park Service, or you can call (570) 828–2253.

ADDRESSES: You may submit comments by any one of several methods. You may mail comments to Superintendent John Donahue, Delaware Water Gap National Recreation Area, HQ River Rd off Route 209, Bushkill, PA 18324–9999 or to Superintendent Pamela Underhill, Appalachian Trail Park Office, P.O. Box 50, Harpers Ferry, WV 25425. The preferred method of comment is via the internet at *http://parkplanning.nps.gov*. You may also fax your comments to (570) 426–2402. The document will be available for public review and comment online at *http://parkplanning.nps.gov,* and can be viewed at the following locations:

Eastern Monroe Public Library, 1002 North Ninth Street, Stroudsburg, PA 18360.

Easton Area Public Library, 515 Church Street, Easton, PA 18042.

Kemp Library East Stroudsburg University, Normal Street, East Stroudsburg, PA 18301.

Pike County Public Library, 201 Broad Street, Milford, PA 18337.

Pike County Public Library, Dingman Township Branch, 100 Bond Court, Dingmans Ferry, PA 18328.

Sussex County Library, 125 Morris Turnpike, Newton, NJ 07860.

Warren County Library, 199 Hardwick Street, Belvidere, NJ 07823.

SUPPLEMENTARY INFORMATION: The Appalachian National Scenic Trail, Delaware Water Gap National Recreation Area, and the Middle Delaware National Scenic and Recreational River are famed for the recreational, scenic, natural, and cultural resources they contain. Each year, Delaware Water Gap National Recreation Area receives more than 5.2 million recreational visitors, and the Delaware River is one of the primary recreational attractions in the park. More than 27 miles of the Appalachian National Scenic Trail occur within the boundaries of Delaware Water Gap National Recreation Area; the Appalachian National Scenic Trail attracts more than 4 million visitors each year.

The existing transmission line right-of-way predates the establishment of the Appalachian National Scenic Trail in 1937, Delaware Water Gap National Recreation Area in 1965, and the Middle Delaware National Scenic and Recreational River in 1978. The applicants, the Pennsylvania Power and Light Electric Utilities Corporation and the Public Service Electric and Gas Company, have expressed a need to construct a 500-kilovolt power line connecting the Susquehanna and Roseland substations. The purpose of the draft environmental impact statement (EIS) is to respond to the applicants' need in light of the purposes and resources of the affected units of the national park system, as expressed in statutes, regulations, and policies.

The National Park Service has developed the draft EIS under section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended) and consistent with National Park Service laws, regulations, and policies, and the purpose of these three parks. The draft EIS describes and analyzes six alternatives (1, 2, 2b, 3, 4, and 5) to guide the decision to grant or deny the construction and right-of-way permits requested by the applicants. The applicants have proposed construction of a 500-kilovolt transmission line from the Susquehanna Substation (Berwick, Pennsylvania) to

the Roseland Substation (Roseland, New Jersey). The construction and right-of-way permits would allow the construction through Delaware Water Gap National Recreation Area, Middle Delaware National Scenic and Recreational River, and Appalachian National Scenic Trail in Pennsylvania and New Jersey. The alternatives follow existing rights-of-way to reduce the impacts from construction and operation of the transmission line. Included in the suite of alternatives is the no-action alternative (alternative 1), which is the National Park Service's environmentally preferred alternative.

The draft EIS evaluates potential environmental consequences of implementing the alternatives. Impact topics include the natural, cultural, and socioeconomic environments.

This notice also announces that public meetings will be held to solicit comments on the draft EIS during the public review period. The dates, times, and locations will be announced on Delaware Water Gap National Recreation Area's Web site *http://www.nps.gov/dewa*, in local papers, and can be obtained by calling (570) 828–2253.

Before including your address, phone number, email 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: November 4, 2011.

Mike Caldwell,

Deputy Regional Director, Chief of Staff, Northeast Region, National Park Service.

[FR Doc. 2011–29943 Filed 11–18–11; 8:45 am]

BILLING CODE 4312–JG–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–1111–8829; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before October 29, 2011. Pursuant to § 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, (202) 371–6447. Written or faxed comments should be submitted by December 6, 2011. Before including your address, phone number, email 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.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

CALIFORNIA

Alameda County

Livermore Carnegie Library and Park, (California Carnegie Libraries MPS) 2155 3rd St., Livermore, 11000876

COLORADO

Routt County

Steamboat Apartments, 302 11th St., Steamboat Springs, 11000877

DELAWARE

Sussex County

Robbins, David, Homestead, 26285 Broadkill Rd., Milton, 11000878

GEORGIA

Stephens County

Toccoa Downtown Historic District, Roughly bounded by Alexander, Currahee, Hill, & Savannah Sts., Toccoa, 11000879

GUAM

Guam County

Agat World War II Amtrac, Address Restricted, Agat, 11000880

MARYLAND

Prince George's County

Broad Creek Historic District, Bounded by Oxon Hill Rd., MD 210, Livingston Rd. & Potomac R., Fort Washington, 11000881

Washington County

Plumb Grove, 12654 Broadfording Rd., Clear Spring, 11000882

MASSACHUSETTS

Norfolk County

Stetson Hall, 6 S. Main St., Randolph, 11000883

NEBRASKA

Butler County

Butler County District No. 10 School, (School Buildings in Nebraska MPS) 2030 Cty. Rd. 45 1/2, Linwood, 11000884

Chase County

Pinkie's Corner, Address Restricted, Imperial, 11000885

Deuel County

Menter Farmstead, 1270 North Fork Rd., Big Springs, 11000886

Douglas County

Thiessen, H., Pickle Company, 3101 S. 24th St., Omaha, 11000887

NORTH CAROLINA

Brunswick County

New Hope Presbyterian Church, 800 Cherrytree Rd. NE., Winnabow, 11000888

Gaston County

City Hospital—Gaston Memorial Hospital, 401–405 N. Highland St., 810 Mauney Ave., Gastonia, 11000889

Polk County

Sunnydale, 334 S. Trade St., Tryon, 11000890

Randolph County

Asheboro Hosiery Mills and Cranford Furniture Company Complex, 133 & 139 S. Church St., 230 W. Academy Sts., Asheboro, 11000891

Wake County

Arndt, G. Dewey and Elma, House, 1428 Canterbury Rd., Raleigh, 11000892

Rochester Heights Historic District, (Post-World War II and Modern Architecture in Raleigh, North Carolina 1945–1965 MPS) Roughly bounded by Bailey Dr., Boaz Rd., Calloway Dr. & Garner Rd., Raleigh, 11000893

OKLAHOMA

Craig County

Carselowey House, 403 N. Gunter, Vinita, 11000894

Tulsa County

Blue Dome Historic District, (Route 66 and Associated Resources in Oklahoma AD MPS) Roughly between S. Kenosha & S. Detroit Aves., Frisco RR tracks, & E. 8th St., Tulsa, 11000895

Sophian Plaza, 1500 S. Frisco Ave., W., Tulsa, 11000896

TEXAS

Hidalgo County

Valley Fruit Company, 724 N. Cage Blvd., Pharr, 11000897

A request for removal has been made for the following resource:

OREGON

Clackamas County

Ertz, Charles W., House 1650 North Shore Rd., Lake Oswego, 92000081

[FR Doc. 2011–29949 Filed 11–18–11; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[Account Number: 1843–SZM]

Paterson Great Falls National Historical Park

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: As authorized by Section 7001 of the Omnibus Public Land Management Act of 2009, Public Law 111–11 (codified at 16 U.S.C. 410*lll*), the National Park Service announces that the Secretary of the Interior (Secretary) has established, in the State of New Jersey, Paterson Great Falls National Historical Park as a unit of the National Park System.

FOR FURTHER INFORMATION CONTACT: Gay Vietzke, Deputy Regional Director Park Operations, Northeast Regional Office, at (215) 597–4941.

SUPPLEMENTARY INFORMATION: Section 7001 of the Omnibus Public Land Management Act of 2009 (Pub. L. 111–11) includes a specific provision relating to establishment of this unit of the National Park System as follows:

(b) PATERSON GREAT FALLS NATIONAL HISTORICAL PARK.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), there is established in the State a unit of the National Park System to be known as the ''Paterson Great Falls National Historical Park''.

(B) CONDITIONS FOR ESTABLISHMENT.—The Park shall not be established until the date on which the Secretary determines that—

(i)(I) the Secretary has acquired sufficient land or an interest in land within the boundary of the Park to constitute a manageable unit; or

(II) the State or City, as appropriate, has entered into a written agreement with the Secretary to donate—

(aa) the Great Falls State Park, including facilities for Park administration and visitor services; or

(bb) any portion of the Great Falls State Park agreed to between the Secretary and the State or City; and

(ii) the Secretary has entered into a written agreement with the State, City, or other public entity, as appropriate, providing that—

(I) land owned by the State, City, or other public entity within the Historic District will be managed consistent with this section; and

(II) future uses of land within the Historic District will be compatible with the designation of the Park.

On November 7, 2011, the Secretary of the Interior, the Mayor of Paterson, New Jersey, and the Chairman of the Paterson Municipal Utilities Authority signed a written agreement specifying the donation of lands and general provisions for the management and uses of lands within the Historic District. The agreement includes language supporting the partners' commitment to completing a General Management Plan (GMP) for the park within three years and guidelines for general operation of the park until the GMP is completed. With the signing of this agreement by the Secretary, the site to be known as the ''Paterson Great Falls National Historical Park,'' was established as a unit of the National Park System, effective November 7, 2011, and subject to all laws, regulations, and policies pertaining to such units.

Dated: November 9, 2011.

Margaret G. O'Dell,

Deputy Director, Operations.

[FR Doc. 2011–29947 Filed 11–18–11; 8:45 am]

BILLING CODE 4312–51–P

OFFICE OF MANAGEMENT AND BUDGET

Calendar Year 2011 Cost of Outpatient Medical, Dental, and Cosmetic Surgery Services Furnished by Department of Defense Medical Treatment Facilities; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: By virtue of the authority vested in the President by section 2(a) of Public Law 87–603 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget (OMB) by the President through Executive Order No. 11541 of July 1, 1970, the rates referenced below are hereby established. These rates are for use in connection with the recovery from tortiously liable third persons for the cost of outpatient medical, dental, and cosmetic surgery services furnished by military treatment facilities through the Department of Defense (DoD). The rates were established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The outpatient medical, dental, and cosmetic surgery services rates referenced are effective upon publication of this notice in the **Federal Register** and will remain in effect until further notice. Pharmacy rates are updated periodically. Previously published inpatient rates remain in effect until further notice. A full disclosure of the rates is posted at the DoD's Uniform Business Office Web site: *http://www.tricare.mil/ocfo/mcfs/ubo/mhs_rates/outpatient.cfm.* The rates can be found at: *http://www.tricare.mil/ocfo/mcfs/ubo/mhs_rates.cfm.*

Jacob J. Lew,

Director.

[FR Doc. 2011–29714 Filed 11–18–11; 8:45 am]

BILLING CODE P

THE NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Proposed Collection, Laura Bush 21st Century Librarian Grant Program Evaluation

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 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. 3508(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 Institute of Museum and Library Services is soliciting comments concerning the proposed study of the impacts of the Laura Bush 21st Century Librarian Grant Program.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before January 15, 2012. IMLS is particularly interested in comments that help the agency to:

• 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: Matthew Birnbaum, Ph.D., Evaluation and Research Officer, Institute of Museum and Library Services, 1800 M St., NW., Washington, DC 20036. Telephone: (202) 653–4647, Fax: (202) 653–4611 or by email at *mbirnbaum@imls.gov* or by 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 is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Public Law 104–208 and is the primary source of federal support for the nation's 123,000 libraries and 17,500 museums. The 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. Museums and libraries of all sizes and types may receive support from IMLS programs. In the Museum and Library Services Act of 2010, IMLS is charged with the responsibility of identifying national needs for, and trends of, museum and library services; reporting on the impact and effectiveness of programs conducted with funds made available by the Institute in addressing such needs; and identifying, and disseminating information on, the best practices of such programs. This solicitation is to develop plans to conduct a program evaluation of the Laura Bush 21st Century Librarian Grant Program which began in 2003.

II. Current Actions

The Institute of Museum and Library Services, in accordance with the Museum and Library Services Act of 2010, is authorized to identify needs and trends of museum and library services, report on the impact and effectiveness, and identify best practices of programs conducted with funds made available by the Institute. Current research initiatives include analysis of grants made to educational and training programs by the Laura Bush 21st Century Librarian Grant Program between 2003 and 2007 to assess the outcomes and impact of such grants on the Nation's librarian workforce, institutions, and their communities. IMLS proposes to collect qualitative and quantitative information from grant recipients and program participants via interviews and a web-based survey. Relevant information includes but is not limited to: The planning process of the grant program; recruiting methods; challenges and lessons learned; programmatic outcomes; and placements of program participants. The information IMLS collects will build on, but not duplicate existing or ongoing collections.

Agency: Institute of Museum and Library Services.

Title: Laura Bush 21st Century Librarian Grant Program Evaluation.

OMB Number: To be determined.

Agency Number: 3137.

Frequency: One time.

Affected Public: Libraries, Educational Institutions, Grant Recipients, and Program Participants.

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: Matthew Birnbaum, Evaluation and Research Officer, Office of Planning, Research and Evaluation, Institute of Museum and Library Services, 1800 M St., NW., Washington, DC 20036, *email: mbirnbaum@imls.gov,* telephone (202) 653–4760.

Dated: November 15, 2011.

Kim Miller,

Management Analyst, Office of Policy, Research and Evaluation.

[FR Doc. 2011–29942 Filed 11–18–11; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL SCIENCE FOUNDATION

Request for Comments on the Intent To Conduct an Evaluation of the Scientists and Engineers Statistical Data System (SESTAT)

AGENCY: National Science Foundation.

ACTION: Notice of availability.

SUMMARY: This notice announces the intent of the National Center for Science and Engineering Statistics (NCSES) at the National Science Foundation (NSF) to conduct an evaluation of the designs for two of the three surveys that comprise the Scientists and Engineers Statistical Data System (SESTAT). This notice is in response to recent improvements to the design of the National Survey of College Graduates (NSCG) that potentially offset the further need for the National Survey of Recent College Graduates (NSRCG).

As part of this evaluation, the NCSES is: (1) Investigating the possibility of discontinuing the information collection for the NSRCG; (2) examining the use of the American Community Survey (ACS) to increase the sample of young graduates within the NSCG; and (3) studying the impact of providing data on young graduates rather than recent graduates.

SESTAT is a unique source of longitudinal information on the education and employment of the college-educated U.S. science and engineering (S&E) workforce. These data are collected through three biennial surveys: The NSCG, the NSRCG, and the Survey of Doctorate Recipients (SDR). The NSCG is the core of SESTAT providing data from a nationally representative sample of U. S. scientists and engineers with at least a bachelor's degree. The NSRCG supplements SESTAT with an inflow of recent college graduates in S&E degree fields. The SDR further supplements SESTAT with the stock and inflow of U.S. earned doctoral level scientists and engineers.

Prior to the recent improvements to the NSCG, the NSRCG was the only source of data for the inflow of recent college graduates in S&E fields. Prior to the 2010 survey cycle, the NSCG selected its sample of college graduates once a decade from the decennial census long form and relied on the NSRCG to maximize coverage of the underlying S&E workforce. In the 2010 survey cycle, the NCSES redesigned the NSCG as a nationally representative rotating panel survey of college graduates based on biennial samples drawn from the ACS. The inclusion of a field of degree question on the ACS allows the NSCG to efficiently sample college graduates in S&E degree fields. In addition, the ongoing nature of the ACS allows the NSCG to provide coverage of the inflow of new college graduates to each new panel. This improvement in coverage allows the NSCG to provide biennial estimates of young college graduates in S&E degree fields and, as a result, potentially offsets the further need for conducting the biennial NSRCG.

It should be noted that the potential design changes being considered for SESTAT will not result in any change in the population covered by SESTAT, nor will it have an impact on race/ethnicity and other diversity data produced by SESTAT. The potential design changes, however, could impact the precision level for SESTAT estimates of the recent graduates population. Since the NSRCG sample selection targets recent college graduates and the NSCG sample selection targets young college graduates, the evaluation will examine the impact of providing data on young graduates rather than recent graduates.

The NCSES is interested in all comments, especially from government policy makers, academic researchers, and NSRCG data users that specify concerns related to the possibility of discontinuing the NSRCG.

DATES: Send your written comments by January 20, 2012.

ADDRESSES: Send your written comments to Dr. Lynda T. Carlson, Director, National Center for Science and Engineering Statistics, National Science Foundation, 4201 Wilson Blvd., Room 965, Arlington, VA 22230. Send email comments to *lcarlson@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Lynda T. Carlson, Director, National Center for Science and Engineering Statistics, National Science Foundation, at (703) 292–7766, or email at *mailto:lcarlson@nsf.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

The NSF has been responsible for providing information about the nation's scientists and engineers for over 60 years. NSF's Scientists and Engineers Statistical Data System (SESTAT) originally was developed in response to recommendations from the 1989 National Academies Committee on National Statistics (CNSTAT) report, *Surveying the Nation's Scientists and Engineers—A Data System for the 1990s.* Prior to the 2010 survey cycle, the NSCG selected its sample from the decennial census long form to provide a baseline for a longitudinal cohort study of college graduates residing in the United States over the decade. The NSRCG was used to biennially update the NSCG cohort over the decade with more recent college graduates in S&E degree fields. On a per case basis, the NSRCG is the most expensive of the three SESTAT surveys due to its two-stage sampling design (stage 1 is a sample of academic institutions and stage 2 is a sample of S&E bachelor's and master's graduates) and the difficulty of tracking its highly mobile target population. Nonetheless, without the NSRCG, SESTAT would not have been able to provide data for recent college graduates in S&E degree fields.

In the 2008 National Academies CNSTAT report, *Using the American Community Survey for the National Science Foundation's Science and Engineering Workforce Statistics* Program, Recommendation 7.5 reads: ''The NSF should use the opportunity afforded by the introduction of the ACS as a sampling frame to reconsider the design of the SESTAT Program and the contents of its component surveys.'' Recommendation 7.5 stemmed from the discontinuation of the decennial census long form by the Census Bureau, the availability of the ACS as a sampling frame, and the addition of a question to the ACS requesting respondents' field of bachelor's degree.

The change to an ACS-based sample design for the NSCG allows the NSF an opportunity to rethink SESTAT, particularly whether the NSRCG is the most efficient and timely way to obtain information on the inflow of new graduates. Moving forward, a data system that would no longer require the NSRCG is a potential option. In place of the discontinued NSRCG, one possibility is to utilize an enhanced NSCG with an increased sample of young college graduates in S&E degree fields.

B. Request for Comments

NCSES is seeking additional information from the public. Governmental policy makers, academic researchers, NSRCG data users, and other interested parties are encouraged to participate by submitting comments. Official address, contact, and due date for submitting comments are stated above.

Dated: November 15, 2011.

Lynda Carlson,

Director, National Center for Science and Engineering Statistics.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2011–29989 Filed 11–18–11; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0265]

NUREG–1556, Volume 2, Revision 1, ''Consolidated Guidance About Materials Licenses Program-Specific Guidance About Industrial Radiography Licenses;'' Draft Guidance for Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is revising its licensing guidance for industrial radiography licensees. The NRC has issued for public comment a document entitled: NUREG–1556, Volume 2, Revision 1, ''Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Industrial Radiography Licenses, Draft Report for Comment.''

The document has been updated to include safety culture, security of radioactive materials, protection of sensitive information, an appendix on lay-barges and offshore radiography, and incorporated changes in regulatory policies and practices.

The NRC originally published NUREG–1556, Volume 2, ''Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Industrial Radiography Licenses'' in August 1998. This document is intended for use by applicants, licensees, and NRC staff and will also be available to Agreement States.

DATES: Please submit comments by January 13, 2012. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2011–0265 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see ''Submitting Comments and Accessing Information'' in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web Site:* Go to http://www.regulations.gov and search for documents filed under Docket ID NRC–2011–0265. Address questions about NRC dockets to Carol Gallagher, telephone: (301) 492–3668; email: *Carol.Gallagher@nrc.gov.*

• *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

• *Fax comments to:* RADB at (301) 492–3446.

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

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

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

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

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

• *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–(800) 397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov*. The NUREG–1556, Volume 2, Revision 1, ''Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Industrial Radiography Licenses, Draft Report for Comment'' is available electronically under ADAMS Accession Number ML11312A123.

• *Federal Rulemaking Web Site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2011–0265.

FOR FURTHER INFORMATION CONTACT: Tomas Herrera, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs, telephone (301) 415–7138, *email: Tomas.Herrera@nrc.gov*.

NRC's Public Web site: The document will also be posted on NRC's public Web Site at: (1) *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/* on the ''Consolidated guidance About Materials Licenses (NUREG–1556)'' under Volume 2, Revision 1 and (2) *http://www.nrc.gov/reading-rm/doc-collections/nuregs/docs4comment.html* on the ''Draft NUREG–Series Publications for Comment.''

Dated at Rockville, Maryland, this 10th day of November 2011.

For the Nuclear Regulatory Commission.

James Luehman,

Deputy Director, Licensing and Inspection Directorate, Division of Materials Safety and State Agreements. Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2011–29986 Filed 11–18–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0266]

Draft Interim Staff Guidance: Evaluations of Uranium Recovery Facility Surveys of Radon and Radon Progeny in Air and Demonstrations of Compliance

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of draft staff interim guidance for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft Interim Staff Guidance, ''Evaluations of Uranium Recovery Facility Surveys of Radon and Radon Progeny in Air and Demonstrations of Compliance with 10 CFR 20.1301.'' This Interim Staff Guidance provides guidance to the NRC staff for evaluating uranium recovery licensee demonstrations of compliance with the public dose limits of Title 10 of the *Code of Federal Regulations* (10 CFR) 20.1301.

DATES: Submit comments by January 20, 2012. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2011–0266 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see ''Submitting Comments and Accessing Information'' in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0266. Address questions about NRC dockets to Carol Gallagher, telephone: (301) 492–3668; email: *Carol.Gallagher@nrc.gov*.

• *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

• *Fax comments to:* RADB at (301) 492–3446.

FOR FURTHER INFORMATION CONTACT: Duane Schmidt, Office of Federal and State Materials and Environmental Management Programs, Division of Waste Management and Environmental Protection, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–6919, email: *Duane.Schmidt@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

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

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

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

• *NRC's Public Document Room (PDR):* The public may examine and

have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–(800) 397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov*. The draft Staff Interim Guidance is available electronically under ADAMS Accession Number ML112720481.

• *Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2011–0266.

Discussion

Uranium recovery facility licensees, including in-situ recovery facilities and conventional uranium mills, are required to perform surveys of radiation levels in unrestricted and controlled areas, and to perform surveys of radioactive materials in effluents released to unrestricted and controlled areas to demonstrate compliance with the dose limits for individual members of the public provided in 10 CFR 20.1301. NRC regulations in 10 CFR 20.1302 permit alternative approaches in surveys and assessments used to demonstrate compliance with the public dose limits.

The NRC has recognized that existing guidance does not sufficiently detail how the NRC staff reviews surveys of radon and demonstrations of dose to members of the public due to releases of radon from operations of licensed uranium recovery facilities. This draft guidance is intended to document the criteria to be used by NRC staff to review radon surveys and demonstrations of dose to members of the public submitted by licensees under 10 CFR 20.1302 to demonstrate compliance with the public dose limits of 10 CFR 20.1301. Specifically, this document provides guidance to the NRC staff for reviewing licensee determinations of doses to members of the public from radon-222 and radon-222 progeny from UR facilities including: (1) Surveys of environmental and effluent radon and radon progeny in air; and (2) radon-related aspects of demonstrations of compliance with the NRC's public dose limits of 10 CFR 20.1301. This guidance may also be used by NRC staff in evaluating portions of license applications, renewals, or amendments dealing with radon and radon progeny surveys and compliance.

Dated at Rockville, Maryland, this 10th day of November, 2011.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2011–29987 Filed 11–18–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304; NRC–2011–0244]

ZionSolutions, LLC; Zion Nuclear Power Station, Units 1 and 2; Exemption From Certain Security Requirements

1.0 Background

Zion Nuclear Power Station (ZNPS or Zion), Unit 1, is a Westinghouse 3250 MWt Pressurized Water Reactor, which was granted Operating License No. DPR–39 on October 19, 1973, and subsequently shut down on February 21, 1997. Zion, Unit 2, is also a Westinghouse 3250 MWt Pressurized Water Reactor, which was granted Operating License No. DPR–48 on November 14, 1973, and was shut down on September 19, 1996. Zion is located in Lake County, Illinois.

In February 1998, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 50.82(a)(1)(i), the licensee certified to the U.S. Nuclear Regulatory Commission (NRC or the Commission) that as of February 13, 1998, operations had ceased at Zion, Units 1 and 2. The licensee later certified, pursuant to 10 CFR 50.82(a)(1)(ii), that all fuel had been removed from the reactor vessel of both units, and committed to maintain the units in a permanently defueled status. Therefore, pursuant to 10 CFR 50.82(a)(2), operations at Zion are no longer authorized under the 10 CFR part 50 licenses.

On September 1, 2010, the facility license was transferred from Exelon to *ZionSolutions* for the express purpose of expediting the decommissioning of the site. *ZionSolutions* intends to use a process that will reduce the labor-intensive separation of contaminated materials and transport the facility in bulk to the Energy*Solutions* disposal site in Utah. Preparations for decontamination and dismantlement have begun. Completion of fuel transfer to the independent spent fuel storage installation (ISFSI) is scheduled for 2014. Final site survey and license reduction to the ISFSI is currently planned for 2020.

2.0 Request/Action

Section 50.54(p)(1) of Title 10 of the Code of Federal Regulations states, ''The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C of Part 73 of this chapter for affecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan.''

Part 73 of Title 10 of the Code of Federal Regulations, ''Physical Protection of Plant and Materials,'' provides, ''This part prescribes requirements for the establishment and maintenance of a physical protection system which will have capabilities for the protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used.'' In Section 73.55, entitled ''Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,'' paragraph (b)(1) states, ''The licensee shall establish and maintain a physical protection program, to include a security organization, which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.''

The NRC revised 10 CFR 73.55, in part to include the preceding language, through the issuance of a final rule on March 27, 2009. The revised regulation stated that it was applicable to all Part 50 licensees. The NRC became aware that many Part 50 licensees with facilities in decommissioning status did not recognize the applicability of this regulation to their facility. Accordingly, the NRC informed licensees with facilities in decommissioning status and other stakeholders that the requirements of 10 CFR 73.55 were applicable to all Part 50 licensees. By letter dated August 2, 2010, the NRC informed *ZionSolutions* of the applicability of the revised rule and that it would have to comply with the revised rule or request an exemption.

By letter dated December 2, 2010, *ZionSolutions* responded to the NRC's letter and requested exemptions from

certain security requirements in 10 CFR Part 73.

3.0 Discussion

Pursuant to 10 CFR 73.5, ''Specific exemptions,'' the Commission may grant exemptions from the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The NRC evaluated the proposed exemptions and documented the review in a Safety Evaluation which contains security related information and has been withheld from public disclosure pursuant to 10 CFR 2.390(d)(1)

On the basis of Commission policy, NRC security orders, and ongoing staff activities, the Commission determined the following requested exemptions to the current 10 CFR 73.55 are approved: Target Sets, Insider Mitigation Program, Waterway Approaches, Owner Controlled Areas Searches, PA Searches, Weapons Training, and Personnel Equipment.

These exemptions meet the high assurance requirements and the general performance objectives of 10 CFR 73.55 considering the permanently shut down and defueled conditions at the ZNPS where all of the nuclear fuel is located within the spent fuel pool. With respect to the proposed exemption requests: (1) There is reasonable assurance that the health and safety of the public will not be endangered by granting said exemptions; (2) such activities will be conducted in compliance with the Commission's regulations and orders; and (3) the approval of these exemptions will not be inimical to the common defense and security or the health and safety of the public. Accordingly, the staff has determined that, pursuant to 10 CFR 73.5, these exemptions are authorized by law and are otherwise in the public interest.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, an exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest based on permanently shut down and defueled conditions at the ZNPS. Therefore, the Commission hereby grants *ZionSolutions* an exemption from the requirements of 10 CFR part 73 delineated in §§ 73.55(b)(4), 73.55(f), 73.55(i)(5)(vi), 73.55(b)(9), 73.55(e)(10)(ii), 73.55(h)(2), 73.55(h)(3)(i), and Appendixes B.III and B.V.

Part of this licensing action meets the categorical exclusion provision in 10 CFR Part 51.22(c)(25), as part of this action is an exemption from the requirements of the Commission's regulations and (i) There is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve safeguard plans. Therefore, this part of the action does not require either an environmental assessment or an environmental impact statement.

Pursuant to 10 CFR 51.21, 51.32, and 51.35, an environmental assessment and finding of no significant impact related to part of this exemption was published in the **Federal Register** on October 21, 2011 (76 FR 65541). Based upon the environmental assessment, the Commission has determined that issuance of this exemption will not have a significant effect on the quality of the human environment.

These exemptions are effective immediately.

Dated at Rockville, Maryland, this 10th day of November 2011.

For the U.S. Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2011–29983 Filed 11–18–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–271 and 50–458; NRC–2009–0572; License Nos. DPR–28 and NPF–47]

Entergy Nuclear Operations, Inc., Entergy Operations, Inc., Entergy Nuclear Vermont Yankee, LLC, Entergy Gulf States Louisiana, LLC; Notice of Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC or the Commission), has issued a Director's Decision on a petition filed by Mr. Sherwood Martinelli (hereafter referred to as the Petitioner). Electronic transmissions sent on December 22, 2009, and December 28, 2009, amended the original petition, dated August 22, 2009. The petition concerns the operation of the River Bend Station, Unit 1, owned by Entergy Gulf States Louisiana, LLC, and operated by Entergy Operations, Inc., and the operation of the Vermont Yankee Nuclear Power Station owned by Entergy Nuclear Vermont Yankee, LLC, and operated by Entergy Nuclear Operations, Inc.

The Petitioner requested that the NRC; (1) suspend the operating license of any Entergy Nuclear Operations, Inc., or Entergy Operations, Inc. (both corporations hereafter referred to as Entergy), nuclear power plant with a projected shortfall in its decommissioning trust funds; (2) take action to ensure that the licensee rectify any shortfalls in the decommissioning trust funds; and (3) take additional actions that include imposing daily fines, suspending all Entergy-related filings before the Commission, and ordering the licensee's compliance with all NRC regulations.

Based on the original petition dated August 22, 2009, the Petitioner expressed his belief that Entergy deliberately mismanaged its decommissioning trust funds and knowingly provided false financial documentation supporting filings before the Commission and that the NRC staff was complicit in these actions. The Petitioner noted that the biennial decommissioning funding assurance reports submitted by Entergy in March 2009 for its fleet of nuclear reactors had projected shortfalls totaling hundreds of millions of dollars. The Petitioner requested a number of actions, including suspending the operating licenses of all Entergy facilities with projected shortfalls until the licensee restores the decommissioning funds to the minimum levels required by NRC regulations.

Based on the December 22, 2009, request that amended the original petition, the Petitioner expressed his belief that, because the NRC's Petition Review Board accepted his petition with respect to Vermont Yankee Nuclear Power Station and River Bend Station, the NRC had effectively acknowledged violations by Entergy and that the NRC was remiss in not taking immediate enforcement actions. The Petitioner asked the NRC to impose daily fines on Entergy and to release all financial documentation provided by Entergy that the agency relied on when determining

whether adequate decommissioning funds would exist.

Based on the December 28, 2009, request that amended the original petition, the Petitioner expressed his belief that allowing Entergy to rely on SAFSTOR to accumulate decommissioning funds for Indian Point Nuclear Generating, Unit No. 2, is unacceptable. The Petitioner asked the NRC to impose additional enforcement on Entergy that would result in either the withdrawal of its license renewal applications or the imposition of a $5 billion fine, along with a statement by Entergy acknowledging that it had submitted false and inaccurate financial statements on its decommissioning funding assurance.

The NRC sent a copy of the proposed Director's Decision to the Petitioner and Entergy for comment on September 8, 2011. The agency received comments from Entergy and incorporated them into the final Director's Decision. The agency did not receive any comments from the Petitioner.

The Director of the Office of Nuclear Reactor Regulation denied the Petitioner's request to suspend the operating licenses of the Entergy facilities that have projected shortfalls in their decommissioning trust funds and denied the Petitioner's request that the NRC take certain actions to ensure that the licensee rectifies any shortfalls in the decommissioning trust funds and take other actions to ensure the integrity of the decommissioning trust funds. These actions included suspending all licensing actions for Entergy facilities, ordering immediate actions by Entergy to redress the projected shortfalls, and imposing daily fines until the licensee has deposited adequate funds to make the decommissioning funds fully whole. The Director of the Office of Nuclear Reactor Regulation granted the Petitioner's request that the agency make available to the Petitioner all data and information presented by Entergy and used by the NRC staff to decide whether facilities operated by Entergy have adequate decommissioning funds as required by the regulations. All information supplied by Entergy and used by the staff is publicly available in the Agencywide Documents Access and Management System (ADAMS). The Director's Decision (DD–11–07) under Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206, ''Requests for Action under This Subpart,'' explains the reasons for these decisions. The complete text is available in ADAMS under Accession No. ML112870542 for inspection at the Commission's Public Document Room located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, MD, and online in the NRC library at *http://www.nrc.gov/reading-rm.html.*

The NRC will file a copy of the Director's Decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206. As a provision of this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 8th day of November 2011.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–29985 Filed 11–18–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0267]

Receipt of Request for Action

Notice is hereby given that by petition dated July 29, 2011, David Lochbaum (petitioner) has requested that the U.S. Nuclear Regulatory Commission (NRC or the Commission) take action to issue a Demand for Information (DFI) of all boiling-water reactor nuclear power reactors with Mark I or Mark II containment designs.

As the basis for this request, the petitioner states that, during an accident scenario, the spent fuel pools have the potential to impact other plant equipment. The petitioner has requested that the DFI compel the subject licensees to demonstrate that the plant systems are capable of removing the combined heat loads from the reactor building during an accident, including the heat load from the spent fuel pool. Additionally, the petitioner requested that the DFI compel the subject licensees to demonstrate that, if the spent fuel pool were to boil, the equipment that would be exposed to additional temperature, humidity, and submergence conditions would be able to perform its design function.

The request is being treated pursuant to Title 10 of the *Code of Federal Regulations* Section 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation (NRR). As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. The petitioner declined an opportunity to address the NRR Petition Review Board (PRB). After meeting internally, the PRB acknowledged the petitioner's concern about the impact of spent fuel pools during an accident, noting that this concern is consistent with the NRC's mission of protecting public health and safety. Additionally, the PRB noted that the effects of the spent fuel pool during an accident are undergoing NRC review as part of the lessons-learned from the Fukushima event. The PRB intends to use the results of the Fukushima review to inform its final decision on whether to implement the requested actions.

A copy of the petition (Agencywide Documents Access and Management System Accession No. ML11213A030) is available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–(800) 397–4209 or (301) 415–4737, or by email to *PDR.Resource@nrc.gov.*

Dated at Rockville, Maryland, this November 10, 2011.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–29988 Filed 11–18–11; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Notice—December 8, 2011 Board of Directors Meeting

DATES: *Time and Date:* Thursday, December 8, 2011, 10 a.m. (Open Portion), 10:15 a.m. (Closed Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC.

STATUS: Meeting open to the Public from 10 a.m. to 10:15 a.m.; Closed portion will commence at 10:15 a.m. (approx.).

MATTERS TO BE CONSIDERED:

1. President's Report.
2. Tribute:
   C. William Swank, Samuel E. Ebbesen, Diane Ingles Moss, Patrick

J. Durkin, Deborah Burand.

3. Confirmation:

Don S. De Amicis as Vice President and General Counsel.

4. Minutes of the Open Session of the September 22, 2011 Board of Directors Meeting.

5. Minutes of the Open Session of the October 27, 2011 Board of Directors Meeting.

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 10:15 a.m.):

1. Reports.

2. Insurance Project—Middle East and Africa.

3. Finance Project—Maghreb and North Africa.

4. Minutes of the Closed Session of the September 22, 2011 Board of Directors Meeting.

5. Minutes of the Closed Session of the October 27, 2011 Board of Directors Meeting.

6. Pending Major Projects.

Written summaries of the projects to be presented will be posted on OPIC's Web site on or about November 17, 2011.

FOR FURTHER INFORMATION CONTACT: *Contact Person for Information:* Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

November 17, 2011.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 2011–30084 Filed 11–17–11; 11:15 am]

BILLING CODE 3210–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; 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) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection 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.

Title and purpose of information collection: Evidence of Marital Relationship, Living with Requirements; OMB 3220–0021.

To support an application for a spouse or widow(er)'s annuity under Sections 2(c) or 2(d) of the Railroad Retirement Act, an applicant must submit proof of a valid marriage to a railroad employee. In some cases, the existence of a marital relationship is not formalized by a civil or religious ceremony. In other cases, questions may arise about the legal termination of a prior marriage of the employee, spouse, or widow(er). In these instances, the RRB must secure additional information to resolve questionable marital relationships. The circumstances requiring an applicant to submit documentary evidence of marriage are prescribed in 20 CFR 219.30.

In the absence of documentary evidence, the RRB needs to determine if a valid marriage existed between a spouse or widow(er) annuity applicant and a railroad employee. The RRB utilizes Forms G–124, Individual Statement of Marital Relationship; G–124a, Certification of Marriage Information; G–237, Statement Regarding Marital Status; G–238, Statement of Residence; and G–238a, Statement Regarding Divorce or Annulment, to secure the needed information. One response is requested of each respondent. Completion is required to obtain benefits. The RRB proposes no changes to the forms in the collection.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–124 (in person)	125	15	31
G–124 (by mail)	75	20	25
G–124a	300	10	50
G–237 (in person)	75	15	19
G–237 (by mail)	75	20	25
G–238 (in person)	150	3	8
G–238 (by mail)	150	5	13
G–238a	150	10	25
Total	1,100		196

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Charles Mierzwa, the RRB Clearance Officer, at (312) 751–3363 or *Charles.Mierzwa@RRB.GOV.* Comments regarding the information collection should be addressed to Patricia Henaghan, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or emailed to *Patricia.Henaghan@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 2011–29965 Filed 11–18–11; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 6e–2 and Form N–6EI–1; SEC File No. 270–177; OMB Control No. 3235–0177.

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'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 6e–2 (17 CFR 270.6e–2) under the Investment Company Act of 1940 (''Act'') (15 U.S.C. 80a) is an exemptive rule that provides separate accounts formed by life insurance companies to fund certain variable life insurance products, exemptions from certain provisions of the Act, subject to conditions set forth in the rule. The rule sets forth several information collection requirements.

Rule 6e–2 provides a separate account with an exemption from the registration provisions of section 8(a) of the Act if the account files with the Commission Form N–6EI–1 (17 CFR 274.301), a notification of claim of exemption.

The rule also exempts a separate account from a number of other sections of the Act, provided that the separate account makes certain disclosure in its registration statements (in the case of those separate account that elect to register), reports to contract holders, proxy solicitations, and submissions to state regulatory authorities, as prescribed by the rule.

Paragraph (b)(9) of rule 6e–2 provides an exemption from the requirements of section 17(f) of the Act and imposes a reporting burden and certain other conditions. Section 17(f) requires that every registered management company meet various custody requirements for its securities and similar investments. The exemption provided in paragraph (b)(9) applies only to management accounts that offer life insurance contracts.

Since 2008, there have been no filings under paragraph (b)(9) of rule 6e–2 by management accounts. Therefore, there has been no cost or burden to the industry regarding the information collection requirements of paragraph (b)(9) of rule 6e–2. In addition, there have been no filings of Form N–6EI–1 by separate accounts. The Commission requests authorization to maintain an inventory of one burden hour for administrative purposes.

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 public may view the background documentation for this information collection at the following Web site, *http://www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) 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 email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: November 14, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–29873 Filed 11–18–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65744; File No. SR–C2–2011–034]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Quote Risk Monitor Mechanism

November 14, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 7, 2011, the C2 Options Exchange, Incorporated (''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b-4(f)(6) thereunder.[4] 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 adopt Rule 8.12 *Quote Risk Monitor Mechanism.* The text of the proposed rule change is available on the Exchange's Web site (*http://www.c2exchange.com/Legal/RuleFilings.aspx*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Through this rule change, the Exchange proposes to codify in its rules a service the Exchange offers to help Market-Makers manage their quotations. C2 Rules require Market-Makers to maintain continuous electronic quotes.[5] To comply with this requirement, each Market-Maker can employ its own proprietary quotation and risk management systems to determine the prices and sizes at which it quotes.

A Market-Maker's risk in an options class is not limited to the risk in a single series of that class. Rather, a Market-Maker typically is active in quoting in multiple option classes, and each such option class can comprise dozens of individual option series. On C2, trades are automatically effected against a Market-Maker's then current quote. As a result, a Market-Maker faces exposure in all series of a class, requiring that the Market-Maker off-set or otherwise hedge its overall position in a class. The QRM functionality helps Market-Makers limit this overall exposure and risk. Specifically, the functionality permits a Market-Maker to establish parameters in the system to cancel its electronic quotes in all series of an option class until the Market-Maker refreshes those electronic quotes.

Under proposed Rule 8.12, each Market-Maker that elect to use the functionality would be required to specify two parameters that the QRM Mechanism would use to determine

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] See C2 Rule 8.5(a)(1).

when that Market-Maker's quotes should be cancelled. In particular, each Market-Maker is required to specify a maximum number of contracts for each option class (the ''Contract Limit'') and a rolling time period in seconds during which such Contract Limit is to be measured (the ''Measurement Interval'').

When the QRM Mechanism determines that the Market-Maker has traded more than the Contract Limit for any option class during any rolling Measurement Interval, the QRM Mechanism automatically cancels all of the Market-Maker's quotes in any series of that option class. By limiting its exposure across series, a Market-Maker is better able to quote aggressively in an option, knowing that the QRM Mechanism will automatically cancel all its quotations in a class when its exposure limit is hit.

The Exchange notes that the proposed rule would not relieve a Market-Maker of its obligations to provide continuous electronic quotes under the Exchange rules [6] nor to provide ''firm'' quotes pursuant to the requirements of Exchange Rule 8.6. The Exchange also notes that the proposed rule is based on Chicago Board Options Exchange, Incorporated (''CBOE'') Rule 8.18 (Quote Risk Monitor Mechanism).

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') for this proposed rule change is the requirement under Section 6(b)(5) [7] that an exchange have rules that are designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes the proposed change is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism for a free and open market and national market system because the rule change would provide a mechanism that would allow C2 Market-Makers to more effectively and efficiently manage their quotations. Knowing that a helpful quote management tool is in place would, in turn, allow those Market-Makers to quote more aggressively which removes impediments to a free and open market and benefits all C2 users.

[6] See C2 Rule 8.5(a)(1).

[7] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) [8] of the Act and Rule 19b–4(f)(6) thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change 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 Exchange 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 Email to *rule-comments@sec.gov.* Please include File No. SR–C2–2011–034 in the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2011–034. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2011–034 and should be submitted by December 12, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–29871 Filed 11–18–11; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65749; File No. SR–MSRB–2011–09]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 2, Consisting of Proposed Interpretive Notice Concerning the Application of MSRB Rule G–17, on Conduct of Municipal Securities and Municipal Advisory Activities, to Underwriters of Municipal Securities

November 15, 2011.

On August 22, 2011, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of a proposed interpretive notice concerning the application of MSRB Rule G–17 (on conduct of municipal securities and municipal advisory activities to underwriters of municipal securities). The proposed rule change was published for comment in the **Federal Register** on September 9, 2011.[3] The Commission received 5 comment letters.[4] On October 11, 2011, the MSRB extended the time period for Commission action to December 7, 2011. On November 3, 2011, MSRB filed Amendment No. 1 to the proposed rule change. On November 10, 2011, MSRB withdrew Amendment No. 1, responded to comments in a letter,[5] and filed Amendment No. 2 to the proposed rule change. The proposed rule change, as modified by Amendment No. 2, is described in Items I and II below, which items have been prepared by MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing with the SEC the Amendment to File No. SR–MSRB–2011–09, originally filed on August 22, 2011 (the ''original proposed rule change''). The Amendment amends and restates the original proposed rule change consisting of a proposed interpretive notice (the ''Notice'') concerning the application of MSRB Rule G–17 (on conduct of municipal securities and municipal advisory activities) to underwriters of municipal securities (as amended, the ''proposed rule change''). A detailed description of the provisions of the Notice is set forth below. The MSRB has requested that the proposed rule change be made effective 90 days after approval by the Commission.

The text of the proposed rule change is available on the MSRB's Web site at *http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2011-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) With the passage of the Dodd-Frank Act, the MSRB was expressly directed by Congress to protect municipal entities. Accordingly, the MSRB is proposing to provide additional interpretive guidance that addresses how Rule G–17 applies to dealers in the municipal securities activities described below.

Scope of Notice

As clarified by the Amendment, the Notice would concern the duties of underwriters to municipal entity issuers of municipal securities (''issuers''). It would not address the duties of underwriters to obligated persons. The Notice would not apply to selling group members and, unless otherwise specified, the Notice would apply only to negotiated underwritings and not to competitive underwritings.

Role of the Underwriter/Conflicts of Interest

The Amendment would add a new section to the Notice, which would provide for robust disclosure by an underwriter as to its role, its compensation, and actual or potential material conflicts of interest. The disclosure would build on the disclosure already required by the Rule G–23 interpretive notice approved by the Commission in May of this year.[6] Certain of the required disclosures could be made by a syndicate manager on behalf of other syndicate members. The Notice would also prohibit an underwriter from recommending that the issuer not retain a municipal advisor.

The required disclosures would generally be required to be made at the time the underwriter is engaged to provide underwriting services and to be made to an official of the issuer with the power to bind the issuer by contract with the underwriter. The disclosure concerning the arm's-length nature of the underwriter-issuer relationship would continue to be required to be made at the earliest stages of the underwriter-issuer relationship, as required by the Rule G–23 interpretive notice. In the case of disclosures triggered by recommendations as to particular financings, as under the original proposed rule change, the disclosures would be required to be provided in sufficient time before the execution of a contract with the underwriter to allow the official to evaluate the recommendation. The disclosures required in the Notice under ''Role of the Underwriter/Conflicts of Interest/Other Conflicts Disclosures'' were included in the original proposed rule change. Pursuant to the Amendment, they would simply be included in the list of required disclosures, so that underwriters reviewing the Notice would only need to look to one place to see all the required conflicts disclosures. The underwriter would be required to attempt to obtain the written acknowledgement of the issuer to the required disclosures and, if the issuer would not provide such

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65263 (September 6, 2011), 76 FR 55989.

[4] *See* Letters from Joy A. Howard, Principal, WM Financial Strategies, dated September 30, 2011 (''Howard Letter''); Mike Nicholas, Chief Executive Officer, Bond Dealers of America, dated September 30, 2010 (''BDA Letter''); Colette J. Irwin-Knott, CIPFA, President, National Association of Independent Public Finance Advisors, dated September 30, 2011 (''NAIPFA Letter''); Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated September 30, 2011 (''SIFMA Letter''); and Susan Gaffney, Director, Federal Liaison Center, Government Finance Officers Association, dated October 3, 2011 (''GFOA Letter'').

[5] *See* letter from Margaret C. Henry, General Counsel, Market Regulation, MSRB, to Elizabeth M. Murphy, Secretary, Commission, dated November 10, 2011.

[6] *See* SEC Release No. 34–64564, File No. SR–MSRB–2011–03 (May 27, 2011).

acknowledgement, to document that fact.

Representations to Issuers. The Notice would provide that all representations made by underwriters to issuers of municipal securities in connection with municipal securities underwritings (*e.g.,* issue price certificates and responses to requests for proposals), whether written or oral, must be truthful and accurate and may not misrepresent or omit material facts.

Required Disclosures to Issuers. As clarified by the Amendment, the Notice would provide that an underwriter of a negotiated issue that recommends a complex municipal securities transaction or product (*e.g.,* a variable rate demand obligation with a swap) to an issuer has an obligation under Rule G–17 to disclose all financial material risks (*e.g.,* in the case of a swap, market, credit, operational, and liquidity risks) known to the underwriter and reasonably foreseeable at the time of the disclosure, financial characteristics (*e.g.,* the material economic terms of the swap, the material terms relating to the operation of the swap, and the material rights and obligations of the parties during the term of the swap), incentives, and conflicts of interest (*e.g.,* payments received from a swap provider) regarding the transaction or product. Underwriters would also be required to inform the issuer that there might be accounting, legal, and other risks associated with a swap and that the issuer should consult with other professionals concerning such risks. Such disclosure would be required to be sufficient to allow the issuer to assess the magnitude of its potential exposure as a result of the complex municipal securities financing. Disclosures concerning swaps would also be required to be made only as to the swaps recommended by underwriters. If an issuer decided to accept the recommendation of a swap provider other than the underwriter, the underwriter would have no disclosure obligation with regard to that other provider's swap.

In the case of routine financing structures, underwriters would be required to disclose the material aspects of the structures if the issuer personnel did not otherwise have knowledge or experience with respect to such structures. The Amendment would clarify that any disclosures required to be made with respect to routine financings would be based on the underwriter's ''reasonable belief'' that issuer personnel lack knowledge or experience with such structures and be linked to whether the underwriter had recommended the routine financing.

The disclosures would be required to be made in writing to an official of the issuer whom the underwriter reasonably believed had the authority to bind the issuer by contract with the underwriter (i) in sufficient time before the execution of a contract with the underwriter to allow the official to evaluate the recommendation and (ii) in a manner designed to make clear to such official the subject matter of such disclosures and their implications for the issuer. If the underwriter did not reasonably believe that the official to whom the disclosures were addressed was capable of independently evaluating the disclosures, the underwriter would be required to make additional efforts reasonably designed to inform the official or its employees or agent.[7]

Underwriter Duties in Connection with Issuer Disclosure Documents. The Notice would provide that a dealer's duty to have a reasonable basis for the representations it makes, and other material information it provides, to an issuer and to ensure that such representations and information are accurate and not misleading, as described above, extends to representations and information provided by the underwriter in connection with the preparation by the issuer of its disclosure documents (*e.g.,* cash flows).

New Issue Pricing and Underwriter Compensation. The Notice would provide that the duty of fair dealing under Rule G–17 includes an implied representation that the price an underwriter pays to an issuer is fair and reasonable, taking into consideration all relevant factors, including the best judgment of the underwriter as to the fair market value of the issue at the time it is priced. The Notice distinguishes the fair pricing duties of competitive underwriters (submission of *bona fide* bid based on dealer's best judgment of fair market value of securities) and negotiated underwriters (duty to negotiate in good faith). The Notice would provide that, in certain cases and depending upon the specific facts and circumstances of the offering, the underwriter's compensation for the new issue (including both direct compensation paid by the issuer and other separate payments or credits received by the underwriter from the issuer or any other party in connection with the underwriting) may be so disproportionate to the nature of the underwriting and related services performed, as to constitute an unfair practice that is a violation of Rule G–17.

Conflicts of Interest. The Notice would require disclosure by an underwriter of potential conflicts of interest, including the existence of third-party payments, values, or credits made or received, profit-sharing arrangements with investors, and the issuance or purchase of credit default swaps for which the underlying reference is the issuer whose securities the dealer is underwriting or an obligation of that issuer. The Amendment would clarify that the provisions of the Notice concerning disclosures of third-party payments and credit default swaps would require disclosure of the existence of third-party payments, but not the amount, and that particular transactions in credit default swaps would not be required to be disclosed under the Notice. These disclosures would draw the attention of issuers to such payments and credit default swap activity, and the issuers could choose to request more information from the underwriters.

Retail Order Periods. The Notice would remind underwriters not to disregard the issuers' rules for retail order periods by, among other things, accepting or placing orders that do not satisfy issuers' definitions of ''retail.''

Dealer Payments to Issuers. Finally, the Notice would remind underwriters that certain lavish gifts and entertainment, such as those made in conjunction with rating agency trips, might be a violation of Rule G–17, as well as Rule G–20.

(b) The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2) of the Securities Exchange Act (''Exchange Act''), which provides that:

> The Board shall propose and adopt rules to effect the purposes of this title with respect to transactions in municipal securities effected by brokers, dealers, and municipal securities dealers and advice provided to or on behalf of municipal entities or obligated persons by brokers, dealers, municipal securities dealers, and municipal advisors with respect to municipal financial products, the issuance of municipal securities, and solicitations of municipal entities or obligated persons undertaken by brokers, dealers, municipal securities dealers, and municipal advisors.

Section 15B(b)(2)(C) of the Exchange Act, provides that the rules of the MSRB shall: Be designed to prevent fraudulent and manipulative acts and practices, to promote

[7] Section 4s(h)(5) of the Commodity Exchange Act requires that a swap dealer with a special entity client (including states, local governments, and public pension funds) must have a reasonable basis to believe that the special entity has an independent representative that has sufficient knowledge to evaluate the transaction and its risks, as well as the pricing and appropriateness of the transaction. Section 15F(h)(5) of the Exchange Act imposes the same requirements with respect to security-based swaps.

just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The proposed rule change is consistent with Section 15B(b)(2) of the Exchange Act because it will protect issuers of municipal securities from fraudulent and manipulative acts and practices and promote just and equitable principles of trade, while still emphasizing the duty of fair dealing owed by underwriters to their customers. Rule G–17 has two components, one an anti-fraud prohibition, and the other a fair dealing requirement (which promotes just and equitable principles of trade). The Notice would address both components of the rule. The sections of the Notice entitled ''Representations to Issuers,'' ''Underwriter Duties in Connection with Issuer Disclosure Documents,'' ''Excessive Compensation,'' ''Payments to or from Third Parties,'' ''Profit-Sharing with Investors,'' ''Retail Order Periods,'' and ''Dealer Payments to Issuer Personnel'' primarily would provide guidance as to conduct required to comply with the anti-fraud component of the rule and, in some cases, conduct that would violate the anti-fraud component of the rule, depending on the facts and circumstances. The sections of the Notice entitled ''Role of the Underwriter/Conflicts of Interest,'' ''Required Disclosures to Issuers,'' ''Fair Pricing,'' and ''Credit Default Swaps'' primarily would provide guidance as to conduct required to comply with the fair dealing component of the rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act, since it would apply equally to all underwriters of municipal securities.

C. Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change Received From Members, Participants, or Others

The MSRB has separately filed a comment letter with the Commission in which it discusses the responses to comment letters received by the Commission in response to the notice for comment on the original proposed rule change published in the **Federal Register**.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

By December 7, 2011 (which is the date that is 90 days after the date the notice of the original proposed rule change was published in the **Federal Register**) the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 2, 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 email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2011–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MSRB–2011–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2011–09 and should be submitted on or before December 1, 2011.[8]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–29970 Filed 11–18–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65743; File No. SR–ICC–2011–04]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Schedule 502 of the ICC Rules To Provide for Clearing of Additional Single Name Investment Grade CDS Contracts

November 14, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 7, 2011, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared primarily by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) [2] of the Act and Rule 19b–4(f)(4) [3] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of proposed rule change is to provide for the clearance of the following additional investment grade

[8] The Commission believes that a 10-day comment period is reasonable, given the date for Commission action is December 7, 2011. The 10-day comment period will provide adequate time for comment.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(f)(4).

Standard North American Corporate Single Name CDS contracts: Boston Scientific Corporation; H.J. Heinz Company; Macy's, Inc.; and Nabors Industries, Inc. (the ''Additional Single Names'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC 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. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Additional Single Names represent four of the one hundred twenty-five single names that comprise the Markit CDX North American Investment Grade Series 17 Index (the ''Index'') that is currently being cleared by ICC. ICC currently clears one hundred twenty of the Index's underlying names on a single name basis. Upon approval of the Additional Single Names, ICC will clear one hundred twenty-four of the names underlying the Index on a single name basis. The Additional Single Names do not require any changes to the body of the ICC Rules. ICC will clear the Additional Single Names pursuant to ICC's existing Rules. Nor do the Additional Single Names require any changes to the ICC risk management framework including the ICC margin methodology, guaranty fund methodology, pricing parameters and pricing model. The only change being submitted is the inclusion of the Additional Single Names to Schedule 502 of the ICC Rules. The Additional Single Names have been reviewed by the ICE Risk Department, the ICC Trading Advisory Committee and the ICC Risk Committee.

ICC believes that the clearing of the Additional Single Names will facilitate the prompt and accurate settlement of security-based swaps and contribute to the safeguarding of securities and funds associated with security-based swap transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2011–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2011–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_110711.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2011–04 and should be submitted on or before December 12, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–29870 Filed 11–18–11; 8:45 am]

BILLING CODE 8011–01–P

[4] Per discussions with ICC, the Commission has made minor modifications to the text of the summaries prepared by ICC to correct the name of the Index and statutory references. Telephone conference between Michelle Weiler, Assistant General Counsel, ICC, and Andrew Bernstein, Special Counsel, Securities and Exchange Commission, Division of Trading and Markets, on November 14, 2011.

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65741; File No. SR–CBOE–2011–100]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Renew Existing Pilot Program for an Additional Fourteen Months

November 14, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 4, 2011, Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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

CBOE proposes to renew an existing pilot program for an additional fourteen months. Under the existing pilot program, the Exchange is permitted to list P.M.-settled options on broad-based indexes that expire on: (a) Any Friday of the month, other than the third Friday-of-the-month (''End of Week Expirations''), and (b) the last trading day of the month (''End of Month Expirations''). The text of the rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission'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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 14, 2010, the Commission approved a CBOE proposal to establish a pilot program under which the Exchange is permitted to list P.M.-settled options on broad-based indexes to expire on (a) Any Friday of the month, other than the third Friday-of-the-month (''End of Week Expirations'' or ''EOWs''), and (b) the last trading day of the month (''End of Month Expirations'' or ''EOMs'').[5] Under the terms of the End of Week/End of Month Expirations Pilot Program (''Program''), EOWs and EOMs are permitted on any broad-based index that is eligible for regular options trading. EOWs and EOMs are cash-settled and have European-style exercise. The proposal became effective on a pilot basis for a period of fourteen months that commenced on the next full month after approval was received to establish the Program and the Program is scheduled to expire on December 14, 2011. CBOE believes that the Program has been successful and well received by its Trading Permit Holders and the investing public during that the time that it has been in operation. The Exchange hereby proposes to extend the Program for an additional fourteen months, so that it will expire on February 14, 2013. This proposal does not request any other changes to the Program.

Pursuant to the order approving the establishment of the Program, two months prior to the conclusion of the pilot period, CBOE is required to submit an annual report to the Commission, which addresses the following areas: Analysis of Volume & Open Interest, Monthly Analysis of EOW & EOM Trading Patterns and Provisional Analysis of Index Price Volatility. The Exchange has submitted, under separate cover, the annual report in connection with the present proposed rule change. Confidential treatment under the Freedom of Information Act is requested regarding the annual report.

If, in the future, the Exchange proposes an additional extension of the Program, or should the Exchange propose to make the Program permanent (which the Exchange currently intends to do), the Exchange will submit an annual report (addressing the same areas referenced above and consistent with the order approving the establishment of the Program) to the Commission at least two months prior to the expiration date of the Program. The annual report will be provided to the Commission on a confidential basis. Any positions established under the Program will not be impacted by the expiration of the Program.

The Exchange believes there is sufficient investor interest and demand in the Program to warrant its extension. The Exchange believes that the Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange has not experienced any adverse market effects with respect to the Program.

The Exchange believes that the proposed extension of the Program will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [6] of the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations under the Act, in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Specifically, the Exchange believes that the Pilot has been successful to date and states that it has not encountered any problems with the Pilot. Additionally, the Exchange believes that there is demand for the expirations offered under the Pilot and believes that that EOWs and EOMs will continue to provide the investing public and other market participants increased opportunities to better manage their risk exposure.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (order approving SR–CBOE–2009–075).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2011–100 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2011–100. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CBOE–2011–100 and should be submitted on or before December 12, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–29869 Filed 11–18–11; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65745; File No. SR–Phlx–2011–149]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Relating to the Exchange Rule 795, Member Officer or Director

November 14, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on November 3, 2011, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to eliminate Exchange Rule 795 entitled ''Member Officer or Director.''

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 eliminate Exchange Rule 795 entitled ''Member Officer or Director.'' The Exchange does not believes it is necessary for a member, who is an officer or director of a corporation engaged in a securities business or a member who owns or controls, directly or indirectly, a corporation engaged in a securities business, to obtain the written permission of the Exchange. The Exchange believes that this Rule is unnecessary and is not pertinent to the Exchange's business or regulatory obligations. In addition, the Exchange is able to ascertain other business relationships of an officer or director from disclosures made by members on a Uniform Application for Securities Industry Registration or Transfer (''Form U4'').

Exchange Rule 795 was adopted prior to demutualization [3] at a time in the Exchange's history when it operated as a member-owned organization. The Exchange believes that there may have been an interest at that time to be notified of and for the Exchange to approve a member's role in another entity. The Exchange has not utilized this Rule in a long time [4] and does not believe that it should be in a position to control a member's role in another entity. In addition, the Exchange is unable to locate such a rule at other options exchanges.

The Exchange does require prospective members to complete applications as prescribed in Exchange Rule 900.2 entitled ''Membership

[3] The Exchange demutualized in 2004. *See* Securities Exchange Act 49098 (January 16, 2004), 69 FR 3974 (January 27, 2004) (SR–Phlx–2003–73).

[4] The Exchange has not utilized this Rule in over ten years.

Applications.'' The Exchange also requires disclosure regarding the business of its members.[5] In addition, the Exchange also has rules regarding disclosure of other ownership and financial information.[6] The Exchange therefore proposes to eliminate Exchange Rule 795.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by requiring its members to comply with By-Laws and Rules which further a specific business or regulatory purpose for the Exchange.

Exchange Rule 795 requires members to provide information to the Exchange which is available on the Form U4 and also requires a member to obtain the Exchange's permission to even indirectly own a substantial interest in a securities business. The Exchange believes it is unnecessary to require a member who is an officer or director of a corporation engaged in a securities business or a member who owns or controls, directly or indirectly, a corporation engaged in a securities business to obtain the written permission of the Exchange or to report ownership information which is already available to the Exchange. In addition, the Exchange believes that the requirement to obtain permission is unnecessary for the Exchange to carry out its regulatory functions.

As previously stated herein, the Exchange has not utilized this Rule in a long time and is unable to locate such a rule at other exchanges. Additionally, the Exchange is able to ascertain other business relationships of a member from disclosures made by members on their Form U4. Finally, the Exchange does not believe it is necessary to require a member who is an officer or director of a corporation engaged in a securities business or a member who owns or controls, directly or indirectly, a substantial interest in a corporation engaged in a securities business to obtain the written permission of the Exchange or to report ownership information in order to protect investors or the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall:

(a) By order approve or disapprove such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2011–149 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–2011–149. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2011–149 and should be submitted on or before December 12, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–29872 Filed 11–18–11; 8:45 am]

BILLING CODE 8011–01–P

[5] *See* Exchange Rules 602 (status), 610 (Change in Business), 704 (Assignment of Partnerships), 792 (Control of Voting Stock), 794 (Assignment of Holdings), 902 (Admission to Partnership—Partnership Arrangements) and 906 (Notice of Change in Partnership), 907 (Partners and Officers).

[6] *See* Exchange Rules 750 (Speculative Transactions for Employees of Certain Employers), 751 (Accounts of Employees of Member Organizations), 756 (Accounts of General Partners), 771 (Excessive Trading of Members), 772 (Trading for Joint Account), 773 (Participation in Joint Accounts),783 (Report of Financial Arrangements) and 784 (Report of Options).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before December 21, 2011. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: ''Governor's Request for Disaster Declaration''.

Frequency: On Occasion.

SBA Form Number: N/A.

Description of Respondents: Presidential Declared Disaster.

Responses: 60.

Annual Burden: 1,200.

Title: ''Disaster Home Loan Application''.

Frequency: On Occasion.

SBA Form Number: 5C.

Description of Respondents: Applicants requesting Disaster Home Loan.

Responses: 46,462.

Annual Burden: 69,693.

Title: ''Disaster Business Loan Application.''

Frequency: On Occasion.

SBA Form Number's: 5, 1368.

Description of Respondents: Applicants requesting Disaster Business Loan.

Responses: 8,014.

Annual Burden: 18,709.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 2011–29992 Filed 11–18–11; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12911 and #12912]

Missouri Disaster #MO–00051

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Missouri dated 11/09/2011.

Incident: Severe storms, straight line winds, tornadoes and flooding.

Incident Period: 06/26/2011 through 06/27/2011.

Effective Date: 11/09/2011.

Physical Loan Application Deadline Date: 01/09/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 08/09/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Saint Charles.

Contiguous Counties:

Missouri: Franklin, Lincoln, Saint Louis, Warren.

Illinois: Calhoun, Jersey, Madison.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.375
Homeowners Without Credit Available Elsewhere	2.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12911 B and for economic injury is 12912 0.

The States which received an EIDL Declaration # are Missouri, Illinois.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 9, 2011.

Karen G. Mills,

Administrator.

[FR Doc. 2011–29954 Filed 11–18–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12917 and #12918]

Virginia Disaster #VA–00039

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Virginia dated 11/14/2011.

Incident: Tropical Storm Lee.

Incident Period: 09/08/2011 Through 09/09/2011.

Effective Date: 11/14/2011.

Physical Loan Application Deadline Date: 01/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 08/14/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Fairfax, Prince William.

Contiguous Counties:

Virginia: Alexandria (City), Arlington, Fairfax City, Falls Church (City), Fauquier, Loudoun, Manassas City, Manassas Park City, Stafford.

District of Columbia.

Maryland: Charles, Montgomery, Prince George's.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.000
Homeowners Without Credit Available Elsewhere	2.500
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000

	Percent
Non-Profit Organizations With Credit Available Elsewhere ...	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 129178 and for economic injury is 129180.

The States which received an EIDL Declaration # are Virginia, District of Columbia, Maryland.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 14, 2011.

Karen G. Mills,

Administrator.

[FR Doc. 2011–29962 Filed 11–18–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12919 and #12920]

Florida Disaster #FL–00066

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Florida dated 11/14/2011.

Incident: Severe storms and flooding.

Incident Period: 10/28/2011 Through 10/31/2011.

Effective Date: 11/14/2011.

Physical Loan Application Deadline Date: 01/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 08/14/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Broward.

Contiguous Counties:

Florida: Collier, Hendry, Miami-Dade, Palm Beach.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.125.
Homeowners Without Credit Available Elsewhere	2.063.
Businesses With Credit Available Elsewhere	6.000.
Businesses Without Credit Available Elsewhere	4.000.
Non-Profit Organizations With Credit Available Elsewhere ...	3.125.
Non-Profit Organizations Without Credit Available Elsewhere	3.000.
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000.
Non-Profit Organizations Without Credit Available Elsewhere	3.000.

The number assigned to this disaster for physical damage is 12919 B and for economic injury is 12920 0.

The State which received an EIDL Declaration # is Florida.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: November 14, 2011.

Karen G. Mills,

Administrator.

[FR Doc. 2011–29959 Filed 11–18–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12736 and #12737]

Missouri Disaster Number MO–00052

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Missouri (FEMA–4012–DR), Dated 08/12/2011.

Incident: Flooding.

Incident Period: 06/01/2011 through 08/01/2011.

Effective Date: 11/08/2011.

Physical Loan Application Deadline Date: 12/12/2011.

EIDL Loan Application Deadline Date: 05/14/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Missouri, dated 08/12/2011 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 12/12/2011.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–29955 Filed 11–18–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12915 and #12916]

District of Columbia Disaster #DC–00004

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the District of Columbia (FEMA–4044–DR), dated 11/08/2011.

Incident: Earthquake.

Incident Period: 08/23/2011 Through 08/28/2011.

Effective Date: 11/08/2011.

Physical Loan Application Deadline Date: 01/09/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 08/08/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 11/08/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Area: District of Columbia.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.250
Non-Profit Organizations Without Credit Available Elsewhere ...	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere ...	3.000

The number assigned to this disaster for physical damage is 129152 and for economic injury is 129162.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–29957 Filed 11–18–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12921 and #12922]

Virginia Disaster #VA–00040

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Virginia (FEMA–4042–DR), dated 11/10/2011.

Incident: Earthquake.

Incident Period: 08/23/2011 Through 10/25/2011.

Effective Date: 11/10/2011.

Physical Loan Application Deadline Date: 01/09/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 08/10/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 11/10/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Louisa.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.250
Non-Profit Organizations Without Credit Available Elsewhere ...	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere ...	3.000

The number assigned to this disaster for physical damage is 129212 and for economic injury is 129222.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–29961 Filed 11–18–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12913 and #12914]

Vermont Disaster #VT–00024

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Vermont (FEMA–4043–DR), dated 11/08/2011.

Incident: Severe storms and flooding.

Incident Period: 05/20/2011.

Effective Date: 11/08/2011.

Physical Loan Application Deadline Date: 01/09/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 08/08/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 11/08/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Franklin, Washington, Windham.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.250
Non-Profit Organizations Without Credit Available Elsewhere ...	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere ...	3.000

The number assigned to this disaster for physical damage is 12913B and for economic injury is 12914B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–29956 Filed 11–18–11; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 7692]

30-Day Notice of Proposed Information Collection: DS–4131 Advance Notification Form: Tourist and Other Non-Governmental Activities in the Antarctic Treaty Area, 1405–0181

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Advance Notification Form: Tourist and Other Non-Governmental Activities in the Antarctic Treaty Area.
- *OMB Control Number:* 1405–0181.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Oceans and International Environmental and Scientific Affairs, Office of Ocean and Polar Affairs (OES/OPA).

- *Form Number:* DS–4131.
- *Respondents:* Operators of Antarctic expeditions organized in or proceeding from the United States.
- *Estimated Number of Respondents:* 22.
- *Estimated Number of Responses:* 22.
- *Average Hours per Response:* 10.5.
- *Total Estimated Burden:* 231.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from November 21, 2011.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* (202) 395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Susannah E. Cooper, Office of Ocean and Polar Affairs, Room 2665, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, 2201 C Street NW., Washington, DC 20520, who may be reached at (202) 647–0237 or *cooperse@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond,

Abstract of Proposed Collection

Information solicited on the Advance Notification Form (DS–4131) provides the U.S. Government with information on tourist and other non-governmental expeditions to the Antarctic Treaty area. The U.S. Government needs this information to comply with Article VII(5)(a) of the Antarctic Treaty and comport with Antarctic Treaty Consultative Meeting Recommendation XVIII–1 and Resolution XIX–3.

Methodology

Information will be submitted in signed original by U.S. organizers of tourist and other non-governmental expeditions to Antarctica. Advance copies are submitted by email.

Dated: September 29, 2011.

Evan T. Bloom,

Director, Office of Ocean and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State.

[FR Doc. 2011–30018 Filed 11–18–11; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 7655]

Notice of Meeting of the Advisory Committee on International Law

A meeting of the Advisory Committee on International Law will take place on Thursday, December 8, 2011, from 9:30 a.m. to approximately 5:30 p.m., at the George Washington University Law School (Michael K. Young Faculty Conference Center, 5th Floor), 2000 H St. NW., Washington, DC. The meeting will be chaired by the Legal Adviser of the Department of State, Harold Hongju Koh, and will be open to the public up to the capacity of the meeting room. It is anticipated that the agenda of the meeting will cover a range of current international legal topics, including recent developments in the Middle East; mechanisms of international lawmaking; systems of control in investor state arbitration; federalism and international law; and the possibility of a new Restatement of Foreign Relations Law.

Members of the public who wish to attend the session should, by Friday, December 2, 2011, notify the Office of the Legal Adviser (telephone: (202) 776–8323, email: *AndersonSR@state.gov*) of their name, professional affiliation, address, and telephone number. A valid photo ID is required for admittance. A member of the public who needs reasonable accommodation should make his or her request by December 2, 2011. Requests made after that time will be considered but might not be possible to accommodate.

Dated: November 15, 2011.

Scott R. Anderson,

Office of International Claims and Investment Disputes, Office of the Legal Adviser, Executive Director, Advisory Committee on International Law, U.S. Department of State.

[FR Doc. 2011–30015 Filed 11–18–11; 8:45 am]

BILLING CODE 4710–08–P

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing and Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing as part of its regular business meeting on December 15, 2011, in Wilkes-Barre, Pennsylvania. At the public hearing, the Commission will consider: (1) The rescission of three docket approvals; (2) action on certain water resources projects; and (3) a request for partial fee waiver from SWEPI LP. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

DATES: December 15, 2011, at 8:30 a.m.

ADDRESSES: Best Western East Mountain Inn & Suites, 2400 East End Boulevard—Route 115 (Exit 170–A off I–81), Wilkes-Barre, Pa.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 306; fax: (717) 238–2436; email: *rcairo@srbc.net* or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238–0423, ext. 304; fax: (717) 238–2436; email: *srichardson@srbc.net.*

SUPPLEMENTARY INFORMATION: In addition to the public hearing and its related action items identified below, the business meeting also includes actions or presentations on the following items: (1) A presentation on the Commission's new Anthracite Remediation Strategy in conjunction with the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation; (2) a resolution concerning the use of lesser quality water; (3) presentation of the Commission's William Jeanes Award; (4) a report on hydrologic conditions in the basin; (5) a resolution concerning FY–2013 federal funding of the Susquehanna Flood Forecast and Warning System and National Streamflow Information Program; (6) a presentation of the Commission's Morrison Cove Report; (7) consideration of a final rulemaking action; (8) consideration of an administrative appeal settlement; (9) a revision of the by-laws relating to the Commission's Investment Policy; (10) presentation of the FY–2011 Audit Report; and (11) ratification/approval of grants/contracts. The Commission will also hear Legal Counsel's report.

Public Hearing—Projects Scheduled for Rescission Action:

1. Project Sponsor and Facility: EXCO Resources (PA), LLC (Pine Creek) (Docket No. 20081203), Cummings Township, Lycoming County, Pa.

2. Project Sponsor and Facility: EXCO Resources (PA), LLC (Unnamed Tributary to Sandy Run) (Docket No. 20081209), Burnside Township, Centre County, Pa.

3. Project Sponsor and Facility: Possum Valley Municipal Authority (Docket No. 20090636), Menallen Township, Adams County, Pa.

Public Hearing—Projects Scheduled for Action:

1. Project Sponsor: Anadarko E&P Company LP. Project Facility: Sproul State Forest—Council Run, Snow Shoe Township, Centre County, Pa. Application for groundwater withdrawal of up to 0.715 mgd (30-day average) from Well PW–11.

2. Project Sponsor: Bioenergy International, LLC. Project Facility: Bionol Clearfield, LLC, Clearfield Borough, Clearfield County, Pa. Modification to conditions of the surface water withdrawal approval (Docket No. 20070904).

3. Project Sponsor: Borough of Ephrata. Project Facility: Ephrata Area Joint Authority, Ephrata Borough, Lancaster County, Pa. Modification to conditions of the groundwater withdrawal approval (Docket No. 20110902).

4. Project Sponsor and Facility: Carrizo (Marcellus), LLC (Mosquito Creek–2), Karthaus Township, Clearfield County, Pa. Application for surface water withdrawal of up to 2.160 mgd.

5. Project Sponsor and Facility: Central New York Oil and Gas Company, LLC (Susquehanna River), Wilmot Township, Bradford County, Pa. Application for surface water withdrawal of up to 0.540 mgd.

6. Project Sponsor and Facility: Central New York Oil and Gas Company, LLC, Wilmot Township, Bradford County, Pa. Application for consumptive water use of up to 0.105 mgd.

7. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River—Babcock), Ulster Township, Bradford County, Pa. Application for surface water withdrawal of up to 3.000 mgd.

8. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River—Elmglade), Wilmot Township, Bradford County, Pa. Application for surface water withdrawal of up to 2.016 mgd.

9. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Towanda Creek—Sechrist), Canton Township, Bradford County, Pa. Application for surface water withdrawal of up to 0.504 mgd.

10. Project Sponsor: Clark Trucking, LLC. Project Facility: Northeast Division (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for surface water withdrawal of up to 0.500 mgd.

11. Project Sponsor: Clark Trucking, LLC. Project Facility: Northeast Division (Muncy Creek), Muncy Creek Township, Lycoming County, Pa. Application for surface water withdrawal of up to 0.700 mgd.

12. Project Sponsor and Facility: Dunn Lake LLC (Dunn Pond), Ararat Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.999 mgd.

13. Project Sponsor and Facility: EXCO Resources (PA), LLC (Muncy Creek—McClintock), Penn Township, Lycoming County, Pa. Application for surface water withdrawal of up to 1.500 mgd.

14. Project Sponsor: Glenn O. Hawbaker, Inc. Project Facility: Greens Landing Aggregate Plant, Athens Township, Bradford County, Pa. Application for surface water withdrawal of up to 0.249 mgd.

15. Project Sponsor: Glenn O. Hawbaker, Inc. Project Facility: Greens Landing Aggregate Plant, Athens Township, Bradford County, Pa. Application for consumptive water use of up to 0.249 mgd.

16. Project Sponsor: Hazleton Creek Properties, LLC. Project Facility: Hazleton Mine Reclamation, Hazleton City, Luzerne County, Pa. Modification to increase groundwater withdrawal by an additional 0.145 mgd, for a total of 0.200 mgd (30-day average) (Docket No. 20110307).

17. Project Sponsor and Facility: Keystone Clearwater Solutions, LLC (Babb Creek), Morris Township, Tioga County, Pa. Application for surface water withdrawal of up to 0.950 mgd.

18. Project Sponsor and Facility: Stanley S. Karp Sr. (Tunkhannock Creek), Nicholson Borough, Wyoming County, Pa. Application for surface water withdrawal of up to 0.510 mgd.

19. Project Sponsor and Facility: Sugar Hollow Trout Park and Hatchery, Eaton Township, Wyoming County, Pa. Modification to project features and conditions of the groundwater withdrawal approval (Docket No. 20100913).

20. Project Sponsor and Facility: Sugar Hollow Water Services, LLC (Susquehanna River—Chellis), Eaton Township, Wyoming County, Pa. Application for surface water withdrawal of up to 1.500 mgd.

21. Project Sponsor: The Municipal Authority of the Borough of Berlin. Project Facility: Berlin Borough Municipal Authority, Allegheny Township, Somerset County, Pa. Modification to conditions of the groundwater withdrawal approval (Docket No. 19980702).

22. Project Sponsor and Facility: Walker Township Water Association, Walker Township, Centre County, Pa. Modification to increase the total groundwater system withdrawal limit from 0.523 mgd to 0.753 mgd (30-day average) (Docket No. 20070905).

23. Project Sponsor and Facility: Williams Production Appalachia, LLC (Middle Branch Wyalusing Creek), Forest Lake Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.750 mgd.

24. Project Sponsor and Facility: Williams Production Appalachia, LLC (Snake Creek–2), Franklin Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.999 mgd.

25. Project Sponsor and Facility: Williams Production Appalachia, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Commission-initiated modification to project features and conditions of the surface water withdrawal approval (Docket No. 20090303), making a correction and reducing the approved surface water withdrawal amount from 3.00 mgd to 1.00 mgd.

26. Project Sponsor and Facility: Williams Production Appalachia, LLC (Susquehanna River–2), Great Bend Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 2.000 mgd.

Opportunity To Appear and Comment:

Interested parties may appear at the above hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pennsylvania 17102–2391, or submitted electronically to Richard A. Cairo, General Counsel, email: *rcairo@srbc.net* or Stephanie L. Richardson, Secretary to the Commission, email:

srichardson@srbc.net. Comments mailed or electronically submitted must be received prior to December 9, 2011, to be considered.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR Parts 806, 807, and 808.

Dated: November 10, 2011.

Thomas W. Beauduy,

Deputy Executive Director.

[FR Doc. 2011–29964 Filed 11–18–11; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending October 22, 2011

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2011–0193.

Date Filed: October 21, 2011.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 14, 2011.

Description

Application of GoJet Airlines, LLC (''GOJET'') requesting an amendment to its certificate authority, to wit a removal of the restriction on the total number of aircraft GOJET can operate and/or an increase in the number by fifteen (15) aircraft.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2011–29978 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Compatibility Program Notice for W.M. Kellogg Airport, Battle Creek, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Battle Creek, Michigan for W.K. Kellogg Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act, herein after referred to as ''the Act'') and 14 Code of Federal Regulations (CFR) part 150 (hereinafter referred to as ''Part 150'') is in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for W.K. Kellogg Airport under part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before April 28, 2012.

DATES: *Effective Date:* The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is November 1, 2011. The public comment period ends December 30, 2011.

FOR FURTHER INFORMATION CONTACT: Katherine S. Delaney, 11677 S. Wayne Road, Suite 107, Romulus, MI 48174, Email: *Katherine.S.Delaney@faa.gov,* Phone: (734) 229–2900. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces the FAA finds that the noise exposure maps submitted for W.K. Kellogg Airport are in compliance with applicable requirements of Part 150, effective November 1, 2011. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before April 28, 2012. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C., 47503 of the Act, an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The City of Battle Creek submitted to the FAA on December 20, 2010 noise exposure maps, descriptions and other documentation that were produced during the W.K. Kellogg Airport 14 CFR Part 150 Noise Compatibility Study. It was requested that the FAA review this material as the noise exposure maps, as described in section 47503 of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 47504 of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the City of Battle Creek. The specific documentation determined to constitute the noise exposure maps includes: Figure D19 (Existing Noise Exposure Map—2009); Figure I1 (Future Noise Exposure Map with Existing Land Use—2015); Figure D15 (Southwest Flow INM Flight Tracks); Figure D16 (Northeast Flow INM Flight Tracks); Figure D17 (East/West Flow INM Flight Tracks); Figure D18 (Touch & Go INM Flight Tracks—Fixed Wing). Information pertinent to the aircraft operations, fleet mix, runway utilization, and nighttime use are located in Chapter D, pages D27 through D31. This is inclusive of all tables. Information about noise monitoring sites is located in Table C11 and pages C27 through C32. The FAA has determined that these maps for W.K. Kellogg Airport are in compliance with applicable requirements. This determination is effective on November 1, 2011. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of 14 CFR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or constitute a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific

properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for W.K. Kellogg Airport, also effective on November 1, 2011. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 28, 2012.

The FAA's detailed evaluation will be conducted under the provisions of section 150.33 of part 150. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments should be sent to Katherine S. Delaney at the address under **FOR FURTHER INFORMATION CONTACT**. All relevant comments, other than those properly addressed to local land use authorities; will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Detroit Airports District Office, 11677 S. Wayne Road, Ste. 107, Romulus, MI 48174, 8 a.m.–4:30 p.m.

W.K. Kellogg Airport, Mr. Lawrence Bowron, 15551 S. Airport Road, Battle Creek, MI 49015, 8 a.m.–4:30 p.m.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Romulus, Michigan, November 1, 2011.

John L. Mayfield, Jr.,

Manager, Detroit Airports District Office.

[FR Doc. 2011–29899 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for an automated battery switching mechanism for an electric battery switching station in the State of California.

DATES: The effective date of the waiver is November 21, 2011.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via email at *michael.harkins@dot.gov.* Office hours for the FHWA are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate to use a non-domestic automated battery switching mechanism for an electric battery switching station in California.

In accordance with Division A, section 123 of the ''Consolidated Appropriations Act, 2010'' (Pub. L. 111–117), the FHWA published a notice of intent to issue a waiver on its Web site for an automated battery switching mechanism for an electric battery switching station in California *(http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=58)* on May 31st. The FHWA received one comment in response to the publication, which opposed the granting of Buy America waivers in general, but did not identify any domestic source for this product. During the 15-day comment period, the FHWA conducted additional nationwide review to locate potential domestic manufacturers for an automated battery switching mechanism for an electric battery switching station in California. Based on all the information available to the agency, the FHWA concludes that there are no domestic manufacturers of an automated battery switching mechanism for an electric battery switching station.

In accordance with the provisions of section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the automated batter switching mechanism waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410.

Issued on: November 10, 2011.

Victor M. Mendez,

Administrator.

[FR Doc. 2011–29971 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a partial Buy America waiver is appropriate for the purchase of 79 electric sedans and 11 electric vans in Alameda County, California. The partial waiver will permit the purchase of these vehicles so long as the final assembly occurs in the United States.

DATES: The effective date of the waiver is November 22, 2011.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via email at *michael.harkins@dot.gov.* Office hours for the FHWA are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated into a Federal-aid highway construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when the relevant domestic steel and iron products are not produced in the United States in sufficient and reasonable available quantities and of a satisfactory quality. This notice provides information regarding the FHWA's finding that a partial Buy America waiver is appropriate for the purchase of 79 electric sedans and 11 electric vans in Alameda County, California.

In accordance with Division A, section 123 of the ''Consolidated Appropriations Act, 2010'' (Pub. L. 111–117), the FHWA published a notice of intent to issue a waiver on its Web site for 79 electric sedans (Nissan Leafs) and 11 electric vans (Ford Transit Connects) (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=57*) on May 12th. The FHWA received 33 comments in response to the publication. Of these comments, 7 commenters objected to the proposed waiver on the grounds that Federal funds should be used to simply buy American products; 19 comments objected to Alameda County's intent to buy the Nissan Leaf, which is made in Japan, when there are electric vehicles, such as the Chevy Volt, that are made in America; 4 comments were from Alameda County responding to the concerns expressed in the comments; 1 comment supported the waiver because the Leaf is a better electric vehicle than the Volt; 1 comment supported the waiver because Nissan intends to manufacture the Leaf in Tennessee in the future; one comment supports the purchase of all electric vehicles; and one comment did not contain any message.

In general, Alameda County explained that there are no vehicles on the market that currently meet the FHWA's Buy America standard, which is 100 percent domestic steel and iron content. Alameda County further explained that the Chevy Volt does not meet their requirements because the Volt has only a 40-mile range when fully charged and then reverts to gasoline. Alameda County also explained that it needs to purchase all electric vehicles in order to achieve the best overall reduction in greenhouse gas emissions and particulate matter associated with those emissions since the San Francisco Bay Area is currently a nonattainment area for particulate matter.

The FHWA has considered Alameda County's assertion that its needs for this project require an all electric vehicle and that no vehicle on the market currently satisfies a 100 percent domestic iron and steel content requirement. The FHWA has also considered the comments stating that Federal funds should be used to purchase a vehicle that is made in the United States. In considering these comments, the FHWA has reevaluated the applicability of the Buy America requirement as it may apply to the purchase of vehicles. The FHWA's Buy America requirement was initially established in 1983 when the purchase of vehicles was not eligible for assistance under the Federal-aid Highway Program. As such, the FHWA's Buy America requirements were tailored to the types of products that are typically used in highway construction, which generally meet a 100 percent domestic steel and iron content requirement.

Vehicles, however, are not the types of products that were initially envisioned as being purchased with Federal-aid highway funds when Buy America was first enacted. In today's global industry, vehicles are assembled with components that are made all over the world. The FHWA is not aware of any vehicle on the market that can claim to incorporate 100 percent domestic content. For instance, the Chevy Volt, which was identified by many commenters as being a car that is made in the United States, comprises only 40 percent United States and Canada content according to the window sticker (*http://www.cheersandgears.com/uploads/1298005091/med_gallery_51_113_449569.png*). There is no indication of how much of this 40 percent United States/Canadian content is United States-made content. Thus, the FHWA does not believe that application of a domestic content standard should be applied to the purchase of vehicles.

However, the FHWA believes that the vehicles should be assembled in the United States. Whenever a person discusses the manufacture of vehicles, the discussion typically refers to where the final assembly takes place. For instance, in the comments urging that the waiver be denied because the Chevy Volt is made in the United States, the FHWA interprets these comments as referring to the assembly of the vehicle in Detroit since the Volt window sticker says that the United States/Canada parts content of the vehicle is only 40 percent. While the manufacture of steel and iron products that are typically used in highway construction (such as pipe, rebar, struts, and beams) generally refers to the various processes that go into actually making the entire product, the manufacture of vehicles typically refers to where the vehicle is assembled. Thus, given the inherent differences in the type of products that are typically used in highway construction and vehicles, we feel that simply waiving the Buy America requirement, which is based on the domestic content of the product, without any regard to where the vehicle is assembled would diminish the purpose of the Buy America requirement. Moreover, in today's economic environment with the National unemployment rate over 9 percent, the Buy America requirement is especially significant in that it will ensure that Federal Highway Trust Fund (HTF) dollars are used to support and create jobs in the United States.

Therefore, while the FHWA has not located a vehicle that meets a 100 percent domestic iron and steel content requirement, the FHWA does not find that a complete waiver based on nonavailability pursuant to 23 U.S.C. 313(b)(2) is appropriate. However, the FHWA also recognizes that at least a partial waiver is necessary in order to permit Alameda County to proceed with its project. In order to enable Alameda County to proceed with this project, the FHWA believes that a partial waiver that allows the County to purchase vehicles so long as the final assembly of the vehicle as the end product occurs in the United States is appropriate. This approach is similar to the standard in the provisions implementing the Buy American Act in the Federal Acquisition Regulations where ''commercially available off-the-shelf'' (COTS) items may be used if such items are manufactured in the United States. The general Buy American Act standard requiring the product to exceed 50 percent domestic content is waived for COTS items. This approach will also give effect to the FHWA's Buy America requirement by ensuring that HTF dollars are used to support American jobs in a reasonable and meaningful way.

In conclusion, and in light of the above, pursuant to 23 U.S.C. 313(b)(1), the FHWA finds that it is in the public interest to grant a partial waiver from the Buy America requirement at 23 U.S.C. 313(a) to purchase 79 electric sedans and 11 electric vans. Under this partial waiver, the general 100 percent domestic content requirement that applies to Federal-aid highway projects shall not apply to the purchase of such vehicles. However, the final assembly of any vehicles purchased with HTF funds must occur in the United States.

In accordance with the provisions of section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), the FHWA is providing this notice of its finding that a partial waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the automated batter switching mechanism waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410.

Issued on: November 10, 2011.

Victor M. Mendez,

Administrator.

[FR Doc. 2011–29976 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a partial Buy America waiver is appropriate for the purchase of 12 all-battery electric vehicles, 12 plug-in hybrid vehicles, and 5 neighborhood electric vehicles in San Francisco County, California. The partial waiver will permit the purchase of these vehicles so long as the final assembly occurs in the United States.

DATES: The effective date of the waiver is November 22, 2011.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via email at *michael.harkins@dot.gov.* Office hours for the FHWA are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated into a Federal-aid highway construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when the relevant domestic steel and iron products are not produced in the United States in sufficient and reasonable available quantities and of a satisfactory quality. This notice provides information regarding the FHWA's finding that a partial Buy America waiver is appropriate for the purchase of 12 all-battery electric vehicles, 12 plug-in hybrid vehicles, and 5 neighborhood electric vehicles in San Francisco County, California.

In accordance with Division A, section 123 of the ''Consolidated Appropriations Act, 2010'' (Pub. L. 111–117), the FHWA published a notice of intent to issue a waiver on its Web site for 12 all-battery electric vehicles, 12 plug-in hybrid vehicles, and 5 neighborhood electric vehicles (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=59*) on May 31st. The FHWA received 7 comments in response to the publication. Of these comments, 3 objected to the proposed waiver simply on the grounds that Federal funds should be used to simply buy American products; 2 supported the waiver, including 1 commenter who reasoned that foreign cars incorporate American-made components; 1 urged San Francisco County to buy a Tesla, which is made in the United States; and 1 comment from San Francisco County responded to the comments. In general, San Francisco County explained that there are no vehicles on the market that currently meet the FHWA's Buy America standard, which is 100 percent domestic steel and iron content. As to the Tesla, San Francisco County explained that the current Tesla model does not meet the needs for the project.

The FHWA has considered San Francisco County's needs for this project and its assertion that no vehicle on the market currently meets its project needs and satisfies a 100 percent domestic iron and steel content requirement. In considering San Francisco County's request and the comments submitted, the FHWA has reevaluated the applicability of the Buy America requirement as it may apply to the purchase of vehicles. The FHWA's Buy America requirement was initially established in 1983 when the purchase of vehicles was not eligible for assistance under the Federal-aid Highway Program. As such, the FHWA's Buy America requirements were tailored to the types of products that are typically used in highway construction, which generally meet a 100 percent domestic steel and iron content requirement.

Vehicles, however, are not the types of products that were initially envisioned as being purchased with Federal-aid highway funds when Buy America was first enacted. In today's global industry, vehicles are assembled with components that are made all over

the world. The FHWA is not aware of any vehicle on the market that can claim to incorporate 100 percent domestic content. For instance, the Chevy Volt, comprises only 40 percent United States and Canada content according to the window sticker (*http://www.cheersandgears.com/uploads/1298005091/med_gallery_51_113_449569.png*). There is no indication of how much of this 40 percent United States/Canadian content is United States-made content. Thus, the FHWA does not believe that application of a domestic content standard should be applied to the purchase of vehicles.

However, the FHWA believes that the vehicles should be assembled in the United States. Whenever a person discusses the manufacture of vehicles, the discussion typically refers to where the final assembly takes place. While the manufacture of steel and iron products that are typically used in highway construction (such as pipe, rebar, struts, and beams) generally refers to the various processes that go into actually making the entire product, the manufacture of vehicles typically refers to where the vehicle is assembled. Thus, given the inherent differences in the type of products that are typically used in highway construction and vehicles, we feel that simply waiving the Buy America requirement, which is based on the domestic content of the product, without any regard to where the vehicle is assembled would diminish the purpose of the Buy America requirement. Moreover, in today's economic environment with National unemployment rate over 9 percent, the Buy America requirement is especially significant in that it will ensure that Federal Highway Trust Fund (HTF) dollars are used to support and create jobs in the United States.

Therefore, while the FHWA has not located a vehicle that meets a 100 percent domestic iron and steel content requirement, the FHWA does not find that a complete waiver based on nonavailability pursuant to 23 U.S.C. 313(b)(2) is appropriate. However, the FHWA also recognizes that at least a partial waiver is necessary in order to permit San Francisco County to proceed with its project. In order to enable San Francisco County to proceed with this project, the FHWA believes that a partial waiver that allows the County to purchase vehicles so long as the final assembly of the vehicle as the end product occurs in the United States is appropriate. This approach is similar to the standard in the provisions implementing the Buy American Act in the Federal Acquisition Regulations where ''commercially available off-the-shelf'' (COTS) items may be used if such items are manufactured in the United States. The general Buy American Act standard requiring the product to exceed 50 percent domestic content is waived for COTS items. This approach will also give effect to the FHWA's Buy America requirement by ensuring that HTF dollars are used to support American jobs in a reasonable and meaningful way.

In conclusion, and in light of the above, pursuant to 23 U.S.C. 313(b)(1), the FHWA finds that it is in the public interest to grant a partial waiver from the Buy America requirement at 23 U.S.C. 313(a) to purchase 12 all-battery electric vehicles, 12 plug-in hybrid vehicles, and 5 neighborhood electric vehicles. Under this partial waiver, the general 100 percent domestic content requirement that applies to Federal-aid highway projects shall not apply to the purchase of such vehicles. However, the final assembly of any vehicles purchased with HTF funds must occur in the United States.

In accordance with the provisions of section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), the FHWA is providing this notice of its finding that a partial waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the automated batter switching mechanism waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410.

Issued on: November 10, 2011.

Victor M. Mendez,

Administrator.

[FR Doc. 2011–29968 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Multistate Corridor Operations and Management Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; correction.

SUMMARY: This document modifies an existing FHWA notice and request for application, originally published on October 21, 2011, at 76 FR 65561. The original notice invited eligible entities to apply for participation in the FHWA Multistate Corridor Operations and Management Program as authorized in 23 U.S.C. 511. This notice and correction clarifies the ''How to Apply'' process for that notice and request for applications, clarifies the application evaluation criteria for that notice and request for applications, and extends the deadline for submission of proposals for that notice and request for applications. Applications should still be submitted through *http://www.grants.gov.*

DATES: This action is effective November 21, 2011.

FOR FURTHER INFORMATION CONTACT: For questions about the program discussed herein, contact Mr. Robert Arnold, Director, FHWA Office of Transportation Management, (202) 366–1285, or via email at *Robert.Arnold@dot.gov,* or Ms. Kate Hartman, Program Manager, RITA Truck and Program Assessment, (202) 366–2742, or via email at *Kate.Hartman@dot.gov.* For legal questions, please contact Mr. Adam Sleeter, Attorney Advisor, FHWA Office of the Chief Counsel, (202) 366–8839, or via email at *Adam.Sleeter@dot.gov.* Business hours for the FHWA are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On October 21, 2011, at 76 FR 65561, the FHWA issued a notice requesting applications from eligible entities interested in participating in the FHWA Multistate Corridor Operations and Management Program as authorized in 23 U.S.C. 511. This notice clarifies two sections of the notice and extends the deadline for filing an application.

(1) Section 8 of the ''How to Apply'' section of the notice incorrectly describes the awards as ''contracts.'' This request for applications may result in award of grants, not contracts. Through this correction, FHWA is removing the word ''contracts'' from the notice. Section 8 of the ''How to Apply'' section should now read: ''Party or parties to the award—A description of the entity that will be entering into the agreement with FHWA, and a description of how that entity will process or manage the program funds.''

(2) The ''Evaluation Criteria'' section of the original notice does not explicitly state that only State departments of transportation are eligible to apply for this program. Through this correction notice, Section 5 of the ''Evaluation Criteria'' is clarified to explain to potential applicants that State departments of transportation are the only eligible applicants for this program. Section 5 of the ''Evaluation

Criteria'' should now read: ''Organizational structure and commitments—depth, clarity, and potential effectiveness of the organization's structure; evidence of commitments by key partners to participate. Only State departments of transportation are eligible to apply. Non-State departments of transportation may partner with State entities to submit an application.''

(3) The deadline to submit an application for this program is extended to January 3, 2012.

Authority: 23 U.S.C. 511; Section 5211 of SAFETEA–LU (Pub. L. 109–59; 119 Stat. 1144).

Issued on: November 9, 2011.

Victor M. Mendez,

Administrator.

[FR Doc. 2011–29972 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–2006–26367 and FMCSA–2011–0131]

Public Meeting of Motor Carrier Safety Advisory Committee and Joint Public Meeting With Medical Review Board

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

ACTION: Notice.

SUMMARY: FMCSA announces that MCSAC will hold a meeting on Monday–Thursday, December 5–8, 2011, which will include a joint meeting on Wednesday, December 7, 2011, with the MRB. All four days of the meeting will be open to the public for their duration.

DATES: *Time and Dates:* The MCSAC meeting will be held on Monday–Tuesday, December 5–6, 2011, from 8:30 a.m. to 5 p.m., Eastern Time (E.T.), and on Thursday, December 8, 2011, from 8:30 a.m. to 12 p.m., E.T. On Tuesday, December 6, 2011, the Cross-Border Trucking Pilot Program subcommittee will meet from 3:15 p.m. to 4:30 p.m., E.T. Additionally, the joint MCSAC–MRB meeting will be held on Wednesday, December 7, 2011, from 8:30 a.m. to 5 p.m., E.T. The meetings will be held at the Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314 in the Washington and Jefferson Rooms on the 2nd floor. The Hilton Alexandria Old Town is located across the street from the King Street Metro station.

Matters To Be considered: The MCSAC will consider the report of its EOBR Implementation Subcommittee established in response to Task 11–04. The MCSAC will also return to Task 11–02 regarding roadside violation severity weightings in the Carrier Safety Measurement System in FMCSA's CSA program and will meet to be updated on data regarding the cross border trucking pilot program with Mexico. Additionally, during their joint meeting, the MCSAC and MRB will consider expert presentations on obstructive sleep apnea and its relationship to the population of CMV drivers. Finally, the MCSAC will meet to be updated on recently completed, FMCSA-sponsored research on motorcoach HOS and to begin the process of setting up a subcommittee to consider ideas and concepts on motorcoach HOS for recommendation to the MCSAC and for its consideration and submission to the FMCSA Administrator. Copies of all MCSAC Task Statements and an agenda for the entire 4-day meeting are available at *http://mcsac.fmcsa.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 385–2395, *mcsac@dot.gov.*

Services for Individuals with Disabilities:

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Elizabeth Turner at (617) 494–2068, *elizabeth.turner@dot.gov,* by Wednesday, November 30, 2011.

SUPPLEMENTARY INFORMATION:

I. Background

MCSAC

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Pub. L. 109–59, 119 Stat. 1144, August 10, 2005) required the Secretary of Transportation to establish the MCSAC. The MCSAC provides advice and recommendations to the FMCSA Administrator on motor carrier safety programs and regulations, and operates in accordance with the Federal Advisory Committee Act (FACA, 5 U.S.C. App 2).

MRB

Section 4116 of the SAFETEA–LU requires the Secretary of Transportation, with the advice of the MRB, to ''establish, review, and revise medical standards for operators of CMVs that will ensure that the physical condition of operators of CMVs is adequate to enable them to operate the vehicles safely.'' On November 2, 2010, the Secretary of Transportation announced the five medical experts who serve on the MRB. FMCSA is planning revisions to the physical qualification regulations of CMV drivers, and the MRB will provide the necessary science-based guidance to establish realistic and responsible medical standards. The MRB operates in accordance with FACA.

Sleep Apnea and Other Sleep Disorders

The MCSAC and the MRB will discuss ideas and concepts the Agency should consider for regulatory guidance or future rulemaking on obstructive sleep apnea.

EOBR Implementation Task

The MCSAC EOBR Implementation Subcommittee will report back to the full committee on its work on Task 11–04, examining technical issues relating to the electronic transfer of hours-of service information from trucks to law enforcement personnel at the roadside.

Roadside Violation Severity Weightings Task

The MCSAC will continue its deliberations on Task 11–02, concerning violation severity weightings under the CSA program.

Cross Border Trucking Pilot Program Task

The MCSAC Subcommittee will receive an update on the opening of the Southern Border to long-haul Mexican trucks.

Hours-of-Service for Passenger-Carrying Drivers of CMVs

The MCSAC will begin consideration of Task 11–06, to begin the process of setting up a subcommittee to consider ideas and concepts on motorcoach HOS.

II. Meeting Participation

Oral comments from the public will be heard during the last hour of the meetings on Monday–Wednesday, and during the last 15 minutes of the meeting on Thursday. Members of the public may submit written comments on the topics to be considered during the meeting by Wednesday, November 30, 2011, to Federal Docket Management System (FDMC) Docket Number FMCSA–2006–26367 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the

online instructions for submitting comments.

- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., E.T. Monday through Friday, except Federal holidays.

Issued on: November 15, 2011.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2011–29960 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0301]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice.

SUMMARY: FMCSA announces receipt of applications from 18 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before December 21, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0301 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *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:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–(202) 493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. For acknowledgment of receipt of your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf*.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 18 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b) (3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

Qualifications of Applicants

Mark A. Aspden

Mr. Aspden, age 51, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Aspden understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Aspden meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from Massachusetts.

Rodney C. Backus

Mr. Backus, 28, has had ITDM since 1997. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Backus understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Backus meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New York.

Peter A. Briester

Mr. Briester, 48, has had ITDM since 2004. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Briester understands diabetes management and monitoring,

has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Briester meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Gerald R. Curran

Mr. Curran, 46, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Curran understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Curran meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Shawn K. Fleming

Mr. Fleming, 44, has had ITDM since 2000. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fleming understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fleming meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Pennsylvania.

Daniel C. French

Mr. French, 41, has had ITDM since 1991. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. French understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. French meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have/has stable diabetic retinopathy. He holds an operator's license from Virginia.

Garry W. Garrison

Mr. Garrison, 48, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Garrison understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Garrison meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Gregory L. Horton

Mr. Horton, 45, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Horton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Horton meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Georgia.

Anthony B. Jones

Mr. Jones, 51, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jones understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Jay T. Kirschmann

Mr. Kirschmann, 33, has had ITDM since the age of 8. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kirschmann understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kirschmann meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from North Dakota.

Patrick G. Landers

Mr. Landers, 23, has had ITDM since 2007. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Landers understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Landers meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New York.

Paul J. Marshall

Mr. Marshall, 48, has had ITDM since 1992. His endocrinologist examined him in 2011 and certified that he has had no

severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Marshall understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marshall meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

Robert J. Pierce

Mr. Pierce, 58, has had ITDM since 1992. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pierce understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pierce meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C chauffeur's license from Michigan.

Kenneth B. Pratt

Mr. Pratt, 70, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pratt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pratt meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

James G. Rahn

Mr. Rahn, 41, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rahn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rahn meets the requirements of the vision requirements at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Ward A. Stone

Mr. Stone, 62, has had ITDM since 2004. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stone understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stone meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Wisconsin.

Todd J. Timmerman

Mr. Timmerman, 40, has had ITDM since 1980. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Timmerman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Timmerman meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class DL operator's license from Wisconsin.

James L. Weinert

Mr. Weinert, 58, has had ITDM since 1997. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Weinert understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Weinert meets the requirements of the vision requirement at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Ohio.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: November 10, 2011.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2011–29958 Filed 11–18–11; 8:45 am]

BILLING CODE;P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. Marad 2011 0147]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before January 20, 2012.

FOR FURTHER INFORMATION CONTACT: Thomas Christensen, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. *Telephone:* (202) 366–5909; or *email: thomas.christensen@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Effective U.S. Control (EUSC)/Parent Company.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0511.

Form Numbers: None.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: The Effective U.S. Control (EUSC)/Parent Company collection consists of an inventory of foreign-registered vessels owned by U.S. citizens. Specially, the collection consists of responses from vessel owners verifying or correcting vessel ownership data and characteristics found in commercial publications. The information obtained could be vital in a national or international emergency and is essential to the logistical support planning operations conducted by Maritime Administration officials.

Description of Respondents: U.S. citizens who own foreign-registered vessels.

Annual Responses: 60.

Annual Burden: 30.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://www.regulations.gov.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://www.regulations.gov.*

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

Dated: November 14, 2011.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2011–29944 Filed 11–18–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 16, 2011.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue NW., Suite 11010, Washington, DC 20220.

DATES: Written comments should be received on or before December 21, 2011 to be assured consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0939.

Type of Review: Revision of a currently approved collection.

Title: Interest Charge on DISC–Related Deferred Tax Liability.

Forms: 8404.

Abstract: Shareholders of Interest Charge Domestic International Sales Corporations (IC–DISCs) use Form 8404 to figure and report an interest charge on their DISC-related deferred tax liability. The interest charge is required by Internal Revenue Code section 995(f). IRS uses Form 8404 to determine whether the shareholder has correctly figured and paid the interest charge on a timely basis.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 15,580.

OMB Number: 1545–1005.

Type of Review: Extension without change of a currently approved collection.

Title: PS–62–87 (Final) Low-Income Housing Credit for Federally-Assisted Buildings.

Abstract: The rule requires the taxpayer (low-income building owner) to seek a waiver in writing from the IRS concerning low-income buildings acquired during a special 10-year period in order to avert a claim against a Federal mortgage insurance fund.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 3,000.

OMB Number: 1545–1126.

Type of Review: Extension without change of a currently approved collection.

Title: TD8733—Treaty-Based Return Positions.

Abstract: Regulation section 301.6114–1 sets forth the reporting requirement under Sec. 6114. Persons or entities subject to this reporting requirement must make the required disclosure on a statement attached to their return, in the manner set forth, or be subject to a penalty. Regulation section 301.7701(b)–7(a)(4)(iv)(C) sets forth the reporting requirement for dual resident S corporation shareholders who claim treaty benefits as nonresidents of the United States.

Respondents: Individuals and households.

Estimated Total Burden Hours: 6,015.

OMB Number: 1545–1385.

Type of Review: Extension without change of a currently approved collection.

Title: GL–238–88 (Final) Preparer Penalties—Manual Signature Requirement.

Abstract: The reporting requirements affect returns preparers of fiduciary returns. They will be required to submit a list of the names and identifying numbers of all fiduciary returns which are being filed with a facsimile signature of the returns preparer.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 25,825.

OMB Number: 1545–1488.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8719—Requirements Respecting the Adoption or Change of Accounting Method, Extensions of Time to Make Elections.

Abstract: The regulations provide the standards the Commissioner will use to determine whether to grant an extension of time to make certain elections.

Respondents: Private sector: Businesses or other for-profits.

Estimated Total Burden Hours: 5,000.

OMB Number: 1545–1498.

Type of Review: Extension without change of a currently approved collection.

Title: REG–209826–96 (NPRM) Application of the Grantor Trust Rules to Nonexempt Employees' Trusts.

Abstract: The regulations provide rules for the application of the grantor trust rules to certain nonexempt employees' trusts. Taxpayers must indicate on a return that they are relying on a special rule to reduce the overfunded amount of the trust.

Respondents: Private sector: Businesses or other for-profits, not-for-profit institutions.

Estimated Total Burden Hours: 1,000.

OMB Number: 1545–1518.

Type of Review: Revision of a currently approved collection.

Title: HSA, Archer MSA, or Medicare Advantage MSA Information.

Form: 5498–SA.

Abstract: Section 220(h) requires trustees to report to the IRS and medical savings accountholders contributions to and the year-end fair market value of any contributions made to a medical savings account (MSA). Congress requires Treasury to report to them the total contributions made to an MSA for the current tax year. Section 1201 of the Medicare prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173) created new Code section 223. Section 223(h) requires the reporting of contributions to and the year-end fair market value of health savings accounts for tax years beginning after December 31, 2003.

Respondents: Private sector: Businesses or other for-profits.

Estimated Total Burden Hours: 8,877.

OMB Number: 1545–1591.

Type of Review: Extension without change of a currently approved collection.

Title: REG–251701–96 Electing Small Business Trusts.

Abstract: This regulation provides the time and manner for making the Electing Small Business Trust election pursuant to section 1361(e)(3).

Respondents: Private sector: Businesses or other for-profits.

Estimated Total Burden Hours: 7,500.

Bureau Clearance Officer: Yvette Lawrence, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224; (202) 927–4374.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2011–30008 Filed 11–18–11; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the ''agencies'') 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 Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to extend, with revision, the Consolidated Reports of Condition and Income (Call Report), which are currently approved collections of information. The proposed new data items would be added to the Call Report as of the June 30, 2012, report date, except for two proposed revisions that would take effect March 31, 2012, in connection with the initial filing of Call Reports by savings associations. In addition, proposed instructional changes would take effect March 31, 2012. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC and the agencies should modify the proposed revisions prior to giving final approval. The agencies will then submit the revisions to OMB for review and approval.

DATES: Comments must be submitted on or before January 20, 2012.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: You should direct all written comments to: Communications Division, Office of the Comptroller of

the Currency, Mailstop 2–3, Attention: 1557–0081, 250 E Street SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 250 E Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, which should refer to ''Consolidated Reports of Condition and Income (FFIEC 031 and 041),'' 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.
- *Email: regs.comments@federalreserve.gov*. Include reporting form 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 NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to ''Consolidated Reports of Condition and Income, 3064–0052,'' by any of the following methods:

- *Agency Web Site:http://www.fdic.gov/regulations/laws/federal/propose.html*. Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: comments@FDIC.gov*. Include ''Consolidated Reports of Condition and Income, 3064–0052'' in the subject line of the message.
- *Mail:* Gary A. Kuiper, (202) 898–3877, Counsel, Attn: Comments, Room F–1086, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact any of the agency clearance officers whose names appear below. In addition, copies of the Call Report forms can be obtained at the FFIEC's web site (*http://www.ffiec.gov/ffiec_report_forms.htm*).

OCC: Mary Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

Board: Cynthia Ayouch, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Gary A. Kuiper, Counsel, (202) 898–3877, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The agencies are proposing to revise and extend for three years the Call Report, which is currently an approved collection of information for each agency.

Report Title: Consolidated Reports of Condition and Income (Call Report).

Form Number: Call Report: FFIEC 031 (for banks with domestic and foreign offices) and FFIEC 041 (for banks with domestic offices only).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC:

OMB Number: 1557–0081.

Estimated Number of Respondents: 2,035 (1,399 national banks and 636 federal savings associations).

Estimated Time per Response:

National banks: 53.96 burden hours per quarter to file.

Federal savings associations: 54.48 burden hours per quarter to file and 188 burden hours for the first year to convert systems and conduct training.

Estimated Total Annual Burden:

National banks: 301,960 burden hours to file.

Federal savings associations: 138,597 burden hours to file plus 119,568 burden hours for the first year to convert systems and conduct training.

Total: 560,125 burden hours.

Board:

OMB Number: 7100–0036.

Estimated Number of Respondents: 827 state member banks.

Estimated Time per Response: 56.06 burden hours per quarter to file.

Estimated Total Annual Burden: 185,446 burden hours.

FDIC:

OMB Number: 3064–0052.

Estimated Number of Respondents: 4,630 (4,570 insured state nonmember banks and 60 state savings associations).

Estimated Time per Response:

State nonmember banks: 40.85 burden hours per quarter to file.

State savings associations: 40.88 burden hours per quarter to file and 188 burden hours for the first year to convert systems and conduct training.

Estimated Total Annual Burden:

State nonmember banks: 746,738 burden hours to file.

State savings associations: 9811 burden hours to file plus 11,280 burden hours for the first year to convert systems and conduct training.

Total: 767,829 burden hours.

The estimated time per response for the quarterly filings of the Call Report is an average that varies by agency because of differences in the composition of the institutions under each agency's supervision (e.g., size distribution of institutions, types of activities in which they are engaged, and existence of foreign offices). The average reporting burden for the filing of the Call Report is estimated to range from 17 to 715 hours per quarter,

depending on an individual institution's circumstances. The initial burden arising from implementing any recordkeeping and systems changes necessary to enable institutions to report the new Call Report data that are the subject of this proposal will also vary across institutions depending on their circumstances. Given the reporting thresholds that apply to certain proposed revisions and the specialized nature of other proposed revisions, the smallest institutions are not likely to be affected by the proposed reporting changes. Based on the size distribution of the more than 7,600 institutions that will be filing Call Reports in 2012, the average initial burden of the proposed revisions per institution is expected to be limited. The agencies invite institutions to comment on the initial burden of implementing the revisions discussed below in this proposal.

As approved by OMB, savings associations will convert from filing the Thrift Financial Report (TFR) (OMB Number: 1550–0023) to filing the Call Report effective as of the March 31, 2012, report date (unless an institution elects to begin filing the Call Report before that report date).[1] Thus, savings associations will incur an initial burden of converting systems and training staff to prepare and file the Call Report in place of the TFR. Accordingly, the burden estimates above in this notice for savings associations also include the time to convert to filing the Call Report, including necessary systems changes and training staff on Call Report preparation and filing, which is estimated to average 188 hours per savings association.

As a general statement, larger savings associations and those with more complex operations would expend a greater number of hours than smaller savings associations and those with less complex operations. A savings association's use of service providers for the information and accounting support of key functions, such as credit processing, transaction processing, deposit and customer information, general ledger, and reporting should result in lower burden hours for converting to the Call Report. Savings associations with staff having experience in preparing and filing the Call Report should incur lower initial burden hours for converting to the Call Report from the TFR. For further information about the estimated initial burden hours for savings associations' conversion to the Call Report from the TFR, see 76 FR 39986, July 7, 2011.

Type of Review: Revision and extension of currently approved collections.

General Description of Reports

These information collections are mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for state member banks), 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks), and 12 U.S.C. 1464 (for federal and state savings associations). At present, except for selected data items, these information collections are not given confidential treatment.

Abstract

Institutions submit Call Report data to the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of individual institutions and the industry as a whole. Call Report data provide the most current statistical data available for evaluating institutions' corporate applications, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. The agencies use Call Report data in evaluating interstate merger and acquisition applications to determine, as required by law, whether the resulting institution would control more than ten percent of the total amount of deposits of insured depository institutions in the United States. Call Report data are also used to calculate institutions' deposit insurance and Financing Corporation assessments and national banks' and federal savings associations' semiannual assessment fees.

Current Actions

I. Overview

The agencies are proposing to implement a limited number of revisions to the Call Report requirements in 2012. These changes, which are discussed in detail in Sections II.A through II.G of this notice, are intended to provide data needed for reasons of safety and soundness or other public purposes. The proposed new data items would be added to the Call Report as of the June 30, 2012, report date, except for two proposed revisions that would take effect March 31, 2012, in connection with the initial filing of Call Reports by savings associations. These proposed new data items, which are focused primarily on institutions with $1 billion or more in total assets, would assist the agencies in gaining a better understanding of institutions' lending activities and credit risk exposures, primarily through enhanced data on the composition of the allowance for loan and lease losses (ALLL), quarter-end loan amounts originated during the quarter, past due and nonaccrual purchased credit-impaired loans, and representation and warranty reserves associated with mortgage loan sales. In addition, beginning with the March 31, 2012, report date, savings associations and certain state savings and cooperative banks would report on their Qualified Thrift Lender compliance in two new Call Report items and certain existing items used in the measurement of the leverage ratio denominator would be modified to accommodate calculations by both banks and savings associations. The banking agencies are also proposing certain revisions to the Call Report instructions that would take effect March 31, 2012.

The proposed changes include:

- A new Schedule RI–C, Disaggregated Data on the Allowance for Loan and Lease Losses, in which institutions with total assets of $1 billion or more would report a breakdown by key loan category of the end-of-period allowance for loan and lease losses (ALLL) disaggregated on the basis of impairment method and the end-of-period recorded investment in held-for-investment loans and leases related to each ALLL balance;
- A new Schedule RC–U, Loan Origination Activity, in which institutions with total assets of $300 million or more would report, separately for several loan categories, the quarter-end amount of loans reported in Schedule RC–C, Loans and Lease Financing Receivables, that was originated during the quarter, and institutions with total assets of $1 billion or more would also report for these loan categories the portions of the quarter-end amount of loans originated during the quarter that were (a) originated under a newly established loan commitment and (b) not originated under a loan commitment;
- New Memorandum items in Schedule RC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets, for the total outstanding balance and related carrying amount of purchased credit-impaired loans accounted for under ASC 310–30 that are past due 30 through 89 days and still accruing, past due 90 days or more and still accruing, and in nonaccrual status;
- New items in Schedule RC–P, 1–4 Family Residential Mortgage Banking Activities, in which institutions with $1 billion or more in total assets and smaller institutions with significant mortgage banking activities would

[1] See 76 FR 39981, July 7, 2011, at *http://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_FFIEC041_20110707_ffr.pdf* and the Office of Thrift Supervision's CEO Letter #391 dated July 7, 2011, at *http://www.ots.treas.gov/_files/25391.pdf.*

report the amount of representation and warranty reserves for 1–4 family residential mortgage loans sold (in domestic offices), with separate disclosure of reserves for representations and warranties made to U.S. government and government-sponsored agencies and to other parties;

• New items in Schedule RC–M, Memoranda, in which savings associations and certain state savings and cooperative banks would report on the test they use to determine their compliance with the Qualified Thrift Lender requirement and whether they have remained in compliance with this requirement.

• Revisions to two existing items in Schedule RC–R, Regulatory Capital, used in the calculation of the leverage ratio denominator to accommodate certain differences between the regulatory capital standards that apply to the leverage capital ratios of banks versus savings associations.

• Instructional revisions addressing the discontinued use of specific valuation allowances by savings associations when they begin to file the Call Report instead of the TFR beginning in March 2012; the reporting of the number of deposit accounts of $250,000 or less in Schedule RC–O, Other Data for Deposit Insurance and FICO Assessments, by institutions that have issued certain brokered deposits; and the accounting and reporting treatment for capital contributions in the form of cash or notes receivable.

For the March 31, 2012, and June 30, 2012, report dates, as applicable, institutions may provide reasonable estimates for any new or revised Call Report item initially required to be reported as of that date for which the requested information is not readily available. The specific wording of the captions for the new or revised Call Report data items discussed in this proposal and the numbering of these data items should be regarded as preliminary.

II. Discussion of Proposed Call Report Revisions

A. Allowance for Loan and Leases Losses by Loan Category

In July 2010, the Financial Accounting Standards Board (FASB) published Accounting Standards Update No. 2010–20, Disclosures about the Credit Quality of Financing Receivables and the Allowance for Credit Losses (ASU 2010–20), which amended Accounting Standards Codification (ASC) Topic 310, Receivables. The main objective of the update was to provide financial statement users with greater transparency about an entity's allowance for credit losses and the credit quality of its financing receivables. Examples of financing receivables include loans, credit cards, notes receivable, and leases (other than an operating lease). The update was intended to provide additional information to assist financial statement users in assessing an entity's credit risk exposures and evaluating the adequacy of its allowance for credit losses.

To achieve its main objective, ASU 2010–20 requires, in part, that an entity disclose by portfolio segment ''[t]he balance in the allowance for credit losses at the end of each period disaggregated on the basis of the entity's impairment method'' and ''[t]he recorded investment in financing receivables at the end of each period related to each balance in the allowance for credit losses, disaggregated * * * in the same manner.''[2] As defined in the ASC Master Glossary, a portfolio segment is ''[t]he level at which an entity develops and documents a systematic methodology to determine its allowance for credit losses.'' For each portfolio segment, the disaggregation based on impairment method requires separate disclosure of the allowance and the related recorded investment amounts for financing receivables collectively evaluated for impairment, individually evaluated for impairment, and acquired with deteriorated credit quality.[3] This disaggregated disclosure requirement is effective for public entities for the first interim or annual reporting period ending on or after December 15, 2010, and for nonpublic entities for annual reporting periods ending on or after December 15, 2011.

Consistent with the ASU 2010–20 disclosure requirements described above, the agencies are proposing revisions to the June 2012 Call Report to capture disaggregated detail of institutions' allowances for loan and lease losses (ALLL) and related recorded investments for loans and leases from institutions with $1 billion or more in total assets. Disaggregated data would be reported for key loan categories for which the recorded investments are reported in Schedule RC–C, Part I, Loans and Leases. The agencies also propose to collect this information on the basis of impairment method for each loan category. The agencies believe that the use of key loan categories reported on Schedule RC–C for the proposed new Call Report disaggregated disclosures is consistent with the meaning of the term portfolio segment in ASU 2010–20 and with the agencies' supervisory guidance on ALLL methodologies.[4] More specifically, the agencies propose to collect from institutions with $1 billion or more in total assets disaggregated allowance and recorded investment data on the basis of impairment method (collectively evaluated for impairment,[5] individually evaluated for impairment, and acquired with deteriorated credit quality) for the following loan categories:

• Construction, land development, and other land loans;

• Revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit;

• Closed-end loans secured by 1–4 family residential properties;

• Loans secured by multifamily (5 or more) residential properties;

• Loans secured by nonfarm nonresidential properties;[6]

• Commercial and industrial loans;

• Credit card loans to individuals for household, family, and other personal expenditures;

• All other loans to individuals for household, family, and other personal expenditures; and

• All other loans and all lease financing receivables.

Currently, the Call Report does not provide detail on the components of the ALLL disaggregated by loan category in the manner prescribed by ASU 2010–20. Rather, only the amount of the overall ALLL is reported with separate disclosure of the total amount of the allowance for loans acquired with deteriorated credit quality.[7] Therefore,

[2] ASC paragraphs 310–10–51–11B(g) and (h).

[3] ASC paragraph 310–10–51–11C. Allowances for amounts collectively evaluated for impairment are determined under ASC Subtopic 450–20, Contingencies–Loss Contingencies (formerly FASB Statement No. 5, ''Accounting for Contingencies''), allowances for amounts individually evaluated for impairment are determined under ASC Section 310–10–35, Receivables–Overall–Subsequent Measurement (formerly FASB Statement No. 114, ''Accounting by Creditors for Impairment of a Loan''), and allowances for loans acquired with deteriorated credit quality are determined under ASC Subtopic 310–30, Receivables–Loans and Debt Securities Acquired with Deteriorated Credit Quality (formerly AICPA Statement of Position 03–3, ''Accounting for Certain Loans or Debt Securities Acquired in a Transfer'').

[4] See the agencies' July 2001 ''Policy Statement on Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions'' at *http://www.federalreserve.gov/boarddocs/srletters/2001/SR0117a1.pdf* and their December 2006 ''Interagency Policy Statement on the Allowance for Loan and Lease Losses'' at *http://www.fdic.gov/news/news/financial/2006/fil06105a.pdf.*

[5] For loans collectively evaluated for impairment, an institution would also report the amount of any unallocated portion of its ALLL.

[6] The first five loan categories would be reported on a domestic office only basis.

[7] Credit card specialty banks and other institutions with a significant volume of credit card

when conducting off-site evaluations of the level of an individual institution's overall ALLL and changes therein, examiners and agency analysts cannot determine whether the institution is releasing loan loss allowances in some loan categories and building allowances in others. Collecting more detailed ALLL information would allow the agencies to more finely focus efforts related to the ALLL and credit risk management and, in conjunction with past due and nonaccrual data currently reported by loan category that are used in a general assessment of an institution's credit risk exposures, to better evaluate the appropriateness of its ALLL. As an example, it is currently not possible to differentiate the ALLL allocated to commercial real estate (CRE) loans from the remainder of the ALLL at institutions with CRE concentrations. By collecting more detailed ALLL information, examiners and analysts would then better understand how institutions with such concentrations are building or releasing allowances, the extent of ALLL coverage in relation to their CRE portfolios, and how this might differ among institutions.

The proposed additional detail on the composition of the ALLL by loan category would also be useful for analysis of the depository institution system. As of June 30, 2011, institutions with $1 billion or more in total assets, which would report the additional detail under this proposal, held nearly 92 percent of the ALLL balances held by all institutions. More granular ALLL information would assist the agencies in understanding industry trends related to the build-up or release of allowances for specific loan categories. The information would also support comparisons of ALLL levels by loan category, including the identification of differences in ALLL allocations by institution size. Understanding how institutions'ALLL practices and allocations differ over time for particular loan categories as economic conditions change may also provide insights that can be used to more finely tune supervisory procedures and policies.

The agencies request comment on the degree to which the proposed disaggregated detail of institutions' allowance balances corresponds to institutions' current allowance methodologies, both with respect to the key loan categories included in the proposal and the separate reporting of allowance amounts on the basis of impairment method for each loan category. In addition, comment is invited on the appropriateness of including an item in the Call Report in which institutions would report the amount of any unallocated portion of the ALLL for loans collectively evaluated for impairment.[8] To the extent that the proposed Call Report information is not captured in institutions' automated data collection systems, the agencies request comment on institutions' ability to begin to capture this ALLL and related recorded investment information associated with outstanding loans.

B. Loan Origination Data

As highlighted by the recent financial crisis and its aftermath, the ability to assess credit availability is a key consideration for monetary policy, financial stability, and the supervision and regulation of the banking system. However, the information currently available to policymakers both within and outside the agencies is insufficient to accurately monitor the extent to which depository institutions are providing credit to households and businesses. In its current form, the Call Report collects data on the amount of loans to both households and businesses that are outstanding on institutions' books at the end of each quarter. However, the underlying flow of loan originations cannot be deduced from these quarter-end data owing to the myriad of factors and banking activities (other than charge-offs for which data are reported) that routinely affect the amount of outstanding loans held by institutions, including activities such as loan paydowns, extensions, purchases and sales, securitizations, and repurchases. Direct reporting of loan originations would allow the agencies to isolate the flow of credit creation from the effects of these other banking activities.

Economic research points to a crucial link between the availability of credit and macroeconomic outcomes.[9] For example, the rapid contraction in both total loans held on institutions' balance sheets and in credit lines held off their balance sheets in the volatile period following the collapse of Lehman Brothers in the fall of 2008 likely contributed to the depth of the economic recession as well as to the subsequent weakness in the recovery in economic activity. As a result, encouraging the expansion of banking organization loan supply was a primary goal of most of the emergency liquidity facilities established during the height of the crisis and of the Troubled Asset Relief Program (TARP).[10] Likewise, numerous authors have shown a relationship between bank lending and changes in bank capital.[11] For example, during the early 1990s, lending was also significantly depressed while banks' capital cushions were being rebuilt, leading some analysts to describe the period as a ''credit crunch'' that resulted in a materially slower recovery in economic activity.

However, the lack of data on loan originations made it very difficult for policymakers to assess the sources of the steep declines in outstanding loans and credit lines during the recent crisis and during the early 1990s ''credit crunch.'' In fact, a fall in outstanding loans could be driven by reduced demand for credit, reduced supply of credit by banking organizations, or both. Looking only at changes in outstanding loan balances can give misleading signals and mask important shifts in the supply of, and demand for, credit. Policy makers may react differently in each of these cases.

The sources of loan growth—such as whether loans were made under commitment or not under commitment—also contain important insights for those monitoring financial stability or developing macroprudential regulatory policies.[12] As observed in the fall of 2008, strong loan growth that is driven primarily by customers drawing down funds from preexisting lending commitments can be a sign of stresses

receivables also disclose the amount, if any, of ALLL attributable to retail credit card fees and finance charges.

[8] The agencies note that the table in ASC paragraph 310–10–55–7 illustrating the required disclosure by portfolio segment of the end-of-period balance of the ALLL disaggregated on the basis of impairment method and the end-of-period recorded investment in financing receivables related to each ALLL balance includes an unallocated portion of the ALLL.

[9] See, for example, A.K. Kashyap and J.C. Stein (2000), ''What Do a Million Observations on Banks Say About the Transmission of Monetary Policy,'' *The American Economic Review,* Vol. 90, No. 3, pages 407–428. See also Michael Woodford, ''Financial Intermediation and Macroeconomic Analysis,'' *Journal of Economic Perspectives,* Fall 2010, volume 24, issue 4, pages 21–44.

[10] Chairman Ben S. Bernanke, ''Troubled Asset Relief Program and the Federal Reserve's liquidity facilities,'' Testimony before the Committee on Financial Services, U.S. House of Representatives, November 18, 2008, at *http://www.federalreserve.gov/newsevents/testimony/bernanke20081118a.htm.*

[11] See, for example, Joe Peek and Eric Rosengren (1995), ''The Capital Crunch: Neither a Borrower nor a Lender Be,'' *Journal of Money,* Credit and Banking, volume 27(3), pages 625–638, August. See also Ben Bernanke and Cara Lown (1991), ''The Credit Crunch,'' *Brookings Papers on Economic Activity,* 2:1991, pages 205–239.

[12] Moritz Schularick and Alan M. Taylor, ''Credit Booms Gone Bust: Monetary Policy, Leverage Cycles and Financial Crises, 1870–2008,'' 2009, National Bureau of Economic Research, Inc., NBER Working Papers: 15512.

in financial markets, and therefore a signal that the economy could be slowing down. In contrast, strong growth in credit that includes robust extensions to new customers could signal a broad pickup in demand for financing and hence renewed economic growth, or it could suggest that institutions have eased their lending standards. Accordingly, rapid loan growth can be an important indicator of the safety and soundness of individual institutions.[13] Loan origination data, if collected from depository institutions, would better identify when such developments warrant greater supervisory scrutiny.

Credit availability to small businesses is widely considered an important driver of economic growth. As a result, the significant contraction in business loans on institutions' books over the past several years has generated calls from policymakers (and the public) to better understand the credit flows of small businesses.[14] The collection of data on originations of loans to businesses by the size of the original loan would provide a window into the functioning of the important small business market.[15]

In addition, if loan origination information were available, it would also be valuable in designing, and assessing the effectiveness of, government policies for depository institutions and other financial markets. For instance, policymakers would be keenly attuned to whether, and if so, to what extent, the changes to the capital and liquidity requirements for large institutions that will be contained in regulations implementing the Dodd-Frank Act and the international Basel III agreement affect depository institution loan supply. Although these new regulations would only directly affect a few dozen large banking organizations, smaller banking organizations also may adjust their lending policies in response to the changes at large banking organizations.

Loan data currently available to the agencies provide insufficient detail to accurately monitor credit creation by depository institutions. The Call Report currently collects data on the recorded amounts of a wide variety of loan categories in Schedule RC–C, Loans and Lease Financing Receivables. Schedule RI–B, Part I, Charge-Offs and Recoveries on Loans and Leases, collects the flow of gross charge-offs and recoveries in many of the loan categories for which recorded amounts are reported in Schedule RC–C, Part I, Loans and Leases. On Schedule RC–P, 1–4 Family Residential Mortgage Banking Activities (in Domestic Offices), which was added to the Call Report in 2006, certain banks report originations and purchases of residential mortgage loans held for sale, but not originations of loans held for investment. On Schedule RC–S, Servicing, Securitization, and Asset Sale Activities, banks report the outstanding principal balance of seven categories of loans sold and securitized for which the institution has retained servicing or has provided recourse or other credit enhancements.[16] For these same seven loan categories, banks also report the unpaid principal balance of loans they have sold (not in securitizations) with recourse or other seller-provided credit enhancements. No data exist for those loans banks have sold without recourse or seller-provided credit enhancements when servicing has not been retained.

In contrast, savings associations currently report data on loan originations, sales, and purchases in the Thrift Financial Report (TFR). On TFR Schedule CF, Consolidated Cash Flow Information, savings associations report by major loan category the dollar amount of loans that were closed or disbursed, loans and participations purchased, and loan sales during the quarter. In addition, on TFR Schedule LD, Loan Data, savings associations report the amount of net charge-offs, purchases, originations, and sales of certain 1–4 family and multifamily residential mortgages with high loan-to-value ratios.[17]

The agencies propose to begin collecting data on loan originations from institutions with total assets of $300 million or more because, as outlined in detail above, this information would be of substantial benefit in light of the fact that the data currently available for banking organizations are inadequate for monetary policy and financial stability regulators to monitor and analyze credit flows and because the proposed data would support the agencies' supervisory efforts.

More specifically, for depository institutions with $300 million or more in total assets, the agencies propose to collect quarterly information on loan originations for several important loan categories by introducing a new Schedule RC–U, Loan Origination Activity (in Domestic Offices).[18] Under this proposal, all institutions with $300 million or more in total assets would report in column A of Schedule RC–U, for certain loan categories reported in Schedule RC–C, Loans and Lease Financing Receivables, the quarter-end balance sheet amount for those loans originated during the quarter that ended on the report date.[19] Institutions with $1 billion or more in total assets would also report, for relevant loan categories, (1) the portion of this quarter-end amount that was originated under a newly established commitment [20] (column B of Schedule RC–U) and (2) the portion that was not originated under a commitment (column C of Schedule RC–U). In general, the additional data that would be reported in columns B and C of Schedule RC–U by institutions with $1 billion or more

[13] William R. Keeton, ''Does Faster Loan Growth Lead to Higher Loan Losses?'' *Federal Reserve Bank of Kansas City Economic Review,* 2nd Quarter 1999, volume 84, issue 2, pages 57–75, and Deniz Igan and Marcelo Pinheiro, ''Exposure to Real Estate in Bank Portfolios,'' *Journal of Real Estate Research,* January–March 2010, volume 32, issue 1, pages 47–74.

[14] See Federal Reserve Board, Report to Congress on the Availability of Credit to Small Business, 2007, at *http://www.federalreserve.gov/boarddocs/rptcongress/smallbusinesscredit/sbfreport2007.pdf.* See also testimony before the House Financial Services Committee (May 18, 2010) at *http://cybercemetery.unt.edu/archive/cop/20110401231854/http://cop.senate.gov/documents/testimony-051810-atkins.pdf* and Congressional Oversight Panel Oversight Report, The Small Business Credit Crunch and the Impact of the TARP (May 13, 2010), at *http://cybercemetery.unt.edu/archive/cop/20110402035902/http://cop.senate.gov/documents/cop-051310-report.pdf.*

[15] The Call Report and TFR currently collect the outstanding amount of small dollar loans to businesses and farms where, for loans to businesses, ''small dollar'' is defined as loans (not made under commitments) that have original amounts of $1 million or less and draws on commitments where the total commitment amount is $1 million or less.

[16] The seven categories are (1) 1–4 family residential mortgages, (2) home equity loans, (3) credit card loans, (4) auto loans, (5) other consumer loans, (6) commercial and industrial loans, and (7) all other loans, all leases, and all other assets (commercial real estate loans, for example, are subsumed in this category).

[17] As previously noted, savings associations will discontinue filing the TFR after the December 31, 2011, report date, which means that these data, as currently reported in the TFR, will no longer be collected going forward.

[18] Thus, depository institutions with less than $300 million in total assets would be exempt from completing proposed Schedule RC–U.

[19] For example, a loan was originated for $120,000 during the quarter. As a result of principal payments received during the quarter, the recorded amount of the loan as reported on the institution's Call Report balance sheet (Schedule RC) and in the Call Report loan schedule (Schedule RC–C) at quarter-end was $101,000. The institution would report the $101,000 quarter-end recorded amount for this loan in column A of proposed Schedule RC–U. In general, in reporting amounts in column A, if a loan origination date is unknown, the reporting institution would be instructed to use the date that the loan was first booked by the institution.

[20] A newly established commitment is one for which the terms were finalized and the commitment became available for use during the quarter that ended on the report date. A newly established commitment also includes a commitment that was renewed during the quarter that ended on the report date.

in total assets represent two ways that institutions originate new loans, both of which affect the amounts of loans on institutions' balance sheets.

In the proposed originations schedule, all institutions with $300 million or more in total assets would report the amounts reported in Schedule RC–C, Part I or Part II, as of the quarter-end report date that were originated during the quarter that ended on the report date for the following loan categories:

- 1–4 family residential construction loans;
- Other construction loans and all land development and other land loans;
- Revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit;
- Closed-end loans secured by first liens on 1–4 family residential properties;
- Closed-end loans secured by junior liens on 1–4 family residential properties;
- Loans secured by multifamily (5 or more) residential properties;
- Loans secured by nonfarm nonresidential properties;[21]
- Loans to commercial banks and other depository institutions in the U.S.;
- Loans to banks in foreign countries;
- Loans to finance agricultural production and other loans to farmers;
- Commercial and industrial loans to U.S. addressees with original amounts of $1,000,000 or less;
- Commercial and industrial loans to U.S. addressees with original amounts of more than $1,000,000;
- Consumer credit card loans;
- Consumer automobile loans;
- Other consumer loans; and
- Loans to nondepository financial institutions.

In addition, for each of the preceding loan categories, except as noted below, institutions with $1 billion or more in total assets would separately disclose the portion of the quarter-end amount of loans originated during the quarter that was originated under a newly established commitment and the portion that was not originated under a commitment. Closed-end loans secured by first liens on 1–4 family residential properties, closed-end loans secured by junior liens on 1–4 family residential properties, and consumer automobile loans would be excluded from both of these additional disclosures. Consumer credit card loans and revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit would be excluded from the disclosure of loans not originated under a commitment because it is assumed such loans are always extended under commitment.

Loan originations that were made under a newly established commitment or a commitment that was renewed during the quarter are likely to more closely reflect the current lending standards and loan terms being applied by an institution, so an expansion or contraction in this subset of loans is indicative of current supply and demand conditions. In this regard, research has shown that loans not made under a commitment are more sensitive to changes in monetary policy than loans made under a commitment.[22] In contrast, loans drawn under previous commitments reflect lending standards and terms that were in place at the time the loan agreements were reached. Hence, changes in outstanding balances associated with previously committed lines are more indicative of demand for funds from the firms that have these lines, as institutions are less able to ration such credit.

As mentioned above, all savings associations, many of which are small, have for many years reported in the TFR the dollar amount of loans that were closed or disbursed, loans and participations purchased, and loan sales during the quarter by major loan category. Thus, the additional reporting burden of proposed Call Report Schedule RC–U for institutions with $300 million or more in total assets may be manageable for such institutions. Nevertheless, because banks have not previously been required to report data pertaining to loan originations for Call Report purposes, the agencies recognize that institutions' data systems may not at present be designed to identify and capture data on loans originated during the quarter that ended on the report date. The agencies request comment on the ability of institutions' existing loan systems to generate the proposed data for Schedule RC–U. If this information is not currently available, the agencies request comment on how burdensome it would be to adapt current systems to report the proposed origination data for Schedule RC–U. To the extent that existing loan systems enable institutions to track data on loans originated during the quarter by loan category in a different manner than has been proposed, institutions are invited to suggest alternative ways in which such origination data could be collected in the Call Report and to explain how an alternative would meet the agencies' data needs as described above in this section.

C. Past Due and Nonaccrual Purchased Credit-Impaired Loans

The Call Report currently collects information regarding the past due and nonaccrual status of loans, leases, and other assets in Schedule RC–N. To determine whether an asset is past due for purposes of completing this schedule, an institution must look to the borrower's performance in relation to the contractual terms of the asset. Over the past few years, there has been a substantial increase in the amount of assets reported in Schedule RC–N as past due 90 days or more and still accruing. At some institutions, a large portion of this increase is related to loans subject to the accounting requirements set forth in ASC Subtopic 310–30, Receivables—Loans and Debt Securities Acquired with Deteriorated Credit Quality (formerly American Institute of Certified Public Accountants Statement of Position 03–3, ''Accounting for Certain Loans or Debt Securities Acquired in a Transfer''), i.e., purchased credit-impaired loans, that were acquired in business combinations, including acquisitions of failed institutions, and other transactions. Loans accounted for under ASC Subtopic 310–30 are initially recorded at their purchase price (in a business combination, fair value). To the extent that the cash flows expected to be collected exceed the purchase price of the loans acquired and the acquiring institution has sufficient information to reasonably estimate the amount and timing of these cash flows, the institution recognizes interest income using the interest method. Otherwise, the loans should be placed in nonaccrual status.

Because loans accounted for under ASC Subtopic 310–30 are impaired at the time of purchase, it is possible for institutions to hold on-balance sheet assets purchased at a deep discount that are contractually 90 days or more past due, but on which interest is being accrued because the amount and timing of the expected cash flows on the assets can be reasonably estimated. Currently, insufficient information is collected in Schedule RC–N to determine the volume of purchased credit-impaired loans included in the loan amounts reported as ''past due 90 days or more and still accruing'' (or reported in the other past due and nonaccrual categories in the schedule). As the volume of assets reported in the three past due and nonaccrual columns in Schedule RC–N has increased at many

[21] The first seven loan categories would be reported on a domestic office only basis.

[22] Donald P. Morgan, ''The Credit Effects of Monetary Policy: Evidence Using Loan Commitments,'' *Journal of Money, Credit and Banking,* Vol. 30, No. 1 (Feb. 1998), pages 102–118.

institutions that also report holdings of loans accounted for under ASC Subtopic 310–30, the agencies cannot determine whether this growth is due to purchased credit-impaired loans or whether the source of the increase has been deterioration in the credit quality and performance among the assets the institution originated (or purchased without evidence of credit problems at acquisition). Better understanding the source of these increases would assist the agencies in determining the need to adjust their supervisory strategies for individual institutions.

Because of the significant number of acquisitions by depository institutions of loans accounted for under ASC 310–30 over the past few years and the expected number of future acquisitions, the agencies propose to collect additional information in Schedule RC–N to segregate the amount of purchased credit-impaired loans that are included in the past due and nonaccrual loans reported in this schedule. New Memorandum items would be added to Schedule RC–N to separately collect from all institutions the total outstanding balance of purchased credit-impaired loans accounted for under ASC 310–30 that are past due 30 through 89 days and still accruing, past due 90 days or more and still accruing, and in nonaccrual status. The related carrying amount of these loans (before any post-acquisition loan loss allowances) would also be reported by past due and nonaccrual status. This information would mirror the data reported in Memorandum item 7, ''Purchased impaired loans held for investment accounted for in accordance with FASB ASC 310–30,'' in Schedule RC–C, Part I. Based on the information reported in Memorandum item 7, there are less than 300 institutions that hold purchased credit-impaired loans and would be affected by the proposed new Schedule RC–N Memorandum items.

D. Representation and Warranty Reserves

When institutions sell or securitize mortgage loans, they typically make certain representations and warranties to the investors or other purchasers of the loans at the time of the sale and to financial guarantors of the loans sold. The specific representations and warranties may relate to the ownership of the loan, the validity of the lien securing the loan, and the loan's compliance with specified underwriting standards. Under ASC Subtopic 450–20, Contingencies—Loss Contingencies (formerly FASB Statement No. 5, ''Accounting for Contingencies''), institutions are required to accrue loss contingencies relating to the representations and warranties made in connection with their mortgage securitization activities and mortgage loan sales when it is probable that a loss has been incurred and the amount of the loss can be reasonably estimated. In October 2010, the Division of Corporation Finance of the Securities and Exchange Commission (SEC) sent a letter to certain public companies reminding them of the need to ''provide clear and transparent disclosure regarding your obligations relating to the[se] various representations and warranties.'' [23] A review of a sample of disclosures about mortgage loan representations and warranties by public banking organizations in their SEC filings since October 2010 reveals that these disclosures tend to distinguish between obligations to U.S. government-sponsored entities and other parties.

At present, institutions with $1 billion or more in total assets and smaller institutions with significant 1–4 family residential mortgage banking activities are required to complete Schedule RC–P, 1–4 Family Residential Mortgage Banking Activities. These institutions report the amount of 1–4 family residential mortgage loans previously sold subject to an obligation to repurchase or indemnify that have been repurchased or indemnified during the quarter. However, the amount of representation and warranty reserves attributable to residential mortgages as of quarter-end included in other liabilities on these institutions' balance sheets is not separately reported in Schedule RC–P. Accordingly, building on the SEC's guidance concerning transparent disclosure in this area, the agencies are proposing to add two items to Schedule RC–P in which institutions required to complete this schedule would report the quarter-end amount of representation and warranty reserves for 1–4 family residential mortgage loans sold (in domestic offices), including those mortgage loans transferred in securitizations accounted for as sales. The amount of reserves for representations and warranties made to U.S. government agencies and government-sponsored agencies (the Federal National Mortgage Association or Fannie Mae, the Federal Home Loan Mortgage Corporation or Freddie Mac, and the Government National Mortgage Association or Ginnie Mae) would be reported separately from the amount of reserves for representations and warranties made to other parties.

E. Qualified Thrift Lender Compliance by Savings Associations

The Qualified Thrift Lender (QTL) test has been in place for savings associations since it was enacted as part of the Competitive Equality Banking Act of 1987. To be a QTL, a savings association must either meet the Home Owners' Loan Act (HOLA) QTL test [24] or the Internal Revenue Service (IRS) Domestic Building and Loan Association (DBLA) test.[25] Under the HOLA QTL test, a savings association must hold ''Qualified Thrift Investments'' equal to at least 65 percent of its portfolio assets. To be a QTL under the IRS DBLA test, a savings association must meet a ''business operations test'' and a ''60 percent of assets test.'' A savings association may use either test to qualify and may switch from one test to the other. However, the association must meet the time requirements of the respective test, which is nine out of the last 12 months for the HOLA QTL test or the taxable year (which may be either a calendar or fiscal year) for the IRS DBLA test. A savings association that fails to meet the QTL requirements is subject to certain restrictions, including limits on activities, branching, and dividends.

Through year-end 2011, savings associations will report data on either the HOLA QTL test or the IRS DBLA test, as appropriate, in TFR Schedule SI, Consolidated Supplemental Information. To enable the agencies to continue to monitor savings associations' QTL compliance after year-end 2011 when these institutions will no longer file the TFR, the agencies are proposing to add two new items to Call Report Schedule RC–M, Memoranda, effective March 31, 2012, that would be completed by savings associations. In the first item, a savings association would identify whether it uses the HOLA QTL test or the IRS DBLA test to determine its QTL compliance. The second item would be a yes/no question that would ask whether the savings association has been in compliance with either the HOLA QTL test as of each month end during the quarter or the IRS DBLA test for its most recent taxable year.

Under Section 10(*l*) of the HOLA, 12 U.S.C. 1467a(*l*), a state savings bank or cooperative bank is permitted, upon application, to be deemed a savings

[23] The Division of Corporation Finance's ''Sample Letter Sent to Public Companies on Accounting and Disclosure Issues Related to Potential Risks and Costs Associated with Mortgage and Foreclosure-Related Activities or Exposures'' can be accessed at *http://www.sec.gov/divisions/corpfin/guidance/cfoforeclosure1010.htm.*

[24] 12 U.S.C. 1467a(m).

[25] 26 CFR 301.7701–13A.

association for purposes of holding company regulation if it is determined that the bank is a QTL. That section also addresses such a bank's failure to maintain its status as a QTL. State savings banks and cooperative banks that have been deemed savings associations pursuant to 12 U.S.C. 1467a(*l*) have not been required to report on their QTL compliance in the Call Report. Nevertheless, the agencies propose that state savings banks and cooperative banks that have elected to be treated as savings associations also should be required to complete the two QTL items proposed to be added to the Call Report effective March 31, 2012.

F. Leverage Ratio Denominator

Banks currently calculate the denominator of the leverage ratio in items 22 through 27 of Call Report Schedule RC–R, Regulatory Capital. Under the regulatory capital standards applicable to banks, this denominator uses average total assets (as reported in item 9 of Schedule RC–K, Quarterly Averages) as the starting point,[26] which banks report in Schedule RC–R, item 22. Disallowed assets and other deductions are then subtracted from average total assets in items 23 through 26 of Schedule RC–R, resulting in the reporting of the amount of average total assets for leverage capital purposes, i.e., the leverage ratio denominator, in item 27 of Schedule RC–R.

However, savings associations use quarter-end total assets as the starting point for the leverage ratio denominator under the regulatory capital standards applicable to such institutions.[27] The quarter-end total assets are then adjusted by subtracting disallowed assets and other deductions and adding the prorated assets of certain ''includable subsidiaries'' to arrive at the amount of adjusted total assets for leverage capital purposes, i.e., the leverage ratio denominator.

To accommodate the calculation of the leverage ratio denominator by savings associations in Schedule RC–R, items 22 through 27, when such institutions begin filing the Call Report, the agencies are proposing to modify items 22 and 26 of Schedule RC–R effective as of the March 31, 2012, report date. The instructions for Schedule RC–R, item 22, would continue to advise banks to report their average total assets from Schedule RC–K, item 9, but would be revised to further state that savings associations should report their total assets from the Call Report balance sheet, Schedule RC, item 12. The caption for Schedule RC–R, item 22, would be revised to read ''Total assets (for banks, average total assets from Schedule RC–K, item 9; for savings associations, total assets from Schedule RC, item 12).'' Because savings associations may have additions to and deductions from their total assets when calculating the leverage ratio denominator that are not captured by existing items 23 through 25 of Schedule RC–R, item 26 of the schedule would be changed from ''LESS: Other deductions from assets for leverage capital purposes'' to ''Other additions to (deductions from) assets for leverage capital purposes.'' The existing instructions for item 26 would be revised to cover adjustments that savings associations need to make to total assets but are not reported in items 23 through 25 of Schedule RC–R, such as the deduction of assets of ''nonincludable'' subsidiaries and the addition of the prorated assets of unconsolidated ''includable'' subsidiaries.

G. Call Report Instructional Revisions

1. Specific Valuation Allowances at Savings Associations

Savings associations that currently file a TFR may create a ''specific valuation allowance'' (SVA) in lieu of taking a charge-off to record the loss associated with a loan when the institution determines that it is likely that the amount of the loss classification will change due to market conditions. The use of an SVA allows a savings association to reduce or increase the amount of the SVA as market conditions change. When a charge-off is taken, however, the only way an institution can record a reduction in the previously recognized loss is through an actual cash recovery. A savings association is not permitted to use an SVA in lieu of a charge-off when it classifies certain credits as loss such as unsecured loans, consumer loans, and credit cards, and in instances where the collateral underlying a secured loan will likely be acquired through foreclosure or repossession. In those cases, only a charge-off is appropriate.

As previously stated, savings associations will be required to file the Call Report beginning with the March 31, 2012, reporting period (unless an institution elects to begin filing the Call Report before that report date). Once savings associations begin to file the Call Report, they will be required to follow Call Report instructions and the agencies' policies regarding loss classifications, which would require a charge-off for all confirmed losses and would not allow the creation or use of an SVA as described above. Therefore, the use of SVAs will not be permitted for any savings association after December 31, 2011. The agencies will issue additional supplemental guidance to explain how any existing SVAs should be treated for Call Report purposes when an institution no longer files the TFR.

2. Reporting the Number of Deposit Accounts in Schedule RC–O

In Memorandum item 1 of Schedule RC–O, Other Data for Deposit Insurance and FICO Assessments, institutions report the amount and number of deposit accounts with balances of $250,000 or less and with balances of more than $250,000, which is the current deposit insurance limit (except, temporarily, for noninterest-bearing transaction accounts). The instructions for Memorandum item 1 discuss the reporting of brokered certificates of deposit issued in $1,000 amounts under a master certificate of deposit to a deposit broker in an amount that exceeds $250,000. Purchases of multiple $1,000 units in a master certificate of deposit by an individual depositor normally do not exceed the $250,000 deposit insurance limit, but current deposit insurance rules do not require the deposit broker to routinely provide information on the individual purchasers and their account ownership to the institution that issued the master certificate. If this information is not readily available to the issuing institution, the instructions for Memorandum item 1 indicate that these master certificates of deposit may be rebuttably presumed to be fully insured and should be reported as deposit accounts of $250,000 or less. A similar rebuttable presumption and reporting guidance applies to brokered deposits in the form of master transaction accounts or money market deposit accounts denominated in units of $0.01 that are established and maintained by a deposit broker in a fiduciary capacity for the broker's customers. The instructions for Memorandum item 1 also state that time deposits issued to deposit brokers in the form of certificates of deposit of $250,000 or more that have been participated out by the broker in shares of $250,000 or less should be reported as deposit accounts of $250,000 or less.

Although the reporting of these master brokered deposits as deposit accounts of $250,000 or less is addressed in the instructions for Memorandum item 1, the instructions do not explain how to treat these brokered deposits for purposes of reporting the number of deposit

[26] See, for example, 12 CFR 325.2(x).

[27] 12 CFR 167.1.

accounts. As a consequence, some institutions are counting each $1,000 unit in a master brokered certificate of deposit and each $0.01 unit in a master transaction or money market deposit account as a separate account. This reporting method leads to an overstatement of the actual number of deposit accounts. For example, an institution following this reporting method that has issued a $10 million master brokered certificate of deposit would report this certificate as representing 10,000 accounts, when the institution's records reflect the existence of only a single account.

Accordingly, the agencies are proposing to revise the instructions for Schedule RC–O, Memorandum item 1, to explain that an institution that has issued a master brokered certificate of deposit or a master transaction or money market deposit account with a balance in excess of $250,000 to which the rebuttable presumption that the balance is fully insured applies should count each such master certificate or account as one account, not as multiple accounts. This would also apply to brokered certificates of deposit of $250,000 or more that have been participated out by the broker in shares of $250,000 or less.

3. Capital Contributions in the Form of Cash or Notes Receivable

The agencies often receive questions about capital contributions in the form of a note receivable. The capital contribution may involve a sale of capital stock or a contribution to additional paid-in capital (surplus) that often takes place, or is expected to take place, at or shortly before a quarter-end report date. In other cases, capital contributions are in the form of cash, with some occurring before quarter-end and others occurring after quarter-end. The regulatory reporting issue that arises with respect to these capital contributions is when and under what circumstances can they be reflected as an increase in the amount of equity capital reported on the balance sheet and thereby be included in regulatory capital.

Although the accounting for capital contributions is not currently addressed in the Call Report instructions, institutions are expected to report capital contributions in their Call Reports in accordance with generally accepted accounting principles (GAAP). In summary, capital contributions in the form of cash are appropriately recognized in equity capital on the balance sheet when received. Capital contributions in the form of a note receivable, executed prior to quarter-end, increase an institution's equity capital at quarter-end only when the note is collected prior to issuance of the institution's financial statements (including its Call Report) for that quarter. To provide guidance to institutions and examiners on the appropriate reporting of these capital contributions, the agencies are proposing to add the following new Glossary entry to the Call Report instructions.

Capital Contributions of Cash and Notes Receivable: An institution may receive cash or a note receivable as a contribution to its equity capital. The transaction may be a sale of capital stock or a contribution to paid-in capital (surplus), both of which are referred to hereafter as capital contributions. The accounting for capital contributions in the form of notes receivable is set forth in ASC Subtopic 505–10, Equity—Overall (formerly EITF Issue No. 85–1, ''Classifying Notes Received for Capital Stock'') and SEC Staff Accounting Bulletin No. 107 (Topic 4.E., Receivables from Sale of Stock, in the Codification of Staff Accounting Bulletins). This Glossary entry does not address other forms of capital contributions, for example, nonmonetary contributions to equity capital such as a building.

A capital contribution of cash should be recorded in an institution's financial statements and Consolidated Reports of Condition and Income when received. Therefore, a capital contribution of cash prior to a quarter-end report date should be reported as an increase in equity capital in the institution's reports for that quarter (in Schedule RI–A, item 5 or 11, as appropriate). A contribution of cash after quarter-end should not be reflected as an increase in the equity capital of an earlier reporting period.

When an institution receives a note receivable rather than cash as a capital contribution, ASC Subtopic 505–10 states that it is generally not appropriate to report the note as an asset. As a consequence, the predominant practice is to offset the note and the capital contribution in the equity capital section of the balance sheet, i.e., the note receivable is reported as a reduction of equity capital. In this situation, the capital stock issued or the contribution to paid-in capital should be reported in Schedule RC, item 23, 24, or 25, as appropriate, and the note receivable should be reported as a deduction from equity capital in Schedule RC, item 26.c, ''Other equity capital components.'' No net increase in equity capital should be reported in Schedule RI–A, Changes in Bank Equity Capital. In addition, when a note receivable is offset in the equity capital section of the balance sheet, accrued interest receivable on the note also should be offset in equity (and reported as a deduction from equity capital in Schedule RC, item 26.c), consistent with the guidance in ASC Subtopic 505–10. Because a nonreciprocal transfer from an owner or another party to an institution does not typically result in the recognition of income or expense, the accrual of interest on a note receivable that has been reported as a deduction from equity capital should be reported as additional paid-in capital rather than interest income.

However, ASC Subtopic 505–10 provides that an institution may record a note received as a capital contribution as an asset, rather than a reduction of equity capital, only if the note is collected in cash ''before the financial statements are issued.'' The note receivable must also satisfy the existence criteria described below. When these conditions are met, the note receivable should be reported separately from an institution's other loans and receivables in Schedule RC–F, item 6, ''All other assets,'' and individually itemized and described in accordance with the instructions for item 6, if appropriate.

For purposes of these reports, the financial statements are considered issued at the earliest of the following dates:

(1) The submission deadline for the Consolidated Reports of Condition and Income (30 calendar days after the quarter-end report date, except for an institution that has more than one foreign office, other than a ''shell'' branch or an International Banking Facility, for which the deadline is 35 calendar days after quarter-end);

(2) Any other public financial statement filing deadline to which the institution or its parent holding company is subject; or

(3) The actual filing date of the institution's public financial reports, including the filing of its Consolidated Reports of Condition and Income or a public securities filing by the institution or its parent holding company.

To be reported as an asset, rather than a reduction of equity capital, as of a quarter-end report date, a note received as a capital contribution (that is collected in cash as described above) must meet the definition of an asset under generally accepted accounting principles by satisfying all of the following existence criteria:

(1) There must be written documentation providing evidence that the note was contributed to the institution prior to the quarter-end

report date by those with authority to make such a capital contribution on behalf of the issuer of the note (e.g., if the contribution is by the institution's parent holding company, those in authority would be the holding company's board of directors or its chief executive officer or chief financial officer);

(2) The note must be a legally binding obligation of the issuer to fund a fixed and determinable amount by a specified date; and

(3) The note must be executed and enforceable before quarter-end.

Although an institution's parent holding company may have a general intent to, or may have entered into a capital maintenance agreement with the institution that calls for it to, maintain the institution's capital at a specified level, this general intent or agreement alone would not constitute evidence that a note receivable existed at quarter-end. Furthermore, if a note receivable for a capital contribution obligates the note issuer to pay a variable amount, the institution must offset the note and equity capital. Similarly, an obligor's issuance of several notes having fixed face amounts, taken together, would be considered a single note receivable having a variable payment amount, which would require all the notes to be offset in equity capital as of the quarter-end report date.

Request for Comment

Public comment is requested on all aspects of this joint notice. Comments are invited on:

(a) Whether the proposed revisions to the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, 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 information collections 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 submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Dated: November 10, 2011.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, November 14, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

Dated at Washington, DC, this 10th day of November 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–29951 Filed 11–18–11; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of Permanent Housing in Augusta, GA

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL for an approximately 2.0-acre parcel of land and a vacant building at the Charlie Norwood VA Medical Center (Uptown Division) in Augusta, Georgia. As consideration, the selected lessee will be required to finance, design, develop, construct, maintain and operate the EUL development. The lessee will also be required to provide preference and priority placement for Veterans at risk for homelessness, and provide on-site supportive services.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30033 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of a Permanent and Transitional Housing Facility in Dayton, OH

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Intent to Enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL on an approximately 14-acre parcel of land at the Dayton VA Medical Center in Dayton, Ohio. As consideration for the lease, the lessee will be required to construct, operate, and maintain a permanent and transitional housing development. The lessee will also be required to give preference and priority placement for homeless, at-risk, disabled, and senior Veterans and their families and provide on-site supportive services.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30029 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of Space for Community Services and Parking in Memphis, TN

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL on an approximately 0.7-acre parcel of land and one building on an approximately 0.4-acre parcel at the Memphis VA Medical Center campus in Tennessee. As consideration for the EUL, the lessee will be required to finance, design, develop, renovate, operate, and maintain one building for community services and one parking lot.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30041 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of Permanent Housing in Salem, VA

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Intent to Enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL for two parcels of land—approximately 5.4 acres and 8.4 acres—at the Salem VA Medical Center in Salem, Virginia. As consideration, the selected lessee will be required to finance, design, develop, construct, operate and maintain an affordable permanent housing development. The lessee will also be required to provide preference and priority placement for homeless and at-risk Veterans, and provide on-site supportive services.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30043 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of Permanent Housing in Perryville, MD

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL on an approximately 28.9-acre parcel of land and 60 buildings at the Perry Point VA Medical Center—VA Maryland Health Care System in Perryville. As consideration for the lease, the selected lessee will finance, design, develop, renovate, construct, maintain and operate a permanent housing development. The lessee will provide preference and priority placement for Veterans and their families, and a supportive services program.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30042 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of Permanent Housing in Topeka, KS

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL for an approximately 4.0-acre parcel of land and seven buildings on the Colmery-O'Neil VA Medical Center campus of the VA Eastern Kansas Health Care System in Topeka, Kansas. As consideration, the selected lessee will be required to finance, design, develop, construct, maintain and operate a permanent supportive housing facility. The lessee will also be required to provide preference and priority placement for senior Veterans and their families, and provide on-site supportive services for resident Veterans.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of

services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30030 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of Permanent Housing in Walla Walla, WA

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL on an approximately 4.0-acre parcel of land at the Jonathan M. Wainwright Memorial VA Medical Center in Walla Walla, Washington. As consideration, the selected lessee will be required to finance, design, develop, construct, maintain and operate a permanent supportive housing development. The lessee will also be required to provide preference and priority placement for Veterans and their families, and a supportive services program.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30048 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of a Parking Structure, Professional Medical Office Structure, a Hotel and General Use Retail Space in Memphis, TN

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL on an approximately 4.0-acre parcel of land at the Memphis VA Medical Center in Memphis, Tennessee. As consideration for the lease, the lessee will be required to finance, design, develop, construct, manage, operate, and maintain a mixed-use parking development, whereby VA will receive negotiated lease consideration likely to include increased parking capacity. The development may also include a professional medical office building, a hotel, and general use retail space.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30034 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of Permanent and Transitional Housing in Chillicothe, OH

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Intent to Enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL of three buildings and three parcels totaling approximately 17.5 acres of land at the Chillicothe VA Medical Center in Chillicothe, Ohio. As consideration for the EUL, the lessee will be required to construct, renovate, operate, and maintain permanent and transitional housing with on-site supportive services. The lessee will also be required to provide preference and priority placement for senior, disabled, homeless and/or at-risk Veterans and their families.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30028 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of a Permanent Housing Facility in Cheyenne, WY

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Intent to Enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL on an approximately 3.7-acre parcel of land at the Cheyenne VA Medical Center in Cheyenne, Wyoming. As consideration for the lease, the lessee will be required to construct, operate, and maintain a permanent housing facility; provide preference and priority placement for senior Veterans and their families; and provide a supportive services program.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30044 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of Permanent Housing in Grand Island, NE

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL for an approximately 4.6-acre parcel of land on the campus of the VA Nebraska Western Iowa Health Care System, Grand Island Community Living Center and Community Based Outpatient Clinic in Grand Island, Nebraska. As consideration, the selected lessee will be required to finance, design, develop, construct, operate and maintain a permanent supportive housing facility. The lessee will be required to provide preference and priority placement for senior Veterans and their families, and provide on-site supportive services.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30046 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for a Mixed-Use Development Including a Permanent Housing Facility in Lincoln, NE

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL on an approximately 59.4-acre parcel of land which includes 8 historic structures at the VA Nebraska-Western Iowa Health Care System (Lincoln Community-Based Outpatient Clinic) in Lincoln, Nebraska. As consideration for the lease, the lessee will be required to construct, renovate, operate, and maintain a mixed-use development. A permanent housing facility will be included in the development, which will offer preference and priority placement for Veterans and their families, and a supportive services program.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30026 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property for the Development of Permanent Housing in Danville, IL

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Intent to Enter into an Enhanced-Use Lease (EUL).

SUMMARY: The Secretary of VA intends to enter into an EUL on two parcels of land of approximately 5.5 acres and 15.0 acres at the VA Illiana Health Care System, Danville Campus in Danville, Illinois. As consideration for the EUL, the lessee will be required to finance, construct, operate and maintain a permanent housing development, provide preference and priority placement for Veterans and their families, and provide a supportive services program.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (044), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible Veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: November 14, 2011.

Eric K. Shinseki,

Secretary of Veterans Affairs.

[FR Doc. 2011–30023 Filed 11–18–11; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 76 Monday,
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Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutant Emissions for Shipbuilding and Ship Repair (Surface Coating); National Emission Standards for Wood Furniture Manufacturing Operations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2010–0786; FRL–9491–4]

RIN 2060–AQ42

National Emission Standards for Hazardous Air Pollutant Emissions for Shipbuilding and Ship Repair (Surface Coating); National Emission Standards for Wood Furniture Manufacturing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review conducted for two industrial source categories regulated by separate national emission standards for hazardous air pollutants. The two national emission standards for hazardous air pollutants are: National Emissions Standards for Shipbuilding and Ship Repair (Surface Coating) and National Emissions Standards for Wood Furniture Manufacturing Operations. This action also finalizes revisions to the regulatory provisions related to emissions during periods of startup, shutdown and malfunction.

DATES: This final action is effective on November 21, 2011.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–HQ–OAR–2010–0786. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information 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 at the EPA Docket Center, EPA West Building, Room Number 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time, Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action regarding the Wood Furniture Manufacturing Operations National Emission Standards for Hazardous Air Pollutants (NESHAP), contact Mr. Nicholas Swanson, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources Group (E143–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–4080; fax number: (919) 685–3219; and email address: *swanson.nicholas@epa.gov.* For questions about this final action regarding the Shipbuilding and Ship Repair (Surface Coating) NESHAP, contact Ms. Tina Ndoh, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Minerals and Manufacturing Group (E243–04), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2750; fax number: (919) 685–5450; and email address: *ndoh.tina@epa.gov.*

SUPPLEMENTARY INFORMATION: For specific information regarding the modeling methodology, contact Mr. James Hirtz, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Air Toxics Assessment Group (C539–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–0881; fax number: (919) 541–0840; and email address: *hirtz.james@epa.gov.* For information about the applicability of these two NESHAP to a particular entity, contact Dr. Rafael Sanchez, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, Washington, DC 20460; telephone number: (202) 564–7028; fax number: (202) 564–0050; and email address: *sanchez.rafael@epa.gov.*

Background Information Document. On December 21, 2010 (75 FR 80220), the EPA proposed revisions to the Shipbuilding and Ship Repair (Surface Coating) NESHAP and the Wood Furniture Manufacturing Operations NESHAP, which were evaluated in our residual risk and technology review (RTR). A summary of the public comments on the proposal and the EPA's responses to the comments is available in Docket ID Number EPA–HQ–OAR–2010–0786.

Organization of this Document. The following outline is provided to aid in locating information in the preamble.

I. General Information
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A. What are the final rule amendments for the Shipbuilding and Ship Repair (Surface Coating) source category?
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C. What are the requirements during periods of startup, shutdown and malfunction?
D. What are the effective and compliance dates of the standards?
IV. Summary of Significant Changes Since Proposal
A. What changes did we make to the Shipbuilding and Ship Repair (Surface Coating) NESHAP since proposal?
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V. Summary of Significant Comments and Responses
A. Comments for Both Shipbuilding and Ship Repair (Surface Coating) and Wood Furniture Manufacturing Operations
B. Wood Furniture Manufacturing Operations
C. Shipbuilding and Ship Repair (Surface Coating)
VI. Impacts of the Final Rules
VII. Statutory and Executive Order Reviews
A. Executive Orders 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act (PRA)
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D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
I. National Technology Transfer and Advancement Act (NTTAA)
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated Entities. Categories and entities potentially regulated by this action include:

NESHAP and source category	NAICS [1] Code
Shipbuilding and Ship Repair (Surface Coating)	336611.
Wood Furniture Manufacturing Operations	3371, 3372, 3379.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by the final action for the source categories listed. To determine whether your facility would be affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of either of these NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

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

Additionally, information on the source category descriptions, detailed emissions and other data that were used as inputs to the risk assessments can be found at this site.

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by January 20, 2012. Under section 307(b)(2) of the CAA, the requirements established by these final rules may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for us to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

II. Background

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, after the EPA has identified categories of sources emitting one or more of the HAP listed in section 112(b) of the CAA, section 112(d) calls for us to promulgate NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these technology-based standards must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements and nonair quality health and environmental impacts) and are commonly referred to as maximum achievable control technology (MACT) standards.

For MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as floor requirements, and may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any nonair quality health and environmental impacts and energy requirements. In promulgating MACT standards, CAA section 112(d)(2) directs us to consider the application of measures, processes, methods, systems or techniques that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials or other modifications; enclose systems or processes to eliminate emissions; collect, capture or treat HAP when released from a process, stack, storage or fugitive emissions point; and/or are design, equipment, work practice or operational standards.

In the second stage of the regulatory process, we undertake two different analyses, as required by the CAA. Section 112(d)(6) of the CAA calls for us to review the technology-based standards and to revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years. Within 8 years after promulgation of the technology standards, CAA section 112(f) calls for us to evaluate the risk to public health remaining after application of the technology-based standards and to revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect. In doing so, the EPA may adopt standards equal to existing MACT standards if the EPA determines that the existing standards are sufficiently protective. National Resources Defense Council (*NRDC*) v. *EPA,* 529 F.3d 1077, 1083 (DC Cir. 2008).

On December 21, 2010, the EPA published a proposed rule in the **Federal Register** for these two NESHAP that took into consideration the residual risk and technology review (RTR) analyses. For these NESHAP—Shipbuilding and Ship Repair (Surface Coating) and Wood Furniture

Manufacturing Operations—this action provides the EPA's final determinations and regulatory amendments pursuant to the RTR provisions of CAA section 112. For both NESHAP, we also are finalizing revisions to requirements in each NESHAP related to emissions during periods of startup, shutdown and malfunction (SSM). This action also addresses formaldehyde limits and the use of conventional spray technology for the Wood Furniture Manufacturing Operations NESHAP.

III. Summary of the Final Rules

A. What are the final rule amendments for the Shipbuilding and Ship Repair (Surface Coating) source category?

The NESHAP for Shipbuilding and Ship Repair (Surface Coating) were promulgated on December 15, 1995 (60 FR 64330), and codified at 40 CFR part 63, subpart II. The shipbuilding and ship repair industry consists of establishments that build, repair, repaint, convert and alter ships which are marine or fresh-water vessels used for military or commercial operations. The source category covered by this MACT standard includes only the shipbuilding and ship repair surface coating operations that occur at facilities that are major sources of HAP.

We are finalizing the Shipbuilding and Ship Repair (Surface Coating) rule as it was proposed, with no changes. For the reasons provided in the proposed rule and in the support documents in the docket, we have determined that the current MACT standards for shipbuilding and ship repair (surface coating) facilities reduce risk to an acceptable level, provide an ample margin of safety to protect public health and prevent an adverse environmental effect. We are, therefore, re-adopting the existing MACT standards to satisfy section 112(f) of the CAA. We have determined that the developments in technology would give minimal health benefits and are not cost effective. The costs of implementing developments in practices, processes or control technologies since promulgation of the MACT standards are disproportionate to the emission reduction that would be achieved and, therefore, we are not adopting additional technology standards pursuant to CAA section 112(d)(6).

We are finalizing changes to the Shipbuilding and Ship Repair (Surface Coating) MACT standards to eliminate the SSM malfunction exemption. These changes revise Table 1 in 40 CFR part 63, subpart II, to indicate that several requirements of the 40 CFR part 63 General Provisions related to periods of SSM do not apply. We are adding provisions to the Shipbuilding and Ship Repair (Surface Coating) MACT standards requiring sources to operate in a manner that minimizes emissions, removing the SSM plan requirement, clarifying the required conditions for performance tests and revising the SSM-associated recordkeeping and reporting requirements to require reporting and recordkeeping for periods of malfunction. It is required that all facilities comply with the NESHAP during startup and shutdown. We are also finalizing provisions, generally as proposed, to provide an affirmative defense against civil penalties for potential violations of emission standards caused by malfunctions, as well as criteria for establishing the affirmative defense.

These revisions to the Shipbuilding and Ship Repair (Surface Coating) MACT standards are not expected to result in any emissions reduction or economic impacts. We have determined that facilities in this source category can meet the applicable emissions standards at all times. No changes in costs to industry are predicted.

B. What are the final rule amendments for the Wood Furniture Manufacturing Operations source category?

The NESHAP for Wood Furniture Manufacturing Operations were promulgated on December 7, 1995 (60 FR 62930), and codified at 40 CFR part 63, subpart JJ. The Wood Furniture Manufacturing Operations source category consists of establishments that produce a range of wood products, including wood kitchen cabinets, wood residential furniture, upholstered residential and office furniture, wood office furniture and fixtures, partitions, shelving, lockers and other wood furniture not included in one of the categories listed above. The source category covered by this MACT standard includes only the wood furniture manufacturing operations that occur at facilities that are major sources of HAP.

In the proposal for this rule making, the EPA proposed a formaldehyde emissions limit of 400 pounds per 12-month period. As discussed in section IV.B.1 below, the EPA received comments concerning potential impacts on facilities with high production volume and determined that the proposed limit would not be cost effective for all facilities in the source category. For this reason, the EPA is finalizing two alternative compliance options. Under the authority of section 112(d)(6) of the CAA, we are finalizing a limit on formaldehyde emissions by limiting formaldehyde content in coatings and contact coatings and contact adhesives to 1 percent by weight. As an alternative compliance option, we are allowing facilities to comply with a formaldehyde usage limit of 400 pounds per rolling 12-month period, as we originally proposed. Less than 20 facilities are known to exceed 400 pounds per 12-month period based on 2005 National Emissions Inventory (NEI) data and communications with wood furniture manufacturing facilities.[1] The phone calls indicated that there were reductions in emissions since the 2005 NEI and all but one of the facilities contacted were below 400 pounds per 12-month period. This leads us to conclude that most of the facilities that exceeded 400 pounds of formaldehyde per 12 month period according to the 2005 NEI are now below that level. We are aware of at least one facility that has facilities with high production volume that still exceeds the 400 pound level. After receiving updated information, we concluded that the proposed 400 pounds formaldehyde per rolling 12-month period usage limit was not cost effective as a mandatory formaldehyde limit for all facilities within the source category. For this reason, the EPA is adopting the 400 pound formaldehyde limit as an alternative requirement to the requirement to limit formaldehyde content to 1 percent in coatings and contact adhesives. The 400 pound limit would not be cost effective for facilities with high production volume because, while they use low-formaldehyde coatings, these facilities would still exceed the 400 pounds per 12-month period because of the quantity of coatings and contact adhesives applied. To further reduce formaldehyde emissions, these facilities would require the addition of costly control devices and/or reconstruction of their spray line system. For more information, see *Estimated Cost Impact for Wood Furniture Manufacturing Industry To Comply With Proposed Formaldehyde Limit on Coating Operations Wood Furniture Manufacturing RTR,* dated August 4, 2011, in the docket for this action. Such facilities can, however, cost-effectively comply with a standard

[1] The memo to the docket, *Impacts of Implementing a Limit on Formaldehyde Usage in the Wood Furniture Manufacturing Operations Source Category,* dated October 19, 2010, shows that there are 27 facilities that exceed 400 pounds per year of formaldehyde emissions according to 2005 NEI data. Calls to industry showed that many of these facilities have lowered their emissions of formaldehyde significantly since 2005 as shown in the memo *Updated Formaldehyde Emissions from Select Wood Furniture Manufacturers,* dated August 3, 2011, in the docket for this action.

that limits the formaldehyde content of coatings and contact adhesives to 1 percent.[2] While the formaldehyde content of coating and contact adhesive formulations have been reduced since promulgation of the 1995 NESHAP, the EPA has received information that some facilities may still rely on formulations that contain greater than 1 percent formaldehyde.[3] The EPA has determined that some of these facilities could not readily meet the 1 percent formaldehyde limit and so is allowing, as an alternative compliance option, the originally proposed 400 pound formaldehyde limit.

We are also finalizing, with one modification, the proposed prohibition on the use of conventional spray[4] guns pursuant to CAA section 112(d)(6). As explained in the proposed rule and supporting documents in the docket, we have determined that use of non-conventional spray guns results in lower HAP emissions than use of conventional spray guns. When spraying a piece of wood furniture with a coating, there is a prescribed amount of coating to be applied to the wood surface. With the higher spray efficiency associated with non-conventional spray guns, less spray is generally required to apply the desired amount of coating so less coating is used. This means that less overspray will occur, creating fewer emissions. Conventional spray guns are now used infrequently in the wood furniture manufacturing industry, and the costs to use non-conventional spray guns are approximately equal to conventional spray guns. The EPA estimates that the switch to non-conventional spray guns does not incur a cost burden associated with decreased product consumption and cost.[5]

Considering information received during the comment period that some facilities route conventional spray gun overspray to control devices, we are modifying the proposed prohibition on the use of conventional spray guns to retain an exception in the NESHAP to allow the use of conventional spray guns if emissions from the finishing station are routed to a control device. See 40 CFR 63.803(h)(4). The efficiency of the control device, even when coupled with the conventional spray gun, reduces excess emissions better than a change to high efficiency spray technology. The EPA does not expect facilities will incur the significant cost of installing a control device for the sole purpose of using conventional spray guns. We expect the vast majority of facilities to use non-conventional applicators of wood furniture finishes, with only a small number of facilities choosing to use conventional spray guns with a control device.

We are also finalizing changes to the Wood Furniture Manufacturing Operations NESHAP to eliminate the SSM exemption. These changes revise Table 1 in 40 CFR part 63, subpart JJ, to indicate that several requirements of the 40 CFR part 63 General Provisions related to periods of SSM do not apply. We are adding provisions to the Wood Furniture Manufacturing Operations MACT standards requiring sources to operate in a manner that minimizes emissions, removing the SSM plan requirement, clarifying the required conditions for performance tests and revising the SSM-associated recordkeeping and reporting requirements to require reporting and recordkeeping for periods of malfunction. We are also adding provisions to provide an affirmative defense against civil penalties for exceedances of emission standards caused by malfunctions, as well as criteria for establishing the affirmative defense.

We are finalizing language to clarify the applicability for Wood Furniture Manufacturing Operations to be consistent with surface coating rules issued after the promulgation of the Wood Furniture MACT standards in 1995. These include the subparts for Surface of Miscellaneous Metal Parts and Products (MMMM), Surface Coating of Plastic Parts and Products (PPPP), Surface Coating of Wood Building Products (QQQQ), and Surface Coating of Metal Furniture (RRRR) of 40 CFR part 63. Subparts MMMM, PPPP, QQQQ and RRRR exempt surface coating operations that are subject to other subparts of 40 CFR part 63, such as the Wood Furniture Operations MACT standards. (See 40 CFR 63.3881(c)(6), 63.4481(c)(7), 63.4681(c)(2), 63.4881(c)(2)). Therefore, we are finalizing amendments to the Wood Furniture Operations MACT standards to acknowledge that surface coating operations that are subject to subparts MMMM, PPPP, QQQQ or RRRR of 40 CFR part 63 are not subject to the Wood Furniture Manufacturing Operations standards.

In this action, we are taking a step to improve data accessibility. Owners and operators demonstrating compliance using the test methods cited in § 63.805(c), as an alternative to § 63.9(h), are not required but may submit electronic copies of required performance test reports through the Electronic Reporting Tool (ERT). The ERT transmits the electronic report through EPA's Central Data Exchange network for storage in the WebFIRE database making submittal of data very straightforward and easy. The WebFIRE database was constructed to store performance test data for use in developing emission factors. A description of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/ert_tool.html.* A description of the WebFIRE database is available at *http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main.*

The ERT would allow for an electronic review process rather than a manual data assessment, making review and evaluation of the source-provided data and calculations easier and more efficient. Finally, having data submitted electronically, the EPA would be able to develop improved emission factors, make fewer information requests and promulgate better regulations. These revisions to the Wood Furniture Manufacturing Operations MACT standards are not expected to result in economic or quantifiable environmental impacts. We have determined that facilities in this source category can meet the applicable emissions standards at all times.

C. What are the requirements during periods of startup, shutdown and malfunction?

The Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008). Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), that is part of a regulation, commonly referred to as the ''General Provisions Rule,'' that the EPA promulgated under section 112 of the CAA. When incorporated into CAA section 112(d) regulations for specific source categories, these two provisions exempt sources from the requirement to comply with the otherwise applicable CAA section 112 emission standards during periods of SSM.

[2] The concentrations of formaldehyde received from the known facility with high production volume exceeds 400 pounds per 12-month period is in the *Estimated Cost Impact for Wood Furniture Manufacturing Industry To Comply With Proposed Formaldehyde Limit on Coating Operations Wood Furniture Manufacturing RTR,* dated August 4, 2011, in the docket for this action.

[3] For more details, see *Conversation with a Representative of Kitchen Cabinet Manufacturers Association (KCMA) Regarding Add-On Control Devices and High Formaldehyde Concentration in Coatings,* dated June 23, 2011, in the docket for this action.

[4] The definition of ''conventional spray'' can be found in the 1995 Wood Furniture Manufacturing Operations NESHAP.

[5] See *Developments in Practices, Processes, and Control Technologies,* dated August 24, 2010 in the docket for this action.

While the Court's ruling in *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008), did not directly affect the two NESHAP addressed here, the legality of source category-specific SSM provisions, such as those in both NESHAP, are called into question based on the reasoning in that decision.

Consistent with *Sierra Club* v. *EPA,* we have eliminated the SSM exemptions in these two NESHAP. We have also revised Table 1 (the General Provisions table) for subparts II and JJ in several respects. For example, we have eliminated the incorporation of the General Provisions' requirement that the source develop an SSM plan. We have also eliminated or revised certain recordkeeping and reporting requirements that related to the SSM exemption. The EPA has attempted to ensure that we have removed any provisions that are inappropriate, unnecessary or redundant in the absence of the SSM exemption in the regulatory language.

The EPA has not established different standards for periods of startup and shutdown for these NESHAP because we believe compliance with the standards is achievable during these periods. For facilities that comply with the NESHAP by using compliant coatings and contact adhesives, there are no startup or shutdown events that would cause emissions that are different than those that occur during normal operations. For facilities that use control devices, there is sufficient ability for the control device to be started prior to the spray lines being started and conversely shutdown after the spray lines have shutdown. In the example of a regenerative thermal oxidizer (RTO), supplemental fuel can be provided during startup and shutdown of the spray lines to prevent noncompliance. Thus, we are not aware of any technical limitations such that emissions from startup or shutdown cannot be controlled by control devices to the level achieved during normal operations.

Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunction is defined as a ''sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. * * *'' (40 CFR 63.2). The EPA has determined that CAA section 112 does not require emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. Under section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source, and for existing sources, generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in section 112 that directs the agency to consider malfunctions in determining the level ''achieved'' by the best performing or best controlled sources when setting emission standards. Moreover, while the EPA accounts for variability in setting emissions standards consistent with section 112 case law, nothing in that case law requires the agency to consider malfunctions as part of that analysis. Section 112 uses the concept of ''best controlled'' and ''best performing'' unit in defining the level of stringency that section 112 performance standards must meet. Applying the concept of ''best controlled'' or ''best performing'' to a unit that is malfunctioning presents significant difficulties, as malfunctions are sudden and unexpected events.

Further, accounting for malfunctions would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category, and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F. 3d 658, 662 (D.C. Cir. 1999) (The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to ''invest the resources to conduct the perfect study''). See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, the goal of a best controlled or best performing source is to operate in such a way as to avoid malfunctions of the source, and accounting for malfunctions could lead to standards that are significantly less stringent than levels that are achieved by a well-performing non-malfunctioning source. The EPA's approach to malfunctions is consistent with section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112 standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' 40 CFR 63.2 (definition of malfunction).

Finally, the EPA recognizes that even equipment that is properly designed and maintained can sometimes fail, and that such failure can sometimes cause an exceedance of the relevant emission standard. (See, *e.g., State Implementation Plans: Policy Regarding Excessive Emissions During Malfunctions, Startup, and Shutdown* (Sept. 20, 1999); *Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions* (Feb. 15, 1983)). The EPA is, therefore, adding to the final rule an affirmative defense to civil penalties for exceedances of emission limits that are caused by malfunctions. See 40 CFR 63.782 (Shipbuilding and Ship Repair (Surface Coating)) and 63.801 (Wood Furniture Manufacturing Operations) (defining ''affirmative defense'' to mean, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding). We also have added other regulatory provisions to specify the elements that are necessary to establish this affirmative defense. See 40 CFR 63.781 (Shipbuilding and Ship Repair (Surface Coating)) and 63.800 (Wood Furniture Manufacturing Operations). The source must prove by a preponderance of the evidence that it has met all of the elements set forth in the affirmative defense. See also 40 CFR 22.24. The criteria ensure that the affirmative defense is available only where the event that causes an exceedance of the emission limit meets the narrow definition of malfunction in 40 CFR 63.2 (sudden, infrequent, not reasonably

preventable and not caused by poor maintenance and/or careless operation). For example, to successfully assert the affirmative defense, the source must prove by a preponderance of the evidence that excess emissions ''[w]ere caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner. * * *'' The criteria also are designed to ensure that steps are taken to correct the malfunction, to minimize emissions in accordance with 40 CFR 63.783(b)(1) and 63.802(c) and to prevent future malfunctions. For example, the source must prove by a preponderance of the evidence that ''[r]epairs were made as expeditiously as possible when the applicable emission limitations were being exceeded * * *'' and that ''[a]ll possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment and human health * * *'' In any judicial or administrative proceeding, the Administrator may challenge the assertion of the affirmative defense, and, if the respondent has not met its burden of proving compliance with all of the requirements in the affirmative defense, appropriate penalties may be assessed in accordance with section 113 of the CAA (see also 40 CFR 22.27).

The EPA included an affirmative defense in the final rule in an attempt to balance a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission limits may be exceeded under circumstances beyond the control of the source. The EPA must establish emission standards that ''limit the quantity, rate, or concentration of emissions of air pollutants on a continuous basis.'' 42 U.S.C. 7602(k)(defining ''emission limitation and emission standard''). *See generally Sierra Club* v. *EPA,* 551 F.3d 1019, 1021 (D.C. Cir. 2008). Thus, the EPA is required to ensure that section 112 emissions limitations are continuous. The affirmative defense for malfunction events meets this requirement by ensuring that even where there is a malfunction, the emission limitation is still enforceable through injunctive relief. While ''continuous'' limitations, on the one hand, are required, there is also case law indicating that in many situations, it is appropriate for the EPA to account for the practical realities of technology. For example, in *Essex Chemical* v. *Ruckelshaus,* 486 F.2d 427, 433 (D.C. Cir. 1973), the DC Circuit acknowledged that in setting standards under CAA section 111 ''variant provisions'' such as provisions allowing for upsets during startup, shutdown and equipment malfunction ''appear necessary to preserve the reasonableness of the standards as a whole and that the record does not support the 'never to be exceeded' standard currently in force.'' See also, *Portland Cement Association* v. *Ruckelshaus,* 486 F.2d 375 (D.C. Cir. 1973). Though intervening case law such as *Sierra Club* v. *EPA* and the CAA 1977 amendments undermine the relevance of these cases today, they support the EPA's view that a system that incorporates some level of flexibility is reasonable. The affirmative defense simply provides for a defense to civil penalties for excess emissions that are proven to be beyond the control of the source. By incorporating an affirmative defense, the EPA has formalized its approach to upset events. In a Clean Water Act setting, the Ninth Circuit required this type of formalized approach when regulating ''upsets beyond the control of the permit holder.'' *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977). *But see, Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal approach is adequate). The affirmative defense provisions give the EPA the flexibility to both ensure that its emission limitations are ''continuous'' as required by 42 U.S.C. 7602(k), and account for unplanned upsets and thus support the reasonableness of the standard as a whole.

D. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on November 21, 2011. For the two MACT standards addressed in this action, the compliance date for the revised SSM-related requirements is November 21, 2011. For the Wood Furniture Manufacturing Operations NESHAP, the compliance date for the 1 percent formaldehyde coating and contact adhesive limit and the alternative 400 pound per 12-month formaldehyde use limit as well as the prohibition on the use of conventional spray guns is 3 years from the effective date of the standards, November 21, 2014. Beyond the revised SSM provisions, there are no changes to the Shipbuilding and Ship Repair (Surface Coating) NESHAP.

IV. Summary of Significant Changes Since Proposal

A. What changes did we make to the Shipbuilding and Ship Repair (Surface Coating) NESHAP since proposal?

Following the proposed notice of the RTR for Shipbuilding and Ship Repair (Surface Coating), the EPA did not receive any new data demonstrating any cost effective technology updates or data that would affect our analyses of risks. Accordingly, we have made no changes to the proposed rule language for the Shipbuilding and Ship Repair (Surface Coating) NESHAP. However, we corrected an inadvertent error made in the preamble to the proposed rule. In describing the Shipbuilding and Ship Repair (Surface Coating) source category, we incorrectly stated that there were approximately 85 facilities subject to the Shipbuilding and Ship Repair (Surface Coating) MACT, and that 71 of these 85 facilities, or approximately 84 percent of the source category, were modeled for the risk analysis. At proposal, we actually estimated that there were 90 facilities subject to the MACT, and of those 90 facilities, we modeled approximately 94 percent, or 85 facilities, in the risk analysis. This correction to the preamble text does not affect the estimated risks or any conclusions of the risk review. This correction only affects the inadvertent error made in the preamble text for the proposed rule.

B. What changes did we make to the Wood Furniture Manufacturing Operations NESHAP since proposal?

1. Formaldehyde Limit

The potential risk reductions associated with advancement in coating and adhesive formulations, described below, led us to propose a formaldehyde limit of 400 pounds per rolling 12-month period, in part because we believed that this limit could be achieved cost-effectively. We stated in the proposal that there are many coatings and adhesives available that contain no or low quantities of formaldehyde, and we expected any facilities above the 400 pounds per 12 month limit to be able to reduce their emissions below the 400 pound level by using coatings and adhesives with no or low formaldehyde. We proposed the formaldehyde usage limit under the authority of CAA section 112(f) and solicited comment on whether the proposed limit on formaldehyde use should be issued under CAA section 112(d)(6).

Comments received after proposal led the EPA to conduct further analyses of

the compliance costs associated with the proposed 400 pound usage limit. Data received from one facility, which already uses no- and low-formaldehyde content coatings and contact adhesives, indicated that reduction in formaldehyde use to 400 pounds per 12-month period would not be possible by simply using no- and low-formaldehyde content coatings and contact adhesives due to the size of its operations and the amount of coatings and contact adhesives used. To comply with the proposed 400 pound limit, a spray line reconfiguration (adding five drying/curing ovens) would be needed. The cost-effectiveness of formaldehyde reduction for the spray line reconfiguration was estimated to be $658,000/ton of formaldehyde reduced annually. We believe other large operation facilities would face similar circumstances. The EPA does not have specific information on compliance costs for facilities other than Kitchen Kompact, but even if we assume all other wood furniture facilities with formaldehyde emissions above 400 pounds per 12-month period in the 2005 NEI database would reduce their formaldehyde emissions to 400 pound per 12-month period and would incur zero costs in doing so, the cost-effectiveness would be $43,000/ton of formaldehyde reduced. We conclude this is not cost effective.[6]

Since the MACT was promulgated, manufacturers of coatings and contact adhesives have been able to replace formaldehyde with less toxic chemicals, resulting in products that are known in the industry as ''low-formaldehyde'' or ''no-formaldehyde.'' This development is particularly evident in the reformulation of conversion varnishes used in kitchen cabinet manufacturing (see *Conversation with Valspar Regarding Formaldehyde Replacement Chemicals in Coatings,* dated August 4, 2011, in the docket for this action).The EPA's proposed 400 pound limit was based on the availability of low-formaldehyde coatings and contact adhesives and their use as the current state of technology. Although there is no formal industry definition of the term ''low-formaldehyde,'' the EPA found that a formaldehyde content equal to or less than 1 percent by weight currently is consistent with the industry trend of continually reducing low formaldehyde formulations. We are aware of a range of values used in the industry to indicate ''low-formaldehyde'' (from 0.1 percent to 1.0 percent). Based on information available to the EPA, we determined that a formaldehyde content level of 1 percent is the lowest concentration that is clearly cost effective for the entire source category. We are, therefore, finalizing a limit of 1 percent formaldehyde by weight based on the availability of coatings and technical specifications necessary to maintain product quality and cost-effectiveness.[7] A content less than 1 percent would not allow facilities the flexibility to use coatings and adhesives that are suitable for a range of different products, from cabinets to home furnishings, without compromising their quality, cost or production.[8] Also, in many cases, the 1 percent formaldehyde content limit will allow flexibility in different types of line configurations.[9]

The proposed formaldehyde limit (400 pounds per rolling 12-month period) under CAA section 112(f) was based on these grounds—that wood furniture manufacturers can and are reducing their formaldehyde emissions through the use of newer low-formaldehyde coating and contact adhesive formulations (see 75 FR 80246). The limit of 1 percent formaldehyde in coatings and contact adhesives in this final rulemaking is an outgrowth of what the expected means of compliance was during the proposal for the proposed 400 pound limit. The EPA has confirmed that most facilities are using low- and no-formaldehyde coatings and contact adhesives (i.e., coatings and adhesives that have a formaldehyde concentration not exceeding 1 percent by weight).[10] Facilities can thus achieve formaldehyde emissions reductions that are greater than those required under the existing MACT standard. The original Wood Furniture Manufacturing Operations NESHAP achieved an 89 percent reduction in HAP. The industry, for the most part, has gone beyond the original NESHAP for formaldehyde emissions by continuing to use lower concentrations of formaldehyde in the coatings and contact adhesives. By codifying these practices, the EPA is setting a more stringent standard than was adopted in 1995 and will prevent backsliding into techniques and formulations used in the past.

CAA section 112(d)(6) requires us to revise emissions standards taking into account developments in practices, processes and control technologies. Thus, to codify current industry practice since the MACT was promulgated and to prevent potential increases in formaldehyde emissions in the future from coating and contact adhesive use in the wood furniture manufacturing industry, we are finalizing, under section 112(d)(6) of the CAA, formaldehyde emissions limits through two compliance options. One option is for new and existing sources to use only those coatings and contact adhesives with a formaldehyde content of 1 percent by weight or less. As these low-formaldehyde coatings are readily available in the marketplace and are comparable in cost to other coating and contact adhesive formulations, we expect no additional costs associated with the use of low-formaldehyde coatings and contact adhesives.

Moreover, we are retaining the proposed standard—a limit on the use of formaldehyde of 400 pounds per rolling 12-month period—as an alternative emission limit to the 1 percent formaldehyde formulation limit. While the EPA recognizes it is not cost effective for at least one facility to achieve a limit on the use of formaldehyde of 400 pounds per 12 month period, we acknowledge that most wood furniture manufacturing facilities' formaldehyde use is already below this limit.[11] It is likely that a small subset of low-emitting niche facilities use higher concentration formaldehyde coatings that may prefer

[6] For more information regarding cost estimates for compliance with the proposed 400 pound per year formaldehyde limit, refer to *Estimated Cost Impact for Wood Furniture Manufacturing Industry to Comply with Proposed Formaldehyde Limit on Coating Operations Wood Furniture Manufacturing RTR,* dated August 4, 2011.

[7] Discussion with a coatings manufacturer revealed that the label of ''Low-Formaldehyde'' is subjective and it trends towards lower and lower concentrations of formaldehyde. For more details, see *Telephone Call with Valspar Regulatory Affairs Manager—Wood Coatings Wood Furniture Manufacturing RTR* dated June 29, 2011 in the docket for this action. Also as noted previously, Valspar does not carry any products that exceed 1 percent in formaldehyde concentration.

[8] It is necessary for some facilities to minimize levels of formaldehyde in the coating formulation to promote cross-linking nucleation. This process directly affects the quality and durability of the wood furniture. See notes from the *Marsh Furniture Site Visit* in the docket for this action for reference.

[9] For additional information, please see memo to the docket, *EPA Meeting with Kitchen Cabinet Manufacturers Association (KCMA) and Select Representatives,* dated August 17, 2011.

[10] The confirmation of most facilities was obtained in the following memos in the docket for this action: *Telephone Call with Valspar Regulatory Affairs Manager—Wood Coatings on the Availability and Use of Low- and No-Formaldehyde Coatings,* dated June 24, 2011. Also, one of the major manufacturers of wood furniture coatings, Valspar, does not carry any products that have greater than 1 percent formaldehyde leading to the conclusion that coatings greater than 1 percent formaldehyde are mostly unnecessary in the industry. *http://www.valsparwood.com/valsparwood/msds/msds.jsp.*

[11] For more information, see *Updated Formaldehyde Emissions from Select Wood Furniture Manufacturers,* dated August 3, 2011 and *Impacts of Implementing a Limit on Formaldehyde Usage in the Wood Furniture Manufacturing Operations Source Category,* dated October 19, 2011 in the docket for this rule.

to comply with the alternate formaldehyde use limit.[12] These niche facilities use greater concentrations of formaldehyde to provide products to small specialized markets. The EPA is promulgating this 1 percent formulation formaldehyde limit to ensure that we are not limiting the production of facilities while still encouraging facilities to limit formaldehyde in their coatings and contact adhesives. In support of our proposed CAA section 112(f)(2) residual risk determination, we conducted a risk assessment for the Wood Furniture Manufacturing Operations source category that provided estimates of the Maximum Individual Risk (MIR) posed by the allowable and actual HAP emissions from each source in the category, the distribution of cancer risks within the exposed populations, cancer incidence, hazard index for chronic exposures to HAP with noncancer health effects, and hazard quotients (HQ) for acute exposures to HAP with noncancer health effects. We found that risks remaining after compliance with the MACT standard are acceptable.

In making our proposed ample margin of safety determination under CAA section 112(f)(2), we subsequently evaluated the risk reductions and costs associated with various emissions control options to determine whether we should impose additional standards to reduce risks further. We proposed a standard that would limit the use of formaldehyde to 400 pounds per rolling 12 month period because we projected that such a limit would lead to reductions in cancer risks and the potential for acute noncancer health effects. Specifically, we estimated that the limit would reduce formaldehyde emissions by an estimated 9.46 tpy from the baseline level of 20.125 tpy. We also estimated the maximum individual incremental lifetime cancer risk would be reduced to approximately 10-in-1 million from a baseline of 20-in-1 million, the estimated cancer incidence due to emissions from the source category would be reduced by about 15 percent nationwide, and the estimated maximum acute HQ would be reduced from 7 to 3, based on the Reference Exposure Levels (REL) for formaldehyde, and from 0.35 to 0.15, based on the acute exposure guideline level (AEGL–1) for formaldehyde. We believed that there would be either no or minimal additional costs associated with this option, as the cost of low-formaldehyde coatings and adhesives are approximately equal to other coating and adhesive products containing larger quantities of formaldehyde. Also, we believed there were minimal costs associated with the recordkeeping and reporting requirements for compliance with the rule.

Our estimates of the source category maximum cancer risks have changed since proposal due to information received during the comment period. One facility that was included in the risk analysis at proposal has been determined to not be part of the Wood Furniture Manufacturing source category. The facility is a manufacturer of wood and melamine bowls and food service supplies and is not a wood furniture manufacturer. At proposal, the MIR estimated for the bowl manufacturing facility was 20 in-1-million due to formaldehyde emissions, based on actual emissions. This facility MIR was the highest in the source category. With the elimination of the bowl manufacturing facility from the category, the source category MIR is 10 in-1-million due to emissions of ethylbenzene and formaldehyde, based on actual emissions. The bowl manufacturing facility also was one of two facilities for which we estimated an acute HQ of 7 for formaldehyde. The maximum acute formaldehyde HQ of 7 for the other facility in the source category is unchanged.

Since proposal we also have further evaluated acute exposures resulting from emissions from facilities in the source category. To better characterize the potential health risks associated with estimated worst-case acute exposures to HAP, and in response to a key recommendation from the Science Advisory Board's (SAB) peer review of the EPA's RTR risk assessment methodologies,[13] we routinely have examined a wider range of available acute health metrics than we do for our chronic risk assessments. This is in response to the acknowledgement that there are generally more data gaps and inconsistencies in acute reference values than there are in chronic reference values. By definition, acute California-Reference Exposure Levels (CA–REL) represent a health-protective level of exposure, with no risk anticipated at or below those levels, even for repeated exposures; however, the health risk from higher-level exposures is unknown. Therefore, when a CA–REL is exceeded and an AEGL–1 or emergency response planning guidelines (ERPG–1) level is available (*i.e.,* levels at which mild effects are anticipated in the general public for a single exposure), we have used them as a second comparative measure. Historically, comparisons of the estimated maximum off-site 1-hour exposure levels have not been typically made to occupational levels for the purpose of characterizing public health risks in RTR assessments. For most chemicals, the 15 minute occupational ceiling values are set at levels higher than a 1 hour AEGL–1, making comparisons to them irrelevant unless the AEGL–1 or ERPG–1 levels are exceeded. This is not the case when comparing the available acute inhalation health effect reference values for formaldehyde.[14]

The worst-case maximum estimated 1-hour exposure to formaldehyde outside the facility fence line for this source category is 0.47 mg/m^3. This estimated worst-case exposure exceeds the 1-hour REL by a factor of 8 (HQ_{REL} = 8) and is below the 1-hour AEGL–1 (HQ_{AEGL-1} = 0.4). Although this exposure estimate does not exceed the AEGL–1, it exceeds the workplace ceiling level guideline for the value developed by the NIOSH [15] ''for any 15 minute period in a work day'' (NIOSH REL-ceiling value of 0.12 mg/m^3; HQ_{NIOSH} = 4). Additionally, the estimated maximum acute exposure exceeds the Air Quality Guideline value that was developed by the World Health Organization [16] for 30-minute exposures (0.1 mg/m^3; HQ_{WHO} = 5). The estimated HQ equals 1 when the ACGIH TLV–Ceiling value (0.37 mg/m^3), a value defined as ''not to be exceeded at any time,'' is compared to the worst-case acute exposure screening level.[17] As we proposed, the EPA concludes that the

[12] A representative of KCMA stated that there are facilities that use coatings and contact adhesives with higher concentrations of formaldehyde. For more information see, *Conversation with a Representative of Kitchen Cabinet Manufacturers Association (KCMA) Regarding Add-On Control Devices and High Formaldehyde Concentration in Coatings,* dated June 23, 2011 in the docket for this action.

[13] The SAB peer review of RTR Risk Assessment Methodologies is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/theEPA-SAB-10-007-unsigned.pdf.*

[14] U.S. the EPA. (2009) Chapter 2.9, *Chemical Specific Reference Values for Formaldehyde in Graphical Arrays of Chemical-Specific Health Effect Reference Values for Inhalation Exposures (Final Report).* U.S. Environmental Protection Agency, Washington, DC, the EPA/600/R–09/061, and available online at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=211003.*

[15] National Institutes for Occupational Safety and Health (NIOSH). Occupational Safety and Health Guideline for Formaldehyde; *http://www.cdc.gov/niosh/docs/81-123/pdfs/0293.pdf*

[16] WHO (2000). Chapter 5.8 Formaldehyde, in Air Quality Guidelines for Europe, second edition. World Health Organization Regional Publications, European Series, No. 91. Copenhagen, Denmark. Available on-line at *http://www.euro.who.int/_data/assets/pdf_file/0005/74732/E71922.pdf.*

[17] EPA considers this HQ of 1 not to represent an exceedance of the ACGIH value.

risk posed by the source category is acceptable. Our estimate of maximum individual cancer risk for this source category has decreased since proposal. This decrease is due to a miscategorization of a facility within the source category. While our screening for acute impacts has identified the potential for acute formaldehyde exposures to exceed some public health and occupational exposure guidelines at some wood furniture facilities, after considering the limited extent to potential exposures, the fact that the maximum estimate of acute risk has not changed, the fact that one of these facilities no longer uses formaldehyde, and the conservative nature of this screening process, these additional estimates do not change our overall judgment of risk acceptability. As explained in the proposal, in accordance with the approach established in the Benzene NESHAP, the EPA weighs all health risk measures and information considered in the risk acceptability determination, along with the costs and economic impacts of emissions controls, technological feasibility, uncertainties, and other relevant factors, in making our ample margin of safety determination and deciding whether standards are necessary to reduce risks further. Considering all of this information, in particular our revised estimates of the maximum cancer risks associated with the Wood Furniture Manufacturing source category and our revised estimate of the costs of additional controls that would reduce risk further, the EPA has determined that additional standards under CAA section 112(f)(2) are not necessary to provide an ample margin of safety to protect public health. We further note that we are finalizing standards under our CAA section 112(d)(6) authority that, while not expected to result in further reduction in current emissions or risk levels, are expected to reduce the emissions that would have been allowed under the 1995 MACT standard.

2. *Advances in Spray Technology*

The EPA proposed to prohibit the use of conventional spray guns, as defined by the 1995 Wood Furniture Manufacturing NESHAP, pursuant to CAA section 112(d)(6). This final rule promulgates this ban on conventional spray guns with one modification. Based on comments received, we are retaining an existing provision allowing the use of conventional spray guns when the overspray is routed to a control device. As reflected in the comments, some facilities are using overspray from conventional spray guns to partially fuel control devices such as RTOs. This exception from the ban allows facilities to avoid having to supplement fuel to a control device. The efficiency of the control device more than sufficiently reduces excess emissions associated with the decreased spray efficiency of conventional spray guns.[18] This exception for control devices is the sole exception for conventional spray gun use maintained from the 1995 NESHAP.

The EPA estimates that the switch to high efficiency spray guns from conventional spray guns does not incur a cost burden due to decreased product consumption and cost. Some of the high efficiency spray devices are more costly than conventional guns, but the savings in coating costs attributed to the increased spray efficiency more than compensates for increased cost of spray technology. Because the EPA lacks data regarding the number of conventional spray guns used in the industry and the change of spray efficiency in replacing conventional spray technology, we cannot quantify emissions reductions due to changing spray technology. For further information regarding cost and emission reductions, refer to the proposed preamble of this rulemaking.

V. Summary of Significant Comments and Responses

In the proposed action, we requested public comments on our residual risk reviews, our technology reviews, proposed amendments related to periods of SSM, the proposed prohibition of conventional spray guns in the wood furniture manufacturing industry, the proposed limit on formaldehyde use in coatings and contact adhesives for the wood furniture manufacturing industry and clarification of rule provisions. We received written comments from 18 commenters. Our responses to the public comments that changed the basis for our decisions, or are otherwise significant, are provided below.[19]

[18] A typical transfer efficiency of an HVLP gun is 65–80 percent compared to 25–45 percent for conventional guns under similar conditions. This is a difference of 40 percent spray efficiency. When compared to an estimate of 90 percent efficiency of an add-on control device, the control device more than compensates for the 40 percent reduction in efficiency of guns. For more information on transfer efficiencies of spray technologies, see the memo to the docket, *Impacts of Prohibiting the Use of Conventional Spray Guns in the Wood Furniture Manufacturing Operations Source Category,* dated October 29, 2010.

[19] See *Summary of Public Comments and Responses for Shipbuilding and Ship Repair (Surface Coating) and Wood Furniture Manufacturing Operations NESHAP, dated October 31, 2011,* for summaries of all comments and our responses to them.

A. Comments for Both Shipbuilding and Ship Repair (Surface Coating) and Wood Furniture Manufacturing Operations

Comment: A commenter pointed out that the EPA's own data show greater emissions reductions are being achieved and able to be achieved. According to the commenter, the EPA recognizes that certain sources have ''achieved'' a level of ''actual'' emissions that is below the level allowed under the existing MACT standards. The commenter further states that the EPA explains that ''the 'actual' emission levels are often lower than the emission levels that a facility might be allowed to emit and still comply with the MACT standards.'' The commenter says that the EPA's expectation that sources in these two categories are generally operating at half the level of emissions allowed under the existing MACT standard is at the core of its emission data analysis. Once the EPA has this information, it must factor this into the technology review under section 112(d)(6). Doing so should lead the EPA to revise the existing MACT for both source categories to require additional emission reductions.

The commenter further states that as part of the required section 112(d)(6) rulemaking, the EPA can have no possible justification for failing to recalculate the MACT floors based on new technology or emission reductions now achieved by these source categories.

The Court in the Hazardous Organic NESHAP (HON) decision stated that it did ''not think the words 'review, and revise as necessary' '' required the EPA to recalculate the floors ''from scratch'' in that case. *NRDC,* 529 F.3d at 1084. In short, the *NRDC* Court expressly declined to decide whether the EPA was required to recalculate floors where, as here, there have been developments in practices, processes, and control technologies.

As already noted above, for these source categories, there are such ''developments.'' Therefore, the EPA cannot rely on the HON case to evade its duty to satisfy section 112(d)(6). The HON case did not authorize the EPA to ignore data showing that significant emission reductions below the ''MACT-allowable'' emissions level have been ''achieved'' in practice. Even under *NRDC*—assuming *arguendo* that its section 112(d)(6) holding is in any way relevant here—section 112(d)(6) requires the EPA to recalculate the MACT floor when there have been advances in technology (after taking account of the factors listed in section 112(d)(6)), and when there is

information showing that greater emission reductions are ''achieved in practice.'' Commenters contend that, based on the information the EPA has, it is therefore ''necessary'' for the EPA to strengthen the existing MACT floor to ensure it now complies with section 112(d)(2)–(3).

The EPA must consider and address whether the existing MACT, including the floor, remains lawful in view of the greater levels of emission reductions that have been achieved.

Response: The commenter is mistaken on several grounds. First, the commenter asserts that ''the EPA recognizes that certain sources have 'achieved' a level of 'actual' emissions that is below the level allowed under the existing MACT standards'' and cites the Notice of Proposed Rulemaking preamble at 75 FR at 80227. This was a qualitative, introductory statement about how the NEI and other sources of data typically contain estimates of actual emissions that are ''often'' lower than allowable emissions. The statement was not specific to Wood Furniture or Shipbuilding facilities or data and in any event did not contain any quantitative determination about actual emissions levels.

Second, the commenter asserts that the EPA has an ''expectation'' that wood furniture and shipbuilding sources are ''generally operating'' at half of allowable emissions and once the EPA has this information, it must use it under CAA section 112(d)(6) to revise MACT standards, including recalculating MACT floors under section 112(d)(2)–(3). The comment apparently refers to the MACT allowable to actual emissions ratio developed for the source categories in this rulemaking. The commenter is incorrect in characterizing this ratio as a determination of the level of actual emissions achieved in practice in either source category. The actual to allowable ratio represents the lowest concentration of HAP in a coating available to the industry compared to the maximum allowed under the MACT. The allowable ratio is used for providing a worst-case scenario for estimating allowable emissions from the source. As clarification, for these coating rules, the concentrations of HAP in the coatings are considered the emissions from the source.

Third, the commenter is incorrect in asserting that the EPA must recalculate MACT floors under CAA section 112(d)(2)–(3). As explained in prior RTR rulemakings, the EPA does not read 112(d)(6) as requiring a reanalysis or recalculation of MACT floors. See proposed National Emission Standards for Coke Oven Batteries (69 FR 48388, 48351 (August 9, 2004)). Instead, we interpret section 112(d)(6) as essentially requiring us to consider developments in pollution control in the industry (''taking into account developments in practices, processes, and control technologies''), and assessing the costs of potentially stricter standards reflecting those developments. We read this provision as providing the EPA with substantial latitude in weighing these factors and arriving at an appropriate balance in considering revisions to our standards. This discretion also provides us with substantial flexibility in choosing how to apply modified standards, if necessary, to the affected industry.

The EPA reviewed other potential developments in practices, processes and control technologies for the Wood Furniture Manufacturing Operations and Shipbuilding and Ship Repair (Surface Coating) source categories and evaluated costs of potentially more stringent standards reflecting any such developments.[20] The EPA believes this review and the revisions finalized in this rulemaking satisfy the EPA's obligations under CAA 112(d)(6) for the Wood Furniture and Shipbuilding source categories.

B. Wood Furniture Manufacturing Operations

Comment: A commenter stated the EPA has provided no rational explanation for refusing to update the technology standards for both categories to meet the CAA section 112(d)(6) requirement, at minimum, by matching the limits of what sources have achieved and what other jurisdictions have required. The commenter stated:

We urge the EPA to do so in the final rule. Where, as here, there are ''significant developments'' in technology, and where, as here, sources have achieved lower levels of emissions ''in practice'' than are ''MACT-allowable,'' it is abundantly clear that § 112(d)(6) requires the EPA to revise its standards in accordance with CAA § 112(d)(2)–(3), (6), 42 U.S.C. § 7412(d)(2)–(3), (6).

The commenter also inquires why the EPA did not adopt more stringent standards based on other regulating bodies within the country.

Response: The EPA has concluded the technology review for the wood furniture manufacturing operations NESHAP by setting a formaldehyde limit based on formulation (1 percent by weight) of finish coatings and contact adhesives with a compliance alternative using no more than 400 pounds of formaldehyde per 12 months. Also under the technology review, we are adopting a restriction of conventional spray guns limiting use to when emissions from finishing applications are routed to a control device. The commenter refers to volatile organic compounds (VOC) standards of the Bay Area and South Coast Air Quality Management Districts (BAAQMD and SCAQMD). These two standards are nearly identical in VOC formulation limits. Through the RTR process, the EPA evaluates risk and technology developments associated with HAP for the source categories under consideration. Hazardous air pollutants and VOC describe different sets of compounds, although a large subset of VOC are considered HAP. As discussed in the preamble of the proposed rule, we estimate that of all VOC in wood furniture coatings, 50 percent on average are HAP. This is an average value that in fact varies from facility to facility and coating to coating, depending on the facility's use of coatings specific to their operation. This is especially true for many niche companies. The EPA acknowledges BAAQMD and SCAQMD implementation of VOC limits, but these limits are not justified as nation-wide standards to reduce HAP from Wood Furniture Manufacturing. They are not technically feasible to be implemented nationally based on different operating and environmental conditions as well as the cost-effectiveness. By the commenter's own admission, there are facilities that are having a difficult time complying with the BAAQMD standard within its region. Moreover, based on available information, the EPA maintains that both area regulations are not cost effective as national standards to reduce HAP. As discussed in the preamble to the proposed rule, adoption of the BAAQMD VOC limits would result in 56 tpy of HAP reduction at a cost of $30,000 per ton. Although the commenter asserts based on a

[20] The EPA's review and analysis for the shipbuilding source category can be found in *Affordability of Add-on Controls for Surface Coating Operations at Shipbuilding and Ship Repair Facilities,* dated 10/28/2010, and for the wood furniture surface category in *Affordability of Lower VHAP Coating and Add-on Controls for Wood Furniture Manufacturing Operations,* dated October 28, 2010. Other significant memos describing the EPAs technology review are:

Developments in Practices, Processes, and Control Technologies for Wood Furniture Manufacturing Operations, dated August 24, 2010; *Impacts of Prohibiting the Use of Conventional Spray Guns in the Wood Furniture Manufacturing Operations Source Category,* dated October 19, 2010;

Cost Analyses for Control Options, dated September 27, 2010; *Cost Analyses for Add-on Controls for Surface Coating Operations at Shipbuilding and Ship Repair Facilities,* dated September 9, 2010.

conversation with BAAQMD staff that companies in the area are generally complying with BAAQMD limits, the EPA already assumed compliance when we estimated HAP reductions and cost-effectiveness of the BAAQMD limits. We have not changed our conclusion that the BAAQMD and SCAQMD regulation are not cost effective as a national standard.

Comment: Two commenters stated that the facility with the highest reported formaldehyde emissions (Kitchen Kompact located in Jeffersonville, Indiana) is not a representative wood coating manufacturing facility.

The commenters offered the following reasons:

a. The facility finishes products 4 days a week (as opposed to the EPA's 5-day assumption);

b. The facility uses uses higher VOC coating without a control device; and

c. The facility has all operations at one facility (other large facilities may spread operations over several facilities).

Another commenter believed that it is arbitrary for the EPA to set the formaldehyde limit based on data indicating that 3 percent (more likely 1 percent, see below) of facilities have formaldehyde emissions that could result in exceedances of the acute REL. The commenter offered the following reasons why the EPA's conclusion that 11 facilities (about 3 percent of the facilities) have formaldehyde emissions that could result in exceedances of the acute REL is problematic:

a. The EPA identified four facilities for emissions verification, two of which were reported to have formaldehyde emissions. One of these two, Chromcraft, no longer uses coatings that contain or emit formaldehyde. The other, Kitchen Kompact, emits less formaldehyde than reported and is not a representative facility. Both facilities are problematic and indicate that the facility data used in the risk assessment are suspect.

b. Three of the 11 facilities either no longer use formaldehyde-containing coatings or contact adhesives (Chromcraft) or have lower production than the EPA identified (Kitchen Kompact and Legacy Cabinets). Removing Chromcraft, only 10 facilities, or 2.5 percent of the total, have emissions that could result in exceedances of the acute REL.

c. The refined modeling approach that used aerial photographs of the facilities identified two major problems with the Human Exposure Model-3 (HEM–3) screening results:

- The REL, for several facilities, were overestimated due to global positioning system errors and;
- Moving the ''polar ring'' has a significant impact on the risk assessment. An evaluation of the aerial map indicated that the REL needed to be lowered in some cases by as much as 74 percent. While developing refined acute risks based on review of aerial maps is better than the screening approach, it is subjective at best.

d. Three of the 10 facilities had refined predicted acute risks greater than 3. The remaining 7 facilities had refined predicted acute risks of less than 3, and a majority of these had predicted acute risks just above 1 (1.5, 1.5, 1.6,[21] 1.8). The commenter suggested that the risks for these facilities should be discounted.

After removing these data points discussed above, the commenter noted that there are six facilities (approximately 1 percent of the facilities) with acute risks greater than 1. The commenter noted that setting a standard based on six facilities (or 1 percent of all wood furniture facilities) is unjustified and arbitrary.

Response: The EPA acknowledges that there have been changes to formaldehyde emissions since 2005. According to the comments received as well as phone conversations with several facilities, the EPA has received indications that facilities have changed and lowered formaldehyde emissions, subsequent to the 2005 NEI data. These updates, however, are not being used to replace the 2005 NEI data because data were not provided to support the assertions. Because the data are unverified, the EPA used source data from 2005 NEI to keep a verified source for purposes of risk assessment. As discussed elsewhere in this preamble, we are not adopting any new or additional requirements based on the risk assessment under section 112(f). We have found risk to be acceptable for this rule making.

Comment: Multiple commenters offered comments on the use of formaldehyde dose-response values.

Two commenters supported the use of the Integrated Risk Management System (IRIS) dose-response value for formaldehyde in the risk assessment.

One of the commenters stated that it is not only appropriate for the EPA to end its use of the Chemical Industry Institute of Toxicology (CIIT) Centers for Health Research risk value for formaldehyde emissions, doing the contrary would be arbitrary, capricious and unlawful. The commenter supported the IRIS value because it is more than 2,000 times greater than the CIIT value and thus more health-protective.

Alternatively, six commenters did not support the use of ''outdated'' and ''overly conservative'' models, such as that used to derive the IRIS dose-response value for formaldehyde.

One commenter stated that the EPA must use the best available science in its risk assessment, which is not the IRIS value. The commenter noted that the EPA has previously determined that the IRIS value ''no longer represents the best available science in the peer reviewed literature.'' 69 FR 18,327, 18,333 (Apr. 7, 2004). It was stated that the decision to discontinue use of CIIT model is inappropriate. The CIIT model should continue to be used to inform formaldehyde risk assessments. The criticisms of the model by Crump and colleagues lack foundation because the manipulations and alterations of the model on which they are based did not have an adequate basis in the underlying biology.

Response: In 2004, the EPA determined that the Chemical Industry Institute of Toxicology (CIIT) cancer dose-response value for formaldehyde (5.5×10^{-9} per $\mu g/m^3$) was based on better science than the IRIS dose-response value (1.3×10^{-5} per $\mu g/m^3$), and we switched from using the IRIS value to the CIIT value in risk assessments supporting regulatory actions. Based on subsequent published research, however, the EPA changed its determination regarding the CIIT model, and in 2010 the EPA returned to using 1991 IRIS value. The National Academy of Sciences (NAS) completed its review of the EPA's draft assessment in April of 2011 *(http://www.nap.edu/catalog.php?record_id=13142),* and the EPA has been working on revising the formaldehyde assessment. The EPA will follow the NAS Report recommendations and will present results obtained by implementing the biologically based dose response (BBDR) model for formaldehyde. The EPA will compare these estimates with those currently presented in the External Review draft of the assessment and will discuss their strengths and weaknesses. As recommended by the NAS committee, appropriate sensitivity and uncertainty analyses will be an integral component of implementing the BBDR model. In the interim, we will present findings using the 1991 IRIS value as a primary estimate, and may also consider other information as the science

[21] The value of 1.6 refers to Legacy Cabinets which, as the commenter asserts, no longer has any coatings or contact adhesives with formaldehyde in them.

evolves. The EPA notes that risk estimates based on both the IRIS and the CIIT unit risk estimates for formaldehyde were presented in the proposal for this final rule and that the risks were acceptable in both cases.

Comment: A commenter stated that the best available science indicates that formaldehyde in outdoor air does not present a risk to human health.

In support of their assertion, the commenter quoted WHO which stated that ''[i]n ambient air, formaldehyde is quickly photo-oxidized in carbon dioxide. It also reacts very quickly with the hydroxyl radicals to give formic acid. The half-life estimated for these reactions is about one hour depending on the environmental conditions.'' (WHO, 2010, at 103). Further, WHO concluded that because levels in ambient air are low, outdoor air does not contribute significantly to indoor pollution. *Id.* at 108. Therefore, the EPA's proposed cap on formaldehyde use is an unnecessary restriction that will not reduce residual risk, if any, to public health.

Response: Everyone is exposed to small amounts of formaldehyde in air and some foods and products. Nasal and eye irritation, neurological effects, and increased risk of asthma and/or allergy have been observed in humans breathing 0.1 to 0.5 ppm. Eczema and changes in lung function have been observed at 0.6 to 1.9 ppm. The Department of Health and Human Services (DHHS) has determined that formaldehyde is a known human carcinogen based on human and animal inhalation studies.[22] The EPA considers formaldehyde as a ''Probable Human Carcinogen'' in IRIS; *http://www.epa.gov/iris/subst/0419.htm.* The International Agency for Research on Cancer (IARC) classifies formaldehyde as a human carcinogen; *http://monographs.iarc.fr/ENG/Monographs/vol88/index.*

Ambient modeling of formaldehyde in the National Scale Air Toxics Assessment (NATA) at major urban centers indicate that formaldehyde exposures over the long term for excess cancer risks could be up to 100 in a million with a national average of 20 in a million based upon the current IRIS Unit Risk Estimate (URE). Monitoring at the National Air Toxics Trends Sites for formaldehyde are in good agreement with the NATA, refer to the following Web site; *http://www.epa.gov/ttn/atw/nata2005/compare.html.*

[22] This is according to the Agency for Toxic Substances and Disease Registry. *http://www.atsdr.cdc.gov/toxfaqs/tf.asp?id=219&tid=39.*

The dispersion modeling for wood furniture manufacturing and shipbuilding does not incorporate photochemical decay. The EPA conducted a sensitivity analysis and determined this feature in AERMOD [23] does not have a significant effect on near-field exposures and is most relevant for population exposures in the far field especially for pollutants with half-lives less than 30 minutes. The rate of decay is also very dependent temporally with less reactivity occurring during evening hours as well as during colder seasons. For more information on the sensitivity analysis, please refer to Section 4.6: Sensitivity Analysis—Atmospheric Chemistry in ''the EPA's Risk and Technology Review (RTR) Risk Assessment Methodologies,'' that was reviewed by the EPA's SAB; *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* Based upon the rate of decay for formaldehyde varying from 1 hour to 16 hours and the fact that the MIR location for this source category is located within 300 meters of the emission source, we find that photochemical decay will not have an effect on the MIR.

Comment: A commenter stated the EPA's sole justification for setting the formaldehyde limit at 400 lbs per rolling 12-month period appears to be the fact that this level is already contained in the existing MACT as a work practice requirement. Specifically, the commenter contended:

> The EPA has stated that adopting this level as an emission standard would create ''either no or minimal additional costs.'' *Id.* at 80,247. This number was chosen in 1995, however. Where this number came from initially is unclear. While it may be convenient for industry to use a level with which it is already familiar and that would incur little or no extra cost, the EPA has not provided a reasoned explanation based on the required statutory health-based criteria for choosing this limit, rather than a more stringent limit. The record does not show why this is the appropriate limit to set as a residual risk standard in today's world.
>
> The EPA must complete this analysis and set an appropriately protective standard to satisfy CAA section 112(f)(2). Specifically, the EPA must consider and address how much emissions would be reduced if the EPA set a lower standard, and what level of emission standard is required to provide an ''ample margin of safety.'' 42 U.S.C. § 7412(f)(2). The EPA must address what emission standard would be needed to bring the MIR down to 1-in-1-million as the statute directs. Id. The EPA must address what standard is needed ''to provide maximum feasible protection against risks to health'' by ''protecting the greatest number of persons possible'' to a lifetime risk level no greater than 1-in-1 million. 75 Fed. Reg. at 80,223 (quoting Benzene NESHAP). The need for this analysis is amplified by the fact that the EPA has recognized numerous ''uncertainties related to the risk assessments, particularly for formaldehyde and glycol ether emissions.'' *Id.* at 80,242–43. For example, the EPA has stated that it is concerned that its risk analysis has failed to account for additional formaldehyde emissions that likely occur during curing and gluing. *Id.* at 80,243. The uncertain amount of additional risk unaccounted for provides another reason for the EPA to set a more protective formaldehyde emission standard than the level chosen as a work practice standard in 1995.

Response: The EPA is not finalizing the 400 pounds per rolling 12-month period formaldehyde use limit as proposed under 112(f) of the CAA. See section III of the preamble for a discussion of our final action.

The EPA is promulgating a formaldehyde standard under section 112(d)(6). Please refer to earlier descriptions in the preamble for further justification of section 112(d)(6) of the CAA. All wood furniture coatings and contact adhesives must be low- or no-formaldehyde (concentration not to exceed 1 percent by weight formaldehyde) or, as a compliance alternative, formaldehyde emissions from wood furniture facilities must not exceed 400 pounds per rolling 12-month period. The compliance options are designed to promote continuing reductions in formaldehyde emissions from wood furniture without requiring equipment changes that are not cost effective or limiting in production. The formaldehyde limits will avoid constraining the production of wood furniture products facilities while encouraging facilities to maintain or decrease levels of formaldehyde within coatings and contact adhesives.

The 400 pounds per 12 month period formaldehyde limit is based on the threshold level in Table 5 of the 1995 NESHAP, which itself was a result of negotiations with industry. In this RTR, we took the familiar numerical threshold for formaldehyde emissions and made it a level not to exceed as a compliance alternative. This was done, in the proposal, to reduce the HQ of formaldehyde from 7 to 3 in a cost effective manner. Between proposal and promulgation, it became clear through public comments that this limit was not cost effective for the source category. As discussed in greater detail of section IV of this preamble, this limit is now a compliance alternative under section 112(d)(6).

[23] AERMOD was developed by the American Meteorological Service (AMS)/EPA Regulatory Model Improvement Committee (AERMIC). This is the preferred model by EPA for modeling point, area and volume sources of continuous air emissions from facilities.

The science is unclear as to the degree of formaldehyde curing under different environmental conditions. We did not receive any public comments containing substantive or relevant emissions information on formaldehyde emissions from curing at wood furniture facilities. Until there is more data relevant to how cure formaldehyde is formed and/or in what quantities, we are unable to set limits for such emissions.

Comment: Five commenters disagreed with the 400 pound per 12 month period formaldehyde limit. Two of the commenters noted that limiting formaldehyde emissions from the wood furniture manufacturing operations source category is not supported by the EPA's risk analysis and is therefore arbitrary. One commenter noted that the total estimated cancer incidence due to actual emissions is 0.005 excess cancer cases per year or one case in every 200 years.

Another commenter further stated that the limit is not necessary because formaldehyde emissions are likely to decrease further during the 2-year compliance period, without any further regulations.

A commenter stated that the EPA is not justified in adopting this standard under CAA section 112(f)(2)(A) or CAA section 112(d)(6). On a related note, a different commenter questioned the authority of the EPA to establish a 400 pounds per year limit on formaldehyde emissions. The basis for the commenter's assertion is that a 400 pound limit will limit production at facilities and will inhibit companies from meeting industry performance standards. A commenter noted that the EPA chose the 400 pound per year formaldehyde limit based on Table 5 of the MACT standard (List of VHAP of Potential Concern Identified by Industry). Currently, facilities that exceed their baseline level would need no further explanation to permitting authorities if the exceedance is no more than 15 percent above the baseline, or if the use is below the level in Table 5. According to the commenter, the EPA did not note the number of facilities that use the formaldehyde limit versus the baseline exceedance option. Without more data, it is not known if facilities use the 400 pound per year limit. The commenter assumed that most facilities comply via the exceedance of baseline option and not the 400 pound per year limit.

A commenter also stated that the EPA improperly presumed a ''one-size fits all'' approach to coatings and adhesives is feasible in the manufacture of wood furniture/cabinet products. The EPA failed to take into account the performance, quality and customer requirements of these manufactured goods. The coatings and adhesives used for cabinet manufacture are specialized and may contain higher amounts of formaldehyde due to unique customer requirements.

A commenter noted that based on the data in an EPA memorandum,[24] the difference in price between coatings with formaldehyde and those that are formaldehyde-free is $3.02 per gallon. The commenter assumed a 1 percent formaldehyde content in the lower priced coating and a coating density of 8 pounds per gallon. The $3.02 per gallon additional cost for a formaldehyde-free coating would reduce formaldehyde emissions by 0.08 pounds for a cost of $37.75 per pound of formaldehyde eliminated or $75,500 per ton.

The commenter also evaluated the replacement cost for a topcoat containing 0.25-percent formaldehyde with a material containing only 0.005 percent formaldehyde. The price differential of $3.58 per gallon resulting in a cost of over $365,000 per ton of formaldehyde eliminated.

The commenter noted the high cost of replacement of contact adhesives. Based on the relatively low formaldehyde content in the current materials used, an incremental cost of only $1 to $2 per gallon could result in a cost exceeding $20,000 per ton.

Response: Based on information received in the comments and further inquiry of the effects of the proposed limit of 400 pounds formaldehyde per rolling 12-month period, the EPA has revised the standard to require the formaldehyde content of coatings and contact adhesives to be less than or equal to 1 percent by weight with an alternate compliance option of the 400 pounds per rolling 12-month period formaldehyde use limit, as explained elsewhere in the preamble.

This approach is promulgated under the technology review requirements under the CAA section 112(d)(6). Risk was determined to be acceptable under section 112(f)(2) of the CAA (residual risk). This technology rule will not limit production or result in significant costs for high production facilities and will encourage further reductions in the future without compromising the integrity of product.

The EPA has information that indicates that most facilities will be able to cost-effectively comply with the 1 percent by weight formaldehyde limit.[25] A commenter asserts that coatings and contact adhesives that are 1 percent formaldehyde are cost effective. This level of formaldehyde will be sufficient to create the cross-linking nucleation that provides durability to wood furniture products in many cases. By also having a formulation restriction as an alternative to the 400 pound per year limit, there will not be a restriction of production.

Comment: Multiple commenters offered comments related to the EPA's estimate of the cost for meeting the proposed formaldehyde standard.

One of the commenters noted that the EPA does not adequately support its cost estimate. The commenter stated that the EPA provided no data or analysis to support its assumption that all facilities operate in the same way or that the use of no- or low- formaldehyde coatings and contact adhesives would be suitable for use by all facilities.

The commenter further noted that the EPA's ''cost analysis'' consists of price information, from one supplier, of 13 no- or low-formaldehyde coatings that the agency considers to be suitable for use in wood furniture manufacturing operations.[26] The commenter noted that the EPA does not analyze whether the available coatings can be used in all applications or would meet industry performance standards.

A different commenter stated that the technical and cost analyses the EPA puts forth in support of the 400 pound per year limit are not backed up by any critical analysis or actual data. According to the commenter, this analysis amounts to the assertion that, ''because some facilities are doing it, all facilities should be able to do it. This is an empty 'analysis' that provides no support for the proposed 400 lb per year limit. On top of that, the EPA also asserts that the new standard can be met 'at little or no extra cost.' '' The commenter stated that a much more robust cost analysis would be needed to justify imposing an additional emissions limitation.

Moreover, two commenters noted that the EPA does not address the additional costs incurred due to the potential need

[24] See: *Impacts of Implementing a Limit on Formaldehyde Usage in the Wood Furniture Manufacturing Operations Source Category,* October 19, 2010. This document is available in the docket for this rulemaking.

[25] One of the major manufacturers of wood furniture coatings, Valspar, does not carry any products that have greater than 1 percent formaldehyde leading to the conclusion that coatings greater than 1 percent formaldehyde are mostly unnecessary in the industry. *http://www.valsparwood.com/valsparwood/msds/msds.jsp*

[26] See U.S. the EPA, Memorandum, *Impacts of Implementing a Limit on Formaldehyde Use in the Wood Furniture Manufacturing Operations Source Category* dated October 19, 2010 in the docket for this action.

for new equipment, the significant expenses to adapt to a new finish material.

Response: Based on information received in comments, we have adopted a 1 percent by weight formaldehyde limit with a 400 pounds formaldehyde per rolling 12-month period alternative compliance limit that allows wood furniture manufacturers to use their discretion to reformulate to lower formaldehyde coatings and contact adhesives while not necessitating the expense of production line reconfiguration. As discussed above, we have updated the cost-effectiveness analysis for the proposed formaldehyde limit and concluded that the 400 pound per 12 month limit as proposed would not be cost effective.[27]

Using low-formaldehyde coatings and contact adhesives reflects developments in technology and was described in the proposal as the method to achieve compliance with the proposed 400 pounds formaldehyde per rolling 12-month period. A limit of 1 percent formaldehyde in coatings and adhesives allows facilities the flexibility to use coatings and adhesives that are suitable for a range of different products, from cabinets to home furnishings, without compromising their quality, cost or production.[28] Also, in many cases, the 1 percent formaldehyde limit will allow flexibility in different types of line configurations.[29]

Comment: Multiple commenters noted that the EPA overestimated the health risk from glycol ethers by using ethylene glycol methyl ether as the representative glycol ether.[30] Given that the use of glycol ethers other than ethylene glycol methyl ether is the norm for the industry, the risk associated with this class of compounds is overstated in the EPA's analysis and no additional regulation of glycol ethers is warranted. The table contains a summary of speciated glycol ethers that are less toxic than ethylene glycol methyl ether. This shows, in the commenter's opinion, the EPA's overestimation of the health risk from these compounds.

One commenter offered another assessment approach for glycol ethers:

> A more reasonable assessment of glycol ethers would be the example based on data from all facilities of a large wood furniture manufacturing company. Glycol ether emissions in 2010 totaled 3.76 tons, of which over 95 percent of the emissions were ethylene glycol monobutyl ether, with the remainder comprising diethylene glycol phenyl ether, diethylene glycol butyl ether and phenoxyethanol. Based on the preponderance of ethylene glycol monobutyl ether in these emissions, a risk assessment using the significantly higher REL for ethylene glycol monobutyl ether (REL = 14 vs. REL for ethylene glycol methyl ether of 0.093 ref: *http://www.oehha.ca.gov/air/pdf/acuterel.pdf*) would conclude that the risk from glycol ethers is approximately 150 times lower than the EPA's analysis shows. Even if the REL for another glycol ether—Ethylene Glycol Monoethyl Ether, REL 0.37—were used, the risk associated with glycol ethers would be reduced by a factor of 4.

A second commenter offered a different option. The commenter recommended that the HQ derived by the EPA for Propyl Cellosolve® (ethylene glycol mono-n-propyl ether (EGME)) be recalculated using an REL they propose for ethylene glycol phenyl ether (EGPE). The commenter contends that information provided in their comments demonstrates that sufficient information exists to derive an REL for EGPE, which would be more appropriate for risk management than the REL for EGME.

Response: As we acknowledged in the proposal, the use of the EGME REL in our acute risk screening assessments provided us with a conservative (*i.e.,* health-protective) estimate of potential acute health risks from glycol ethers when the exact speciation profile of emitted glycol ethers was uncertain. For this source category, approximately 70 percent of facilities reporting glycol ether emissions reported them without any speciation information. Since there are no AEGL or ERPG values available for any glycol ethers, this further limits our ability to interpret the potential acute impacts of glycol ethers. Since this uncertainty remains, the EPA is not convinced that the use of less health-protective assumptions (such as those recommended by the commenters) represents any improvement in the assessment of potential acute impacts. Even so, because of the health-protective nature of our assessment, we do not believe that these estimated worst-case acute glycol ether impacts warrant the adoption of additional control measures.

Comment: A commenter suggested that the EPA either define the term ''conventional'' or mention the types of spray guns that are to be used to assist the regulated community in complying with this rule. The commenter suggested specific items, mentioned in the Paint Stripping and Miscellaneous Surface Coating Operations rule (Subpart HHHHHH): High-volume low-pressure (HVLP) spray guns, electrostatic applications, airless or air-assisted airless spray guns, or air-assisted airless equivalent technologies.

Another commenter suggested that the EPA exclude the following components from the definition: Handheld non-refillable aerosol containers, touch-up markers, marking pens, and the application of paper film or plastic film which may be pre-coated with an adhesive by the manufacturer. These items are allowed by the miscellaneous metal parts and products NESHAP (subpart MMMM).

Response: The existing Wood Furniture Manufacturing Operations MACT standards define ''conventional air spray'' as:

> a spray coating method in which the coating is atomized by mixing it with compressed air and applied at an air pressure greater than 10 pounds per square inch (gauge) at the point of atomization. Airless and air assisted airless spray technologies are not conventional air spray because the coating is not atomized by mixing it with compressed air. Electrostatic spray technology is also not considered conventional air spray because an electrostatic charge is employed to attract the coating to the workpiece. 40 CFR 63.801(a).

Many of the above suggestions for specific coating applications are clearly included or excluded by the definition of conventional spray provided in the 1995 NESHAP. The technologies listed above such as touch-up markers, marking pens and manufacturer pre-coated adhesive film are not affected by the ban on use of conventional spray guns because they do not have a spray, *i.e.,* they are not ''a spray coating method.'' Despite certain technologies being incorporated to other rule makings such as subpart HHHHHH, the commenter did not explain why these applications are necessary for this rule making. Examples of compliant spray technology include, but are not limited to HVLP spray guns, low-volume low-pressure guns (LVLP), electrostatic applications, airless and air-assisted airless spray guns. Low-capacity HVLP cup guns may be used for small batch operations.

Comment: A commenter suggested that the EPA clarify in the rule that facilities with controls can continue to use conventional spray guns. Any

[27] For further detail, see memo to the docket, *Estimated Cost Impact for Wood Furniture Manufacturing Industry to Comply with Proposed Formaldehyde Limit on Coating Operations Wood Furniture Manufacturing RTR,* dated July 15, 2011.

[28] It is necessary for some facilities to minimize levels of formaldehyde in the coating formulation to promote cross-linking nucleation. This process directly affects the quality and durability of the wood furniture. See notes from the *Marsh Furniture Site Visit* in the docket for this action for reference.

[29] For additional information, please see memo to the docket, *EPA Meeting with Kitchen Cabinet Manufacturers Association (KCMA) and Select Representatives,* dated August 17, 2011.

[30] The commenters referred to Table 4 in the EPA's October 22, 2010, memorandum, *Review of Glycol Ether Emissions Associated with Wood Furniture Manufacturing Source Category.*

emissions would be controlled via the control device.

Another commenter noted that several RTOs, which rely on rich VOC waste streams, are being operated in the industry. To impose air-assisted-airless guns reduces RTO efficiency and requires more fossil fuel to be consumed. Regenerative thermal oxidizers are fueled by overspray and fossil fuels; when the quantity of overspray is decreased, the more fossil fuel that is needed to keep the RTO functioning.

Response: The proposed rule has been revised to allow use of conventional spray guns when the overspray is routed to a functioning control device. The efficiency of the control device sufficiently reduces excess emissions associated with the decreased spray efficiency of conventional spray guns.[31]

Comment: Two commenters noted that the EPA offered an incorrect premise that all applicator improvements to increase transfer efficiency of the sprayed material will result in reduced emissions simply due to higher transfer efficiencies. The premise does not consider the low-use application considerations required for trials, touchups and product repairs.

One of the commenters noted:

> HVLP and equivalent high efficiency applicators require larger volumes of premixed materials for application and are best used where large quantities of materials are intended (usually volumes larger than one gallon to as much as 30 gallons) and in production quantity applications where large surface areas are coated. Under large volume spray applications, the high transfer efficiency equipment results in reduced material consumptions resulting in lower operating costs and lower emissions. Under high volume application conditions, there are both economic and environmental advantages for operations to use high transfer efficiency equipment.
>
> However, for low use applications such as low volume color stains, trial materials, small touchups and repairs, mixing large batches for use in high transfer efficiency equipment will result in increased material consumption and waste, increased cleanup solvent consumption and waste, and, for catalyzed top coat materials, material loss through restricted pot life. The proposed applicator changes would result in an inability to properly mix small batch work coatings (stains, sealers, topcoats, etc.), resulting in more wasted raw material, increased cleanup material use, waste and emissions and an unnecessary increase in generated waste volume.
>
> Arguably, the use of low volume conventional spray equipment such as cup guns, etc., affords the industry a small volume spray alternative that would otherwise require a part to be re-finished or scrapped entirely. Failed finish repairs with minimal rework and reapplication to the part and in some instances salvage of an otherwise scrapped production part makes production and environmental sense. Indeed small quantity applicators (generally those with a restricted volume of 1.0 U.S. quart or less) may actually result in lower VOC and VHAP emissions due to the restricted use and inherent limited production capability of the application equipment itself.
>
> Such an overreaching requirement for all spray equipment to be of the HVLP spray type or equivalent is not reasonable and does not consider the other adverse environmental impacts discussed above.

Response: First, we note the commenter agrees with the EPA that with large volume spray applications, which the commenter defines as larger than one gallon and in production quantities, high transfer efficiency equipment results in reduced material consumption, lower operating costs and lower emissions.[32] In addition, we find that the application technology is available for small batches of coating to be applied with non-conventional spray guns such as HVLP cup guns. The use of HVLP cup guns will allow for smaller batch mixes. This prevents unneeded coating material going to waste. With the higher spray efficiency associated with non-conventional spray guns, a greater portion of the spray is coating the piece of wood. This means that there is less overspray leading to fewer emissions. Other touch-up applications such as touch-up markers and handheld non-refillable aerosol containers may still be used under the standard. For more information see *Use of Non-Conventional Spray Technology in the Wood Furniture Manufacturing Industry,* dated August 3, 2011 and *Impacts of Prohibiting the Use of Conventional Spray Guns in the Wood Furniture Manufacturing Operations Source Category,* dated October 19, 2010, in the docket for this action.

C. Shipbuilding and Ship Repair (Surface Coating)

Comment: A commenter stated the EPA has provided no rational explanation for refusing to update the technology standards for both categories to meet the CAA section 112(d)(6) requirement, at minimum, by matching the limits of what sources have achieved and what other jurisdictions have required. The commenter stated:

> We urge the EPA to do so in the final rule. Where, as here, there are ''significant developments'' in technology, and where, as here, sources have achieved lower levels of emissions ''in practice'' than are ''MACT-allowable,'' it is abundantly clear that § 112(d)(6) requires the EPA to revise its standards in accordance with CAA § 112(d)(2)–(3), (6), 42 U.S.C. § 7412(d)(2)–(3), (6).

The commenter also inquires why the EPA did not adopt more stringent standards based on other regulating bodies within the country.

Response: As explained in the proposal, in accordance with the approach established in the Benzene NESHAP, our analysis of risks for this source category showed that the maximum source-category cancer risks for all facilities are within the range of acceptable risks and that the maximum chronic noncancer risks are unlikely to cause health impacts. The EPA has weighed all health risk measures and information considered in the risk acceptability determination, along with the costs and economic impacts of emissions controls, technological feasibility, uncertainties, and other relevant factors, in making our ample margin of safety determination. The EPA has found the overall level of risk to be acceptable for the source category and the ample margin of safety determination for this source category indicates that potential controls are not cost effective and technically feasible.

Comment: A commenter stated that the EPA has failed to fulfill its CAA section 112(f)(2) duty to fully assess and determine whether the risk from this source category is ''acceptable.'' The EPA concludes that this category creates an MIR of 20-in-1 million based on allowable emissions, and 10-in-1 million based on estimated ''actual'' emissions. The EPA does not justify its conclusion on the record that this level of risk is acceptable. It simply lists the numbers and different factors, without explaining how it is analyzing these factors or why they have led the EPA to reach its conclusion. The EPA recognizes that disparities in risk exist, with individuals in certain demographic groups, including African Americans and people with income below the poverty level, more likely to experience a higher level of risk. As discussed above, the EPA cannot simply rely on the old Benzene presumption that any

[31] A typical transfer efficiency of an HVLP gun is 65–85 percent compared to 25–45 percent for conventional guns under similar conditions. This is a difference of 40 percent spray efficiency. When compared to an estimate of 90 percent efficiency of an add-on control device, the control device more than compensates for the 40 percent reduction in efficiency of guns. For more information on transfer efficiencies of spray technologies see the memo to the docket, *Impacts of Prohibiting the Use of Conventional Spray Guns in the Wood Furniture Manufacturing Operations Source Category,* dated October 29, 2010.

[32] For more information please see *Impacts of Prohibiting the Use of Conventional Spray Guns in the Wood Furniture Manufacturing Operations Source Category,* dated October 19, 2010, in the docket for this action.

level of risk under 100-in-1 million is acceptable. And, the fact that 4,000 people is a ''relatively low'' number (*i.e.,* the number estimated to be exposed to cancer risks of 1-in-1 million or greater) does not justify the EPA's proposal of inaction to protect these people. CAA section 112(f)(2) requires the EPA to set standards for the maximum exposed individual. The individuals in this group of 4,000 are the very people whom the law requires the EPA to be concerned about.

Response: We do not consider the 1-in-1 million MIR level as a 'bright line' mandated level of protection for establishing residual risk standards. In determining the ample margin of safety (*i.e.,* the level of the standard), health risk is one factor that we must consider, along with other factors such as cost and technological feasibility. Balancing these and other factors with the ability to achieve meaningful risk reduction is a critical component of the residual risk rulemaking process. We considered reducing risks further but concluded that the technology required, such as a portable or permanent enclosure big enough to accommodate an entire ship or even a section of a ship to capture and control air emissions, would be cost prohibitive for this industry. Although our additional analysis of the demographics of the exposed population shows some disparities in risks between demographic groups for both categories, the EPA has determined that no group is exposed to an unacceptable level of risk. In general, the contribution of the source category to elevated facilitywide cancer or noncancer risks is low throughout the facilities in this source category. The primary processes driving the facilitywide cancer and noncancer risks are welding and blasting which are not regulated under this source activity.

Comment: A commenter stated that the EPA has determined that maximum individual cancer risk at the facilitywide level is 200-in-1 million based on estimated ''actual'' emissions. This means that the risk is likely to be higher based on allowable emissions. Further, of the 41 facilities with facilitywide MIR of 1-in-1 million or more, 15 have shipbuilding and ship repair operations that contribute over 50 percent to the facilitywide risks. Yet, the EPA does not propose to take any action to address that risk. The EPA should investigate ways to reduce this residual risk. It does not consider or address whether this level of facilitywide risk is acceptable at facilities where this source category is contributing so significantly. The EPA must do so to complete its CAA section 112(f)(2) duty. Its failure to consider regulatory options to address this residual risk is also arbitrary and capricious. At minimum, the EPA should consider whether to set a residual risk standard in order to reduce this high level of facilitywide risk. It should consider requiring extra work practice, reporting, monitoring and other measures for facilities that have the level of emissions putting them into this highest risk category. In sum, the EPA must address what standard is needed ''to provide maximum feasible protection against risks to health'' by ''protecting the greatest number of persons possible'' to a lifetime risk level no greater than 1-in-1 million. (quoting Benzene NESHAP), and its facilitywide risk analysis has failed to complete this essential step.

Response: We examined facilitywide risk to provide additional context to the source category risks. Facilitywide risks are driven by estimated emissions from blasting and welding sources at shipbuilding and ship repair facilities. These sources are not part of the Shipbuilding and Ship Repair (surface coating) source category. As discussed in the preamble to the proposed actions for this source category [75 FR 80237], we intend to list welding and blasting operations as a major source category under section 112(c)(5) of the CAA.

Comment: A commenter stated that with respect to the Shipbuilding and Ship Repair standard, we are concerned that the EPA based its decision that no additional controls are needed and that the existing standard provides an ample margin of safety in part due to ''the uncertainty and lack of data associated with one potential risk reduction option identified, and the technological infeasibility of the other option identified.'' The commenter urged the EPA to obtain the necessary data regarding the two options to make a more informed decision, including contacting air quality agencies that currently regulate the source category. We compliment the EPA on its intention to list welding and blasting operations at shipbuilding and ship repair facilities as a major source category under section 112(c)(5), but encourage the EPA to determine the extent to which this action will address the risks remaining at these facilities before deciding that relying on this strategy is sufficient.

Another commenter stated that the EPA's proposal fails to satisfy the ''ample margin'' requirement. The EPA bases this conclusion in part on the fact that it has ''not identified any data regarding the availability, use, performance and emissions associated with the use of lower overall volatile organic hazardous air pollutants (VOHAP) content or lower toxicity VOHAP content.'' *Id.* The EPA's conclusion is incorrect based on the use of the California standards in place. It is unclear why the EPA did not simply contact the four identified California air quality districts that have more stringent emission limits to attempt to gather these data. See Part IV.A.1, *infra.* This is the 8-year residual risk rulemaking and now is the time to collect and consider those data. The EPA may not defer or ignore this responsibility, or the fact that stricter standards are in use that it must address. The EPA also cannot justify a failure to set a residual risk standard on a lack of data. The EPA has failed to explain how the existing section 112(d) standard could provide the required ''ample margin of safety.'' One commenter also stated that where other jurisdictions have implemented stronger standards, this provides evidence that for the purposes of CAA section 112(d)(6), that more stringent limitations are achievable and have been achieved.

However, the EPA states that there are differences between coating limits in the four air districts, and that the 1995 MACT standard includes cold weather limits which are not present in the California standards due to its moderate climate. Neither of these points is a valid reason for the EPA not to further analyze and adopt stronger standards based on these California examples. While it may not be appropriate to adopt the California standards in full on a national basis, the EPA gives no rational justification for not analyzing how to take these models and use them to create an appropriate national standard under CAA section 112(d)(6). The EPA concludes that ''we do not have data to determine whether these lower-VOC content coatings could be applied nationwide.'' Gathering and analyzing that data, starting with any information already compiled by the California districts, is precisely what the section 112(d)(6) rulemaking is designed for. A lack of data is not a lawful basis for the EPA to decline to adopt a stronger MACT standard.

Response: The EPA researched current technologies for the shipbuilding and ship repair surface coating industry, and did not find any cost effective options that would make the current standard more stringent. Related to the marine coating limits in the MACT rule, we reviewed the general use and 22 specialty coating VOHAP limits and the lower limits that some states and air districts have adopted over the past decade for some of the specialty categories. Furthermore, we requested comment on the availability

and feasibility of using lower VOHAP coatings but did not receive any data or information during the comment period. Following proposal, we did contact a shipyard in Maine, and found that the use of lower VOHAP coatings, such as those required to meet the limits set by some of the California air quality districts, is not feasible in climates that are not as moderate and, therefore, necessitate greater thinning of paint.

As noted by the commenter, some jurisdictions have implemented more stringent standards that have resulted in changes to formulations being used in those locations. However, temperature and humidity issues experienced by other locations would make painting operations having to comply with the more stringent limitations more difficult, more expensive, and in some cases unachievable.

There are many different coatings, and in some cases groups of specific coatings, comprising each of the marine coating categories. Over the past several years, there have been changes to some formulations with HAP solvent reductions and solvent replacements, but those are coating and manufacturer specific and not reflective of the entire marine coating category.[33]

Comment: A commenter stated the EPA recognizes that there are ''disparities in risks'' for certain minority and lower-income individuals. For shipbuilding and ship repair, African Americans and people below the poverty level face a cancer risk of at least 1-in-1 million at a higher rate than their representation in the population. The EPA must consider potential ways to address the disproportionate impact on minority individuals and communities in deciding whether the likelihood of cancer risk is ''acceptable'' and whether there is action that could provide an ''ample margin of safety'' for these individuals and communities. Indeed, the EPA has recognized this since the development of the Benzene NESHAP, although it has failed to take action to address this (citing Benzene NESHAP factors, including ''overall incidence of cancer or other serious health effects within the exposed population… other quantified or unquantified health effects''). These additional factors are supposed to be used in addition to the MIR. It is neither acceptable, nor just, to avoid the need to reduce the correlation between race or income level and a disproportionate risk of cancer from toxic air pollution. The EPA's proposals for inaction, in the face of the recognized disparities, contradict the Administrator's professed commitment to ''fair treatment'' (EJ Guidance, *infra* note 30, at 3). With the knowledge it has, the EPA must, at minimum, consider the amount of background pollution faced by, and baseline health of, racial minorities and communities affected by these two source categories, including for the types of health effects that these HAP emissions have potential to exacerbate. These types of health data are readily available for the EPA to factor into its analysis and to use in proposing a regulatory response to the disproportionate risk found. It would be arbitrary and capricious to propose to take no further action at all after finding these disparities for both source categories.

The commenter supports the EPA's effort to gather demographic data. Merely looking at these numbers in a simplistic manner, however, is no substitute for a true environmental justice (EJ) analysis. The EPA should develop and undertake an actual analysis of the location and community effects of these source categories. It has sufficient data on the locations of these facilities to undertake an analysis of the effect of their emissions on the maximum exposed individual, the history of pollution faced in the most affected community, and to consider how to set a just standard in view of these lasting harms.

Response: The demographic analysis found that African Americans and people below the poverty line may be somewhat disproportionately impacted by facilitywide air toxics emissions; however, emissions from the source category itself contribute minimally to these impacts. The EPA also found the overall level of risk from both source categories to be acceptable and to provide an ample margin of safety for all populations in close proximity to these sources. As noted previously, the EPA's ability to quantitatively assess impacts on EJ communities is evolving.

VI. Impacts of the Final Rules

We estimate the only compliance costs for these amendments to the Shipbuilding and Ship Repair (Surface Coating) MACT standard to be those costs associated with facilities that choose to take advantage of the affirmative defense although there is no expectation that a facility will have a need for affirmative defense in this source category. These estimated costs are $3,141 per year, and are discussed in section VII.B. For these amendments to the Wood Furniture Manufacturing Operations MACT standards, we estimate the compliance costs to be $188,000 per year for the formaldehyde limit reporting and recordkeeping provisions, and $3,141 for facilities that choose to take advantage of the affirmative defense although there is no expectation that a facility will have a need for affirmative defense in this source category. These costs are discussed in section VII.B.

VII. Statutory and Executive Order Reviews

A. Executive Orders 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and Executive Order 13563 (76 FR 3821, January 21, 2011), and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act (PRA)

The information collection requirements in the final rules have been submitted for approval to OMB under the PRA, 44 U.S.C. 3501, *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

These final rules would require maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

When a malfunction occurs, sources must report them according to the

[33] See following memos to the docket on cost-effectiveness of control technologies: *Cost Analyses for Add-on Controls for Surface Coating Operations at Shipbuilding and Ship Repair Facilities,* dated September 2, 2010 and *Affordability of Add-on Controls for Shipbuilding and Ship Repair Source Category,* dated October 18, 2010.

applicable reporting requirements of 40 CFR part 63, subparts II and JJ. An affirmative defense to civil penalties for exceedances of emission limits that are caused by malfunctions is available to a source if it can demonstrate that certain criteria and requirements are satisfied. The criteria ensure that the affirmative defense is available only where the event that causes an exceedance of the emission limit meets the narrow definition of malfunction in 40 CFR 63.2 (sudden, infrequent, not reasonable preventable, and not caused by poor maintenance and or careless operation) and where the source took necessary actions to minimize emissions. In addition, the source must meet certain notification and reporting requirements. For example, the source must prepare a written root cause analysis and submit a written report to the Administrator documenting that it has met the conditions and requirements for assertion of the affirmative defense.

To provide the public with an estimate of the relative magnitude of the burden associated with an assertion of the affirmative defense position adopted by a source, the EPA provides an administrative adjustment to these ICRs that estimates the costs of the notification, recordkeeping and reporting requirements associated with the assertion of the affirmative defense. The EPA's estimate for the required notification, reports and records, including the root cause analysis, associated with a single incident totals approximately $3,141, and is based on the time and effort required of a source to review relevant data, interview plant employees, and document the events surrounding a malfunction that has caused an exceedance of an emission limit. The estimate also includes time to produce and retain the records and reports for submission to the EPA. The EPA provides this illustrative estimate of this burden because these costs are only incurred if there has been a violation and a source chooses to take advantage of the affirmative defense.

In these source categories, compliance is primarily achieved through reformulation of the coating. Because of this a malfunction of equipment, other than control devices, will not result in an exceedance of the standard. As noted previously, there is a small percentage of wood furniture facilities that use control devices for compliance; malfunctions with these devices are unlikely due to limited number in the industry compounding the unlikelihood of a malfunction. Therefore, we assert that although a cost for affirmative defense is possible, we believe that malfunctions are unlikely. Thus for these source categories, the EPA is not assigning any burden associated with affirmative defense.

This burden estimate for Shipbuilding and Ship Repair (Surface Coating) has been assigned EPA ICR number 1712.07 and for Wood Furniture Manufacturing Operations has been assigned EPA ICR number 1716.08, and both have been updated to reflect the estimate cost of availing the affirmative defense should a facility choose this option.

For the Wood Furniture Manufacturing Operations MACT standards, the ICR document prepared by the EPA has also been amended to include burden changes associated with the amendments regarding the formaldehyde limit added to the rule. The change in respondents' annual reporting and recordkeeping burden associated with these amendments for this collection (averaged over the first 3 years after the effective date of the standards) is estimated to be 2,000 labor hours with a total cost of $188,000 per year for the formaldehyde limit reporting and recordkeeping provisions. There will be no capital costs associated with the information collection requirements of the final rule.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When these ICRs are approved by OMB, the agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control numbers for the approved information collection requirements contained in the final rules.

C. Regulatory Flexibility Act (RFA)

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

For purposes of assessing the impact of these final rules on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of these final rules on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The costs associated with the new requirements in these final rules (*i.e.,* the formaldehyde use limit and conventional spray gun prohibition in the Wood Furniture Manufacturing Operations standards) are negligible as discussed above.

D. Unfunded Mandates Reform Act (UMRA)

These rules do not contain a federal mandate that may result in expenditures of $100 million or more for state, local and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, these rules are not subject to the requirements of sections 202 or 205 of UMRA.

These rules also do not contain regulatory requirements that might significantly or uniquely affect small governments. They contain no requirements that apply to such governments or impose obligations upon them.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. These final rules primarily affect private industry and do not impose significant economic costs on state or local governments. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have a substantial direct effect on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action will not relax the control measures on existing regulated sources, and the EPA's risk assessments (included in the docket for the proposed rules) demonstrate that the existing regulations are associated with an acceptable level of risk and an ample margin of safety to protect public health.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action will not create any new requirements for sources in the energy supply, distribution or use sectors. Further, we have concluded that these final rules are not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act (NTTAA)

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

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

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

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

The EPA has determined that these final rules will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations, because we have concluded that the existing rules adequately protect human health with an adequate margin of safety and the final rules do not decrease the level of protection provided to human health or the environment. To examine the potential for any EJ issues that might be associated with each source category, we evaluated the distributions of HAP-related cancer risks across different social, demographic and economic groups within the populations living near the facilities where these source categories are located. Our analyses show that, for the two source categories evaluated, there is no potential for an adverse environmental effect or human health multi-pathway effects, and that acute and chronic noncancer health impacts are unlikely. Our additional analysis of facilitywide risks showed that the maximum facilitywide cancer risks for all source categories are within the range of acceptable risks and that the maximum chronic noncancer risks are unlikely to cause health impacts. Although our additional analysis of the demographics of the exposed population shows some disparities in risks between demographic groups for both categories, the EPA has determined that no group is exposed to an unacceptable level of risk.

The rules will not relax the control measures on emissions sources regulated by the rules, and therefore, will not increase risks to any populations exposed to these emissions sources.

K. Congressional Review Act (CRA)

The CRA, 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. The EPA will submit a report containing this final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final 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). The final rule will be effective on November 21, 2011.

List of Subjects for 40 CFR Part 63

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

Dated: November 4, 2011.

Lisa P. Jackson,

Administrator.

For the reasons stated in the preamble, Title 40, chapter I, of the Code of Federal Regulations (CFR) is amended as follows:

PART 63—[AMENDED]

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

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

Subpart II—[Amended]

■ 2. Section 63.781 is amended by revising paragraph (d) to read as follows:

§ 63.781 Applicability.

* * * * *

(d) If you are authorized in accordance with 40 CFR 63.783(c) to use an add-on control system as an alternative means of limiting emissions from coating operations, in response to an action to enforce the standards set forth in this subpart, you may assert an affirmative defense to a claim for civil penalties for exceedances of such standards that are caused by a malfunction, as defined in 40 CFR 63.2. Appropriate penalties may be assessed, however, if you fail to meet your burden of proving all the requirements in the affirmative defense. The affirmative defense shall not be available in response to claims for injunctive relief.

(1) To establish the affirmative defense in any action to enforce such a limit, you must timely meet the notification requirements in paragraph (d)(2) of this section, and must prove by a preponderance of evidence that:

(i) The excess emissions:

(A) Were caused by a sudden, infrequent and unavoidable failure of air pollution control and monitoring equipment, process equipment or a process to operate in a normal or usual manner; and

(B) Could not have been prevented through careful planning, proper design

or better operation and maintenance practices; and

(C) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(D) Were not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(ii) Repairs were made as expeditiously as possible when the applicable emission limitations were being exceeded. Off-shift and overtime labor were used, to the extent practicable to make these repairs; and

(iii) The frequency, amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions; and

(iv) If the excess emissions resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury or severe property damage; and

(v) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment and human health; and

(vi) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(vii) All of the actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs; and

(viii) At all times, the affected source was operated in a manner consistent with good practices for minimizing emissions; and

(ix) A written root cause analysis has been prepared, the purpose of which is to determine, correct and eliminate the primary causes of the malfunction and the excess emissions resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of excess emissions that were the result of the malfunction.

(2) *Notification.* The owner or operator of the facility experiencing an exceedance of its emission limit(s) during a malfunction shall notify the Administrator by telephone or facsimile (FAX) transmission as soon as possible, but no later than 2 business days after the initial occurrence of the malfunction, if it wishes to avail itself of an affirmative defense to civil penalties for that malfunction. The owner or operator seeking to assert an affirmative defense shall also submit a written report to the Administrator within 45 days of the initial occurrence of the exceedance of the standard in this subpart to demonstrate, with all necessary supporting documentation, that it has met the requirements set forth in paragraph (d)(1) of this section. The owner or operator may seek an extension of this deadline for up to 30 additional days by submitting a written request to the Administrator before the expiration of the 45 day period. Until a request for an extension has been approved by the Administrator, the owner or operator is subject to the requirement to submit such report within 45 days of the initial occurrence of the exceedance.

■ 3. Section 63.782 is amended by adding a definition for ''affirmative defense'' to read as follows:

§ 63.782 Definitions.

* * * * *

Affirmative defense means, in the context of an enforcement proceeding, a response or a defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

* * * * *

■ 4. Section 63.783 is amended by redesignating paragraphs (b)(1) and (b)(2) as (b)(2) and (b)(3) and adding a new paragraph (b)(1) to read as follows:

§ 63.783 Standards.

* * * * *

(b) * * *

(1) At all times the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

* * * * *

■ 5. Section 63.785 is amended by adding paragraph (e) before Figure 1 to § 63.785 to read as follows:

§ 63.785 Compliance procedures.

* * * * *

(e) Continuous compliance requirements. You must demonstrate continuous compliance with the emissions standards and operating limits by using the performance test methods and procedures in § 63.786 for each affected source.

(1) General requirements.

(i) You must monitor and collect data, and provide a site specific monitoring plan, as required by §§ 63.783, 63.785, 63.786 and 63.787.

(ii) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), you must operate the monitoring system and collect data at all required intervals at all times the affected source is operating, and periods of malfunction. Any period for which data collection is required and the operation of the Continuous Emissions Monitoring System (CEMS) is not otherwise exempt and for which the monitoring system is out-of-control and data are not available for required calculations constitutes a deviation from the monitoring requirements.

(iii) You may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(2) [Reserved]

* * * * *

■ 6. Section 63.786 is amended by adding paragraph (e) to read as follows:

§ 63.786 Test methods and procedures.

* * * * *

(e) For add-on control systems approved for use in limiting emissions from coating operations pursuant to § 63.783(c), performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to demonstrate the conditions present during performance tests.

■ 7. Section 63.788 is amended by adding paragraph (b)(5) and revising paragraph (c) to read as follows:

§ 63.788 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(5) Each owner or operator that receives approval pursuant to § 63.783(c) to use an add-on control system to control coating emissions shall maintain records of the occurrence and duration of each malfunction of operation (*i.e.*, process equipment) or the required air pollution control and monitoring equipment. Each owner or operator shall maintain records of actions taken during periods of malfunction to minimize emissions in accordance with § 63.783(b)(1), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(c) *Reporting requirements.* Before the 60th day following completion of each 6 month period after the compliance date specified in § 63.784, each owner or operator of an affected source shall submit a report to the Administrator for each of the previous 6 months. The report shall include all of the information that must be retained pursuant to paragraphs (b)(2) through (3) of this section, except for that information specified in paragraphs (b)(2)(i) through (ii), (b)(2)(v), (b)(3)(i)(A), (b)(3)(ii)(A), and (b)(3)(iii)(A). If a violation at an affected source is detected, the owner or operator of the affected source shall also report the information specified in paragraph (b)(4) of this section for the reporting period during which the violation(s) occurred. To the extent possible, the report shall be organized according to the compliance procedure(s) followed each month by the affected source. If there was a malfunction during the reporting period, the report must also include the number, duration and a brief description of each malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.783(b)(1), including actions taken to correct a malfunction.

■ 8. Table 1 to subpart II of part 63 is amended by:

■ a. Removing entry 63.6(e)–(f);

■ b. Adding entries 63.6(e)(1)(i), 63.6(e)(1)(ii), 63.6(e)(1)(iii), 63.6(e)(2), 63.6(e)(3), 63.6(f)(1), and 63.6(f)(2)–(f)(3);

■ c. Removing entry 63.7;

■ d. Adding entries 63.7(a)–(d), 63.7(e)(1), and 63.7(e)(2)–(e)(4);

■ e. Revising entry 63.8;

■ f. Removing entry 63.10(a)–(b);

■ g. Adding entries 63.10(a), 63.10(b)(1), 63.10(b)(2)(i), 63.10(b)(2)(ii), 63.10(b)(2)(iii), 63.10(b)(2)(iv)–(b)(2)(v), 63.10(b)(2)(vi)–(b)(2)(xiv), and 63.10(b)(3);

■ h. Removing entry 63.10(c);

■ i. Adding entries 63.10(c)(1)–(9), 63.10(c)(10)–(11), 63.10(c)(12)–(14), and 63.10(c)(15);

■ j. Removing entry 63.10(d); and

■ k. Adding entries 63.10(d)(1)–(4) and 63.10(d)(5).

The revisions read as follows:

TABLE 1—TO SUBPART II OF PART 63—GENERAL PROVISIONS OF APPLICABILITY TO SUBPART II

Reference	Applies to subpart II	Comment
* * *	*	* * *
63.6(e)(1)(i)	No	See § 63.783(b)(1) for general duty requirement.
63.6(e)(1)(ii)	No.	
63.6(e)(1)(iii)	Yes.	
63.6(e)(2)	No	Section reserved.
63.6(e)(3)	No.	
63.6(f)(1)	No.	
63.6(f)(2)–(f)(3)	No	If an alternative means of limiting emissions (*e.g.*, an add-on control system) is used to comply with subpart II in accordance with § 63.783(c), then this section does apply.
* * *	*	* * *
63.7(a)–(d)	No	If an alternative means of limiting emissions (*e.g.*, an add-on control system) is used to comply with subpart II in accordance with § 63.783(c), then these sections do apply.
63.7(e)(1)	No	If an alternative means of limiting emissions (*e.g.*, an add-on control system) is used to comply with subpart II in accordance with § 63.783(c), then see § 63.786(e).
63.7(e)(2)–(e)(4)	No	If an alternative means of limiting emissions (*e.g.*, an add-on control system) is used to comply with subpart II in accordance with § 63.783(c), then these sections do apply.
* * *	*	* * *
63.8	No	If an alternative means of limiting emissions (*e.g.*, an add-on control system) is used to comply with subpart II in accordance with § 63.783(c), then this section does apply, with the exception of § 63.8(c)(1)(i), § 63.8(c)(1)(iii), and the last sentence of § 63.8(d)(3).
* * *	*	* * *
63.10(a)	Yes.	
63.10(b)(1)	Yes.	
63.10(b)(2)(i)	No.	

TABLE 1—TO SUBPART II OF PART 63—GENERAL PROVISIONS OF APPLICABILITY TO SUBPART II—Continued

Reference	Applies to subpart II	Comment
63.10(b)(2)(ii)	No	See § 63.788(b)(5) for recordkeeping of occurrence, duration, and actions taken during malfunctions.
63.10(b)(2)(iii)	Yes.	
63.10(b)(2)(iv)–(b)(2)(v)	No.	
63.10(b)(2)(vi)–(b)(2)(xiv)	Yes.	
63.10(b)(3)	Yes.	
63.10(c)(1)–(9)	No	If an alternative means of limiting emissions (*e.g.*, an add-on control system) is used to comply with subpart II in accordance with § 63.783(c), then these sections do apply.
63.10(c)(10)–(11)	No	If an alternative means of limiting emissions (*e.g.*, an add-on control system) is used to comply with subpart II in accordance with § 63.783(c), then see § 63.788(b)(5) for records of malfunctions.
63.10(c)(12)–(14)	No	If an alternative means of limiting emissions (*e.g.*, an add-on control system) is used to comply with subpart II in accordance with § 63.783(c), then these sections do apply.
63.10(c)(15)	No.	
63.10(d)(1)–(4)	Yes.	
63.10(d)(5)	No	See § 63.788(c) for reporting malfunctions.
* * * * * * *		

■ 9. Table 3 to subpart II of part 63 is amended by revising entry ''Determination of whether containers meet the standards described in § 63.783(b)(2)'' to read as follows:

TABLE 3 TO SUBPART II OF PART 63—SUMMARY OF RECORDKEEPING AND REPORTING REQUIREMENTS [a] [b] [c]

Requirement	All Opts.		Option 1		Option 2		Option 3	
	Rec	Rep	Rec	Rep	Rec	Rep	Rec	Rep
* * * * * * * * * * * * * * *								
Determination of whether containers meet the standards described in § 63.783(b)(3) ...	X	X	.....	.....	.....	.....	.....	.....
* * * * * * * * * * * * * * *								

[a] Affected sources that comply with the cold-weather limits must record and report additional information, as specified in § 63.788(b)(3)(ii)(C), (iii)(C), and (iv)(D).

[b] Affected sources that detect a violation must record and report additional information, as specified in § 63.788(b)(4).

[c] OPTION 4: The recordkeeping and reporting requirements of Option 4 are identical to those of Options 1, 2, or 3, depending on whether and how thinners are used. However, when using Option 4, the term volatile organic hazardous air pollutants ''VOHAP'' shall be used in lieu of the term Volatile Organic Compounds ''VOC,'' and the owner or operator shall record and report the Administrator-approved VOHAP test method or certification procedure.

* * * * *

Subpart JJ—[AMENDED]

■ 10. Section 63.800 is amended by:

■ a. Redesignating paragraphs (f) and (g) as paragraphs (h) and (i);

■ b. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f);

■ c. Adding new paragraphs (d) and (g); and

■ d. Adding paragraph (j) to read as follows:

§ 63.800 Applicability.

* * * * *

(d) This subpart does not apply to any surface coating or coating operation that meets any of the criteria of paragraphs (d)(1) through (4) of this section.

(1) Surface coating of metal parts and products other than metal components of wood furniture that meets the applicability criteria for miscellaneous metal parts and products surface coating (subpart MMMM of this part).

(2) Surface coating of plastic parts and products other than plastic components of wood furniture that meets the applicability criteria for plastic parts and products surface coating (subpart PPPP of this part).

(3) Surface coating of wood building products that meets the applicability criteria for wood building products surface coating (subpart QQQQ of this part). The surface coating of millwork and trim associated with cabinet manufacturing are subject to subpart JJ.

(4) Surface coating of metal furniture that meets the applicability criteria for metal furniture surface coating (subpart RRRR of this part). Surface coating of metal components of wood furniture performed at a wood furniture or wood furniture component manufacturing facility are subject to subpart JJ.

* * * * *

(g) Existing affected sources shall be in compliance with § 63.802(a)(4) and § 63.803(h) no later than November 21, 2014. The owner or operator of an existing area source that increases its emissions of (or its potential to emit) hazardous air pollutants (HAP) such that the source becomes a major source that is subject to this subpart shall

comply with this subpart 1 year after becoming a major source.

* * * * *

(j) If the owner or operator, in accordance with 40 CFR 63.804, uses a control system as a means of limiting emissions, in response to an action to enforce the standards set forth in this subpart, you may assert an affirmative defense to a claim for civil penalties for exceedances of such standards that are caused by malfunction, as defined in 40 CFR 63.2. Appropriate penalties may be assessed, however, if the respondent fails to meet its burden of proving all the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(1) To establish the affirmative defense in any action to enforce such a limit, the owner or operator must timely meet the notification requirements in paragraph (j)(2) of this section, and must prove by a preponderance of evidence that:

(i) The excess emissions:

(A) Were caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner; and

(B) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(C) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(D) Were not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(ii) Repairs were made as expeditiously as possible when the applicable emission limitations were being exceeded. Off-shift and overtime labor were used, to the extent practicable to make these repairs; and

(iii) The frequency, amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions; and

(iv) If the excess emissions resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(v) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment, and human health; and

(vi) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(vii) All of the actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs; and

(viii) At all times, the facility was operated in a manner consistent with good practices for minimizing emissions; and

(ix) A written root cause analysis has been prepared, the purpose of which is to determine, correct and eliminate the primary causes of the malfunction and the excess emissions resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of excess emissions that were the result of the malfunction.

(2) *Notification.* The owner or operator of the facility experiencing an exceedance of its emission limit(s) during a malfunction shall notify the Administrator by telephone or facsimile (FAX) transmission as soon as possible, but no later than 2 business days after the initial occurrence of the malfunction, if it wishes to avail itself of an affirmative defense to civil penalties for that malfunction. The owner or operator seeking to assert an affirmative defense shall also submit a written report to the Administrator within 45 days of the initial occurrence of the exceedance of the standard in this subpart to demonstrate, with all necessary supporting documentation, that it has met the requirements set forth in paragraph (h)(1) of this section. The owner or operator may seek an extension of this deadline for up to 30 additional days by submitting a written request to the Administrator before the expiration of the 45 day period. Until a request for an extension has been approved by the Administrator, the owner or operator is subject to the requirement to submit such report within 45 days of the initial occurrence of the exceedance.

■ 11. Section 63.801 is amended by:

■ a. Adding a definition for ''affirmative defense'' and ''low-formaldehyde'' and revising the definition for ''wood furniture'' in paragraph (a); and

■ b. Adding paragraphs (b)(24) through (b)(28).

The additions and revisions read as follows:

§ 63.801 Definitions.

(a) * * *

Affirmative defense means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

* * * * *

Low-formaldehyde means, in the context of a coating or contact adhesive, a product concentration of less than or equal to 1.0 percent formaldehyde by weight, as described in a certified product data sheet for the material.

* * * * *

Wood furniture means any product made of wood, a wood product such as rattan or wicker, or an engineered wood product such as particleboard that is manufactured at any facility that is engaged, either in part or in whole, in the manufacture of wood furniture or wood furniture components, including, but not limited to, facilities under any of the following standard industrial classification codes: 2434, 2511, 2512, 2517, 2519, 2521, 2531, 2541, 2599, or 5712.

* * * * *

(b) * * *

(24) C_f = the formaldehyde content of a finishing material (c), in pounds of formaldehyde per gallon of coating (lb/gal).

(25) F_{total} = total formaldehyde emissions in each rolling 12 month period.

(26) G_f = the formaldehyde content of a contact adhesive (g), in pounds of formaldehyde per gallon of contact adhesive (lb/gal).

(27) V_c = the volume of formaldehyde-containing finishing material (c), in gal.

(28) V_g = the volume of formaldehyde-containing contact adhesive (g), in gal.

■ 12. Section 63.802 is amended by adding paragraphs (a)(4), (b)(4), and (c) to read as follows:

§ 63.802 Emission limits.

(a) * * *

(4) Limit formaldehyde emissions by complying with the provisions specified in either paragraph (a)(4)(i) or (a)(4)(ii) of this section.

(i) Limit total formaldehyde (F_{total}) use in coatings and contact adhesives to no more than 400 pounds per rolling 12 month period.

(ii) Use coatings and contact adhesives only if they are low-formaldehyde coatings and adhesives, in any wood furniture manufacturing operations.

(b) * * *

(4) Limit formaldehyde emissions by complying with the provisions specified in either paragraph (b)(4)(i) or (b)(4)(ii) of this section.

(i) Limit total formaldehyde (F_{total}) use in coatings and contact adhesives to no more than 400 pounds per rolling 12 month period.

(ii) Use coatings and contact adhesives only if they are low-formaldehyde coatings and adhesives, in any wood furniture manufacturing operations.

(c) At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

■ 13. Section 63.803 is amended by revising paragraph (h) to read as follows:

§ 63.803 Work practice standards.

* * * * *

(h) *Application equipment requirements.* Each owner or operator of an affected source shall not use conventional air spray guns except when all emissions from the finishing application station are routed to a functioning control device.

* * * * *

■ 14. Section 63.804 is amended by adding paragraphs (g)(9) and (h) to read as follows:

§ 63.804 Compliance procedures and monitoring requirements.

* * * * *

(g) * * *

(9) *Continuous compliance requirements.* You must demonstrate continuous compliance with the emissions standards and operating limits by using the performance test methods and procedures in § 63.805 for each affected source.

(i) *General requirements.* (A) You must monitor and collect data, and provide a site specific monitoring plan as required by §§ 63.804, 63.806 and 63.807.

(B) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), you must operate the monitoring system and collect data at all required intervals at all times the affected source is operating and periods of malfunction. Any period for which data collection is required and the operation of the CEMS is not otherwise exempt and for which the monitoring system is out-of-control and data are not available for required calculations constitutes a deviation from the monitoring requirements.

(C) You may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(ii) [Reserved]

(h) The owner or operator of an existing or new affected source subject to § 63.802(a)(4) or (b)(4) shall comply with those provisions by using either of the methods presented in § 63.804(h)(1) and (2) if complying with § 63.802(a)(4)(i) or (b)(4)(i) or by using the method presented in § 63.804(h)(3) if complying with § 63.802(a)(4)(ii) or (b)(4)(ii).

(1) Calculate total formaldehyde emissions from all finishing materials and contact adhesives used at the facility using Equation 5 and maintain a value of F_{total} no more than 400 pounds per rolling 12 month period.

$$F_{total} = (C_{f1}V_{c1} + C_{f2}V_{c2} + * * * + C_{fn}V_{cn} + G_{f1}V_{g1} + G_{f2}V_{g2} + * * * + G_{fn}V_{gn}) \quad \text{Equation 5}$$

(2) Use a control system with an overall control efficiency (R) such that the calculated value of F_{total} in Equation 6 is no more than 400 pounds per rolling 12 month period.

$$F_{total} = (C_{f1}V_{c1} + C_{f2}V_{c2} + * * * + C_{fn}V_{cn} + G_{f1}V_{g1} + G_{f2}V_{g2} + * * * + G_{fn}V_{gn}) * (1-R) \quad \text{Equation 6}$$

(3) Demonstrate compliance by use of coatings and contact adhesives only if they are low-formaldehyde coatings and contact adhesives maintaining a certified product data sheet for each coating and contact adhesive used, as required by § 63.806(b)(1), and submitting a compliance certification with the semiannual report required by § 63.807(c).

(i) The compliance certification shall state that low-formaldehyde coatings and contact adhesives, as applicable, have been used each day in the semiannual reporting period or should otherwise identify the periods of noncompliance and the reasons for noncompliance. An affected source is in violation of the standard whenever a coating or contact adhesive that is not low-formaldehyde, as demonstrated by records or by a sample of the coating or contact adhesive, is used. Use of a noncompliant coating or contact adhesive is a separate violation for each day the noncompliant coating or contact adhesive is used.

(ii) The compliance certification shall be signed by a responsible official of the company that owns or operates the affected source.

■ 15. Section 63.805 is amended by redesignating paragraph (a) as paragraph (a)(1) and adding paragraph (a)(2) to read as follows:

§ 63.805 Performance test methods.

(a)(1) * * *

(2) Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 16. Section 63.806 is amended by removing and reserving paragraph (e)(4) and adding paragraphs (b)(4) and (k) to read as follows:

§ 63.806 Recordkeeping requirements.

* * * * *

(b) * * *

(4) The formaldehyde content, in lb/gal, as applied, of each finishing material and contact adhesive subject to the emission limits in § 63.802(a)(4) or (b)(4) and chooses to comply with the 400 lb/yr limits on formaldehyde in § 63.802(a)(4) (i) or (b)(4)(i).

* * * * *

(k) The owner or operator of an affected source subject to this subpart shall maintain records of the occurrence and duration of each malfunction of operation (*i.e.,* process equipment) or the air pollution control equipment and monitoring equipment. The owner or operator shall maintain records of actions taken during periods of malfunction to minimize emissions in accordance with § 63.802(c), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

■ 17. Section 63.807 is amended by revising paragraphs (c) introductory text and (c)(3) and the first sentence in paragraph (d) to read as follows:

§ 63.807 Reporting requirements.

* * * * *

(c) The owner or operator of an affected source demonstrating compliance in accordance with § 63.804(g)(1), (2), (3), (5), (7), (8), (h)(1), and (h)(3) shall submit a report covering the previous 6 months of wood furniture manufacturing operations.

* * * * *

(3) The semiannual reports shall include the information required by § 63.804(g) (1), (2), (3), (5), (7), (8), (h)(1), and (h)(3), a statement of whether the affected source was in compliance or noncompliance, and, if the affected source was in noncompliance, the measures taken to bring the affected source into compliance. If there was a malfunction during the reporting period, the report shall also include the number, duration and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.802(c), including actions taken to correct a malfunction.

* * * * *

(d) The owner or operator of an affected source demonstrating compliance in accordance with § 63.804(g)(4), (6), and (h)(2) of this subpart shall submit the excess emissions and continuous monitoring system performance report and summary report required by § 63.10(e) of subpart A. * * *

* * * * *

■ 18. Table 1 to Subpart JJ of part 63 is amended by:

■ a. Removing entry 63.6(e)(1);

■ b. Adding entries 63.6(e)(1)(i), 63.6(e)(1)(ii), 63.6(e)(1)(iii);

■ c. Revising entries 63.6(e)(2) and (e)(3);

■ d. Removing entries 63.7 and 63.8;

■ e. Adding entries 63.7(a)–(d), 63.7(e)(1), 63.7(e)(2)–(e)(4), 63.8(a)–(b), 63.8(c)(1)(i), 63.8(c)(1)(ii), 63.8(c)(1)(iii), 63.8(c)(2)–(d)(2), 63.8(d)(3), and 63.8(e)–(g);

■ f. Removing entry 63.10(b)(2);

■ g. Adding entries 63.10(b)(2)(i), 63.10(b)(2)(ii), 63.10(b)(2)(iii), 63.10(b)(2)(iv)–(b)(2)(v), 63.10(b)(2)(vi)–(b)(2)(xiv);

■ h. Removing entry 63.10(c);

■ i. Adding entries 63.10(c)(1)–(9), 63.10(c)(10)–(11), 63.10(c)(12)–(c)(14), and 63.10(c)(15); and

■ j. Revising entry 63.10(d)(5) to read as follows:

TABLE 1 TO SUBPART JJ OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART JJ

Reference	Applies to subpart JJ	Comment
* * *	*	* * *
63.6(e)(1)(i)	No	See § 63.802(c) for general duty requirement.
63.6(e)(1)(ii)	No.	
63.6(e)(1)(iii)	Yes.	
63.6(e)(2)	No	Section reserved.
63.6(e)(3)	No.	
63.6(f)(1)	No.	
63.7(a)–(d)	Yes	Applies only to affected sources using a control device to comply with the rule.
63.7(e)(1)	No	See § 63.805(a)(1).
63.7(e)(2)–(e)(4)	Yes	Applies only to affected sources using a control device to comply with the rule.
63.8(a)–(b)	Yes	Applies only to affected sources using a control device to comply with the rule.
63.8(c)(1)(i)	No.	
63.8(c)(1)(ii)	Yes	Applies only to affected sources using a control device to comply with the rule.
63.8(c)(1)(iii)	No.	
63.8(c)(2)–(d)(2)	Yes	Applies only to affected sources using a control device to comply with the rule.
63.8(d)(3)	Yes, except for last sentence	Applies only to affected sources using a control device to comply with the rule.
63.8(e)–(g)	Yes	Applies only to affected sources using a control device to comply with the rule.

TABLE 1 TO SUBPART JJ OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART JJ—Continued

Reference	Applies to subpart JJ	Comment
* * *	*	* * *
63.10(b)(2)(i)	No.	
63.10(b)(2)(ii)	No	See § 63.806(k) for recordkeeping of occurrence and duration of malfunctions and recordkeeping of actions taken during malfunctions.
63.10(b)(2)(iii)	Yes	Applies only to affected sources using a control device to comply with the rule.
63.10(b)(2)(iv)–(b)(2)(v)	No.	
63.10(b)(2)(vi)–(b)(2)(xiv)	Yes	Applies only to affected sources using a control device to comply with the rule.
* * *	*	* * *
63.10(c)(1)–(9)	Yes.	
63.10(c)(10)–(11)	No	See § 63.806(k) for recordkeeping of malfunctions.
63.10(c)(12)–(14)	Yes.	
63.10(c)(15)	No.	
* * *	*	* * *
63.10(d)(5)	No	See § 63.807(c)(3) for reporting of malfunctions.
* * *	*	* * *

■ 19. Table 3 to Subpart JJ of part 63 is amended by adding an entry for ''All Finishing Operations and Contact Adhesives'' following the entry for ''Contact Adhesives'' to read as follows:

TABLE 3 TO SUBPART JJ OF PART 63—SUMMARY OF EMISSION LIMITS

Emission point	Existing source	New source
* * * * *	*	*
All Finishing Operations and Contact Adhesives:		
(a) Achieve total free formaldehyde emissions across all finishing operations and contact adhesives, lb per rolling 12 month period, as applied	400	400
(b) Use coatings and contact adhesives only if they are low-formaldehyde coatings and contact adhesives	[f] 1.0	[f] 1.0
* * * * *	*	*
* * * * *	*	*

[f] The limits refer to the formaldehyde content by weight of the coating or contact adhesive, as specified on certified product data sheets.

[FR Doc. 2011–29457 Filed 11–18–11; 8:45 am]

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FEDERAL REGISTER

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Part III

The President

Proclamation 8755—Thanksgiving Day, 2011

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Presidential Documents

Title 3—

The President

Proclamation 8755 of November 16, 2011

Thanksgiving Day, 2011

By the President of the United States of America

A Proclamation

One of our Nation's oldest and most cherished traditions, Thanksgiving Day brings us closer to our loved ones and invites us to reflect on the blessings that enrich our lives. The observance recalls the celebration of an autumn harvest centuries ago, when the Wampanoag tribe joined the Pilgrims at Plymouth Colony to share in the fruits of a bountiful season. The feast honored the Wampanoag for generously extending their knowledge of local game and agriculture to the Pilgrims, and today we renew our gratitude to all American Indians and Alaska Natives. We take this time to remember the ways that the First Americans have enriched our Nation's heritage, from their generosity centuries ago to the everyday contributions they make to all facets of American life. As we come together with friends, family, and neighbors to celebrate, let us set aside our daily concerns and give thanks for the providence bestowed upon us.

Though our traditions have evolved, the spirit of grace and humility at the heart of Thanksgiving has persisted through every chapter of our story. When President George Washington proclaimed our country's first Thanksgiving, he praised a generous and knowing God for shepherding our young Republic through its uncertain beginnings. Decades later, President Abraham Lincoln looked to the divine to protect those who had known the worst of civil war, and to restore the Nation ''to the full enjoyment of peace, harmony, tranquility, and union.''

In times of adversity and times of plenty, we have lifted our hearts by giving humble thanks for the blessings we have received and for those who bring meaning to our lives. Today, let us offer gratitude to our men and women in uniform for their many sacrifices, and keep in our thoughts the families who save an empty seat at the table for a loved one stationed in harm's way. And as members of our American family make do with less, let us rededicate ourselves to our friends and fellow citizens in need of a helping hand.

As we gather in our communities and in our homes, around the table or near the hearth, we give thanks to each other and to God for the many kindnesses and comforts that grace our lives. Let us pause to recount the simple gifts that sustain us, and resolve to pay them forward in the year to come.

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 Thursday, November 24, 2011, as a National Day of Thanksgiving. I encourage the people of the United States to come together—whether in our homes, places of worship, community centers, or any place of fellowship for friends and neighbors—to give thanks for all we have received in the past year, to express appreciation to those whose lives enrich our own, and to share our bounty with others.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of November, 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.

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