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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–354]

Schedules of Controlled Substances: Placement of Ezogabine Into Schedule V

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Administrator of the Drug Enforcement Administration (DEA) places the substance ezogabine, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, into Schedule V of the Controlled Substances Act (CSA). This action is pursuant to the CSA which requires that such actions be made on the record after opportunity for a hearing through formal rulemaking.

DATES: *Effective date:* December 15, 2011.

FOR FURTHER INFORMATION CONTACT: Rhea D. Moore, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone (202) 307–7165.

SUPPLEMENTARY INFORMATION:

Legal Authority

The DEA implements and enforces Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act and the Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended (hereinafter, ''CSA''). The implementing regulations for these statutes are found in Title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. Under the CSA, controlled substances are classified in one of five schedules based upon their potential for abuse, their currently accepted medical use, and the degree of dependence the substance may cause, 21 U.S.C. 812. The initial schedules of controlled substances by statute are found at 21 U.S.C. 812(c) and the current list of scheduled substances is published at 21 CFR Part 1308.

Pursuant to 21 U.S.C. 811(a)(1), the Attorney General may, by rule, ''add to such a schedule or transfer between such schedules any drug or other substance if he (A) Finds that such drug or other substance has a potential for abuse, and (B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed * * *'' Pursuant to 28 CFR 0.100(b), the Attorney General has delegated this scheduling authority to the Administrator of DEA.

The CSA provides that scheduling of any drug or other substance may be initiated by the Attorney General (1) On his own motion; (2) at the request of the Secretary of HHS, or (3) on the petition of any interested party, 21 U.S.C. 811(a). This action is based on a recommendation from the Assistant Secretary for Health of the Department of Health and Human Services (HHS) and on an evaluation of all other relevant data by DEA. This action imposes the regulatory controls and criminal sanctions of Schedule V on the manufacture, distribution, dispensing, importation, and exportation of ezogabine and products containing ezogabine.

Pursuant to 21 CFR 1308.44(e), the Administrator of DEA may issue her final order ''[I]f all interested persons waive or are deemed to waive their opportunity for the hearing or to participate in the hearing.'' As no requests for a hearing were filed on this proposed scheduling action, all interested persons are deemed to have waived their opportunity for a hearing pursuant to 21 CFR 1308.44(d), and the Administrator may issue her final order without a hearing.

Ezogabine is a new drug with a novel mechanism of action for the treatment of partial onset seizures. Because ezogabine is a new drug with possible immediate medical application to a life-threatening illness not always treatable with medications currently available and because it may not be prescribed in the United States until this final rulemaking action is in effect and the subsequent requirements that result from this final action are satisfied, the Administrator hereby finds that it is in the interest of public health to forego the 30 day period prior to this final rule taking effect. This will impose no hardship on any interested party and is responsive to comments intended to facilitate the availability of ezogabine as soon as possible for that population of people suffering from seizures that may benefit from treatment with ezogabine. Therefore, in accordance with this finding of conditions of public health and of good cause to waive the 30 day period and pursuant to 21 CFR 1308.45 and 5 U.S.C. 553(d)(3), this final rule is effective upon publication.

Background

Ezogabine, known chemically as N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester, is a new chemical substance with central nervous system depressant properties and is classified as a sedative-hypnotic. Pharmacological studies indicate that ezogabine primarily acts as a ligand at ion-gated channels in the brain to enhance potassium currents mediated by neuronal KCNQ (Kv7) channels. Additionally, ezogabine indirectly enhances the gamma-aminobutyric acid (GABA) mediated neurotransmission. On June 10, 2011, the Food and Drug Administration (FDA) approved a New Drug Application (NDA) for ezogabine as an adjunct treatment of partial onset seizures, to be marketed under the trade name Potiga®.[1]

Determination To Schedule Ezogabine

Pursuant to 21 U.S.C. 811(a), proceedings to add a drug or substance to those controlled under the CSA may be initiated by request of the Secretary of HHS. On January 12, 2011, HHS provided DEA with a scientific and medical evaluation document prepared by FDA entitled ''Basis for the Recommendation for Control of Ezogabine in Schedule V of the Controlled Substances Act.'' Pursuant to 21 U.S.C. 811(b), this document

[1] *http://www.accessdata.fda.gov/drugsatfda_docs/nda/2011/022345Orig1s000TOC.cfm;* as of July 21, 2011.

contained an eight-factor analysis of the abuse potential of ezogabine as a new drug, along with HHS' recommendation to control ezogabine under Schedule V of the CSA. In response, DEA conducted an eight-factor analysis of ezogabine's abuse potential pursuant to 21 U.S.C. 811(c).

Following analysis, the Administrator of DEA published a Notice of Proposed Rulemaking entitled ''Schedules of Controlled Substances: Placement of Ezogabine into Schedule V'' on October 21, 2011 (76 FR 65424), which proposed placement of ezogabine into Schedule V of the CSA. The proposed rule provided an opportunity for all interested persons to request a hearing or to submit comments on or before November 21, 2011.

Included below is a brief summary of each factor as analyzed by HHS and DEA, and as considered by DEA in the scheduling decision. Please note that both the DEA and HHS analyses are available under ''Supporting and Related Material'' of the public docket for this rule at *www.regulations.gov* under docket number DEA–354.

1. *The Drug's Actual or Relative Potential for Abuse:* Ezogabine is a new chemical substance that has not been marketed in the U.S. As such, there is no information available which details actual abuse of ezogabine. However, the legislative history of the CSA offers another methodology for assessing a drug or substance's potential for abuse:

> The drug or drugs containing such a substance are new drugs so related in their action to a drug or drugs already listed as having a potential for abuse to make it likely that the drug will have the same potentiality for abuse as such drugs, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.[2]

Ezogabine acts as a ligand at ion-gated channels in the brain, similar to the Schedule V substances pregabalin and lacosamide, and, like those drugs, ezogabine is indicated for the treatment of epileptic conditions in humans. There is strong evidence, described below, that ezogabine produces behavioral effects in humans and in animals that are similar to those produced by pregabalin and lacosamide.

Phase 1 clinical studies indicate that the rate of euphoria-related adverse events (AEs) resulting from administration of ezogabine was 6–9%. This is similar to the AE rates for administration of pregabalin (10%) and lacosamide (>7%), while Phase ⅔ clinical studies indicated similar AE rates between ezogabine (<1%) and lacosamide (<2%). Animal studies involving administration of ezogabine to animals produced a sedative behavioral profile similar to that produced from administration of pregabalin and lacosamide, including decreased locomotion, decreased muscle tone, and an increase in ataxia. Further, in abuse potential studies conducted with sedative-hypnotic abusers, ezogabine, pregabalin, and lacosamide, when compared to placebos, are similar in their ability to produce statistically significant increases in subjective responses including ''Drug Liking,'' ''Euphoria,'' ''Overall Drug Liking,'' ''Good Drug Effects,'' and ''High.''

Because of the similarities between ezogabine, pregabalin, and lacosamide, it is very likely that ezogabine will have an abuse potential similar to those Schedule V substances. Currently there is a lack of evidence regarding the diversion, illicit manufacturing or deliberate misuse of ezogabine due to its commercial unavailability in any country, but since ezogabine is not readily synthesized from available substances, any diversion would be from legitimate channels. The above referenced studies, which include demonstration of the significant euphoric effects produced by ezogabine in humans, predict that there will be significant use of ezogabine contrary to or without medical advice.

2. *Scientific Evidence of the Drug's Pharmacological Effects, If Known:* Ezogabine acts to enhance potassium currents mediated by neuronal KCNQ (Kv7) channels with a secondary action through the augmentation of GABA-mediated neurotransmission without direct GABA receptor stimulation. In individuals with histories of recreational sedative-hypnotic abuse, ezogabine (300 and 600 mg orally) produced increased ratings on the primary positive subjective scales [VAS-Drug-liking, VAS-Overall Drug Liking, ARCI-MBG (Euphoria), VAS-Take Drug Again] for peak responses (Emax for the first eight hours after drug administration) that were significantly different from the placebo. This effect is similar to that produced by alprazolam (1.5 and 3.0 mg orally; Schedule IV). On secondary positive subjective scales [VAS-High, VAS-Good Effects, ARCI-Amphetamine (Activation)] for peak responses, both ezogabine and alprazolam produced significant increases compared to the placebo, while there were no differences between ezogabine and alprazolam on those measures.

In human abuse potential studies, ezogabine (300 and 600 mg), upon oral administration, increased ratings on negative and sedating subjective measures [VAS-Bad Effects, ARCI-LSD (dysphoria) and ARCI-PCAG (sedation)] compared to the placebo, but these increases were lower than those produced by 1.5 and 3.0 mg alprazolam. These data for ezogabine are similar to those produced by lacosamide. A 900 mg dose of ezogabine produced VAS-Drug Liking and VAS-Good Effects that were higher than those produced by the two lower doses of ezogabine and either dose of alprazolam. However, the changes in VAS-Bad Effects and ARCI-LSD (dysphoria) following 900 mg ezogabine were less than or similar to those produced by lower doses of ezogabine and either dose of alprazolam. The adverse events following 900 mg ezogabine are similar to those described in the NDA file for the human abuse potential study conducted with lacosamide. These included euphoria, somnolence, visual disturbances, and altered auditory perception.

In human abuse potential studies, ezogabine, similar to pregabalin and lacosamide, also produced ratings on each of the positive subjective responses that were statistically similar to those produced by Schedule IV benzodiazepines (alprazolam or diazepam). Although this appears to suggest that these drugs have an abuse potential similar to that of Schedule IV substances, the other data from human abuse potential studies, the adverse effect profile data from safety and efficacy studies, and the data from the preclinical animal behavioral studies demonstrate that ezogabine has abuse potential less than that of Schedule IV drugs but similar to that of Schedule V drugs.

3. *The State of Current Scientific Knowledge Regarding the Drug or Other Substance:* The chemical name of ezogabine is N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester. It is an achiral molecule with a molecular formula of $C_{16}H_{18}FN_3O_2$ and a molecular weight of 303.3 g/mol. Ezogabine is a non-hygroscopic white to slightly colored powder with a melting point of 140–143 °C. It is soluble in 0.9% saline, methanol, chloroform, but only sparingly soluble in ethanol and 0.1N HCL.

Ezogabine in humans has a T_{max} (time required for ezogabine to reach maximum plasma concentration) ranging from 1–4 hours following both

[2] Comprehensive Drug Abuse Prevention and Control Act of 1970, H.R. Rep. No. 91–1444, 91st Cong., Sess. 1 (1970); 1970 U.S.C.C.A.N. 4566, 4601.

acute and multiple dosing, and, without the involvement of cytochrome P450, undergoes an extensive and almost exclusively phase 2 metabolic biotransformation. Ezogabine is predominantly metabolized by N-glucuronidation, resulting in the formation of two distinct N-glucuronides of the unchanged parent drug and to a lesser extent by N-acetylation to form N-acetyl-retigabine, the major bioactive metabolite of ezogabine. The half-life of both ezogabine and N-acetyl-retigabine is approximately eight hours and the C_{max} (maximum plasma concentration) of both components is dose proportional after both acute and multiple dosing, suggesting a lack of accumulation with repeated administration.

4. *Its History and Current Pattern of Abuse:* As stated in the summary of Factor 1, information on ezogabine's history and current pattern of abuse is unavailable as it has not been marketed in any country. As such, evaluation of abuse potential for ezogabine derives from positive indicators in clinical studies which are believed to be predictive of drug abuse and which are discussed in Factors 1 and 2 above.

5. *The Scope, Duration, and Significance of Abuse:* Because ezogabine has not yet been marketed, information on the scope, duration, and significance of abuse of ezogabine is unavailable. However, epidemiological data on pregabalin, a Schedule V drug with an abuse potential similar to that of ezogabine, is available from the Drug Abuse Warning Network (DAWN) database.

The ''abuse frequency ratio,'' calculated as the ratio of nonmedical use related annual emergency department visits (as reported in DAWN) to the total number of annual prescriptions for pregabalin is less than that for the Schedule IV drug, alprazolam. Further, because ezogabine has abuse-related human and animal data in its NDA file similar to data generated for pregabalin, ezogabine is likely to have an abuse potential similar to pregabalin. The ''abuse frequency ratios'' for pregabalin range from 29 to 47, while those for alprazolam are approximately three to six times higher, ranging from 160 to 235. Thus, pregabalin was placed into Schedule V based both on abuse-related human and animal data submitted in its NDA and by epidemiological data which justified placement relative to drugs in Schedule IV. Given that ezogabine has abuse-related human and animal data in its NDA file similar to the data generated by pregabalin, it is likely that ezogabine will have an abuse potential similar to this Schedule V drug.

6. *What, if any, Risk There is to the Public Health:* The data indicates that ezogabine may present a serious safety risk to the public health, and the predicted level of risk is similar to that observed with pregabalin and lacosamide but less than that produced by Schedule IV benzodiazepines. In Phase 1 clinical safety studies, the overall adverse event profile following ezogabine administration was similar to those from pregabalin and lacosamide and includes not only euphoria, but also somnolence, and feeling or thinking abnormally. Further, the human abuse potential study showed that the majority of subjects receiving the 900 mg dose of ezogabine experienced multiple adverse events such as euphoria, somnolence, visual disturbance, amnesia, hypo-aesthesia, paranoia, fear, confusion and hallucination. Although the 900 mg dose is three times greater than the recommended therapeutic dose, individuals who abuse drugs typically do so at supra-therapeutic doses.

7. *Its Psychic or Physiological Dependence Liability:* Ezogabine may produce limited psychic or physiological dependence liability following extended administration. Since there are no studies detailing abrupt discontinuation of ezogabine, there are minimal adequate data to evaluate the ability of ezogabine to induce withdrawal symptoms that are indicative of physical dependence. Many of the adverse events reported from the discontinuation of ezogabine were also reported prior to its discontinuation, including dizziness, somnolence, and a state of confusion. By comparison, abrupt or rapid discontinuation of pregabalin in human studies resulted in patient-reported symptoms of nausea, headache or diarrhea, which are suggestive of physical dependence, while abrupt termination of lacosamide produced no signs or symptoms of withdrawal in diabetic neuropathic pain patients.

Unlike ezogabine and pregabalin, the withdrawal syndrome following discontinuation of Schedule IV substances such as alprazolam can range from mild dysphoria and insomnia to a major syndrome including abdominal pain, muscle cramps, vomiting, sweating, tremors and convulsions. These are similar in character to those associated with other sedative-hypnotics.

The study of ezogabine abuse potential in humans with histories of recreational abuse of sedative-hypnotics found that ezogabine produces euphoria (18–33%) in these individuals. Additionally, ezogabine produced euphoria (8.5%) in Phase 1 studies in healthy individuals. These euphoria-related adverse events following administration of ezogabine are suggestive of its ability to produce psychic dependence, and the adverse events appear to be less severe and occur less frequently than Schedule IV drugs (diazepam and alprazolam) and are more similar to those of Schedule V drugs, pregabalin and lacosamide.

8. *Whether the Substance is an Immediate Precursor of a Substance Already Controlled Under the CSA:* Ezogabine is not an immediate precursor of any controlled substance.

Requests for a Hearing and Comments

DEA received no requests for a hearing on this scheduling action. DEA received two comments on the NPRM to schedule ezogabine.

Comment: The first comment requested that ezogabine be placed into Schedule IV of the CSA instead of Schedule V as proposed. While the commenter stated that ezogabine may help those who have not had success with current epilepsy treatments, the commenter believed that ezogabine's new mechanism of action, including its effect on the central nervous system as an anticonvulsant and the potential side effects of the drug therein, warrant closer scrutiny and supervision under Schedule IV.

DEA Response: DEA disagrees. That ezogabine has an effect on the central nervous system is alone not enough to merit its inclusion into Schedule IV of the CSA, nor is the possibility that persons to whom ezogabine is prescribed would need to monitor their medications closely. Instead, as detailed in the HHS and DEA analyses and the HHS recommendation, studies indicate that the abuse potential and likely effects of ezogabine are similar to those of the Schedule V drugs pregabalin and lacosamide, and, therefore, merit ezogabine's inclusion into Schedule V of the CSA.

Comment: The second comment stated that because epilepsy is a serious and potentially life-threatening illness that may not be adequately treated with currently available medicines, conditions of public health necessitate an early effective date for the final rule pursuant to 21 CFR 1308.45. As such, the commenter requested an effective date for the rule concurrent with its publication in the **Federal Register.**

DEA Response: As stated under ''Legal Authority,'' DEA agrees that this rule should become effective upon publication. Ezogabine, unlike the currently available anticonvulsant

medications, may act as an anticonvulsant through a novel mechanism of action. Because some patients with epilepsy do not achieve satisfactory seizure control from treatments currently in use, the availability of ezogabine becomes an important and potentially life-saving option for such patients. Thus, for public health reasons pursuant to 21 CFR 1308.45 and based on finding good cause pursuant to 5 U.S.C. 553(d)(3) as outlined, this final rule is effective upon publication in the **Federal Register.**

Scheduling Conclusion

Based on consideration of the scientific and medical evaluation and accompanying recommendation of HHS, and based on DEA's consideration of its own eight-factor analysis, DEA finds that these facts and all relevant data constitute substantial evidence of potential for abuse of ezogabine. As such, DEA will schedule ezogabine as a controlled substance under the CSA.

Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as Schedules I, II, III, IV, and V. The statute outlines the findings required to place a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for Health of HHS and review of all available data, the Administrator of DEA, pursuant to 21 U.S.C. 812(b)(5), finds that:

(1) Ezogabine has a low potential for abuse relative to the drugs or other substances in Schedule IV. The overall abuse potential of ezogabine is comparable to the Schedule V substances such as pregabalin and lacosamide;

(2) Ezogabine has a currently accepted medical use in treatment in the United States. Ezogabine was approved for marketing by FDA as an adjunct treatment of partial onset seizures; and

(3) Abuse of ezogabine may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule IV.

Based on these findings, the Administrator of DEA concludes that ezogabine, including its salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible, warrants control in Schedule V of the CSA (21 U.S.C. 812(b)(5)).

Requirements for Handling Ezogabine

Upon the effective date of this final rule, ezogabine is subject to the CSA and the Controlled Substances Import and Export Act (CSIEA) regulatory controls and administrative, civil and criminal sanctions applicable to the manufacture, distribution, dispensing, importing and exporting of a Schedule V controlled substance, including the following:

Registration. Any person who manufactures, distributes, dispenses, imports, exports, engages in research or conducts instructional activities with ezogabine, or who desires to manufacture, distribute, dispense, import, export, engage in research or conduct instructional activities with ezogabine, must be registered to conduct such activities pursuant to 21 U.S.C. 822 and in accordance with 21 CFR Part 1301.

Security. Ezogabine is subject to Schedules III–V security requirements and must be manufactured, distributed, and stored pursuant to 21 U.S.C. 823 and in accordance with 21 CFR 1301.71, 1301.72(b), (c), and (d), 1301.73, 1301.74, 1301.75(b) and (c), 1301.76, and 1301.77.

Labeling and Packaging. All labels and labeling for commercial containers of ezogabine which are distributed on or after the effective date of this final rule must be in accordance with 21 CFR 1302.03–1302.07, pursuant to 21 U.S.C. 825.

Inventory. Every registrant required to keep records and who possesses any quantity of ezogabine must keep an inventory of all stocks of ezogabine on hand pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Every registrant who desires registration in Schedule V for ezogabine must conduct an inventory of all stocks of the substance on hand at the time of registration.

Records. All registrants must keep records pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, 1304.06, 1304.21, 1304.22, and 1304.23.

Prescriptions. Ezogabine or products containing ezogabine must be distributed or dispensed pursuant to 21 U.S.C. 829 and in accordance with 21 CFR 1306.03–1306.06, 1306.08, 1306.21, and 1306.23–1306.27.

Importation and Exportation. All importation and exportation of ezogabine must be done in accordance with 21 CFR Part 1312, pursuant to 21 U.S.C. 952, 953, 957, and 958.

Criminal Liability. Any activity with ezogabine not authorized by, or in violation of, Subchapter I Part D and Subchapter II of the CSA or the CSIEA occurring on or after the effective date of this final rule is unlawful.

Regulatory Analyses

Executive Orders 12866 and 13563

In accordance with 21 U.S.C. 811(a), this scheduling action is subject to formal rulemaking procedures done ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget pursuant to Section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law or impose enforcement responsibilities on any state or diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Executive Order 13175

This rule will not have tribal implications and will not impose substantial direct compliance costs on Indian tribal governments.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Congressional Review Act

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR Part 1308 is amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Section 1308.15 is amended by redesignating paragraphs (e)(1) and (2) as paragraphs (e)(2) and (3), and adding a new paragraph (e)(1) to read as follows:

§ 1308.15 Schedule V.

* * * * *

(e) * * *

(1) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]–2779

* * * * *

Dated: December 8, 2011.

Michele M. Leonhart,

Administrator.

[FR Doc. 2011–32172 Filed 12–14–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0893; Airspace Docket No. 11–ANM–18]

Modification of Class E Airspace; The Dalles, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at The Dalles, OR. Controlled airspace is necessary to accommodate aircraft using Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Columbia Gorge Regional/The Dalles Municipal Airport. This action also changes the airport name. This improves the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective date, 0901 UTC, April 5, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On October 12, 2011, the FAA published in the **Federal Register** a notice of proposed rulemaking to modify controlled airspace at The Dalles, OR (76 FR 63235). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface, at Columbia Gorge Regional/The Dalles Municipal Airport, to accommodate IFR aircraft executing RNAV (GPS) standard instrument approach procedures at the airport. This also notes the airport's name change from The Dalles Municipal Airport to Columbia Gorge Regional/The Dalles Municipal Airport. This action is necessary for the safety and management of IFR operations.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM OR E5 The Dalles, OR [Modified]

Columbia Gorge Regional/The Dalles Municipal Airport, OR
(Lat. 45°37′07″ N., long. 121°10′02″ W.)
Klickitat VOR/DME
(Lat. 45°42′49″ N., long. 121°06′03″ W.)

That airspace extending upward from 700 feet above the surface within a 12.9-mile radius of Columbia Gorge Regional/The Dalles Municipal Airport; that airspace extending upward from 1,200 feet above the surface within a 20.1-mile radius of the VOR/DME extending clockwise from the 088° radial to the 272° radial.

Issued in Seattle, Washington, on December 6, 2011.

Johanna Forkner,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2011–32043 Filed 12–14–11; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the benefit payments regulation for valuation dates in January 2012 and interest assumptions under the asset allocation regulation for valuation dates in the first quarter of 2012. The interest assumptions are used for valuing and paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective January 1, 2012.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*Klion.Catherine@PBGC.gov*), Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, (202) 326–4024. (TTY/TDD users may call the Federal relay service toll free at 1 (800) 877–8339 and ask to be connected to (202) 326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulations on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044) and Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022) prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulations are also published on PBGC's Web site (*http://www.pbgc.gov*).

The interest assumptions in Appendix B to Part 4044 are used to value benefits for allocation purposes under ERISA section 4044. PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the asset allocation regulation are updated quarterly; assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for January 2012 and updates the asset allocation interest assumptions for the first quarter (January through March) of 2012.

The first quarter 2012 interest assumptions under the allocation regulation will be 3.74 percent for the first 20 years following the valuation date and 3.70 percent thereafter. In comparison with the interest assumptions in effect for the fourth quarter of 2011, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), a decrease of 0.33 percent in the select rate, and a decrease of 0.58 percent in the ultimate rate (the final rate).

The January 2012 interest assumptions under the benefit payments regulation will be 1.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for December 2011, these interest assumptions represent a decrease of 0.25 percent in the immediate annuity rate and are otherwise unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during January 2012, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 219, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
219	1–1–12	2–1–12	1.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 219, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
219	1–1–12	2–1–12	1.25	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE–EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for January–March 2012, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for $_t$ =	i_t	for $_t$ =
*	*	*	*	*	*	*
January–March 2012	0.0374	1–20	0.0370	>20	N/A	N/A

Issued in Washington, DC, on this 8th day of December 2011.

Laricke Blanchard,

Deputy Director for Policy, Pension Benefit Guaranty Corporation.

[FR Doc. 2011–32184 Filed 12–14–11; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–1087]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, Mile 389.4 to 403.1

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River, from Mile 389.4 to 403.1, extending the entire width of the river located on the Iowa and Illinois border. This safety zone is needed to protect bridge span movement operations on the Upper Mississippi River. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Upper Mississippi River or a designated representative.

DATES: *Effective Date:* this rule is effective in the CFR from December 15, 2011 until 7 p.m. CST on December 21, 2011. This rule is effective with actual notice for purposes of enforcement beginning 7 a.m. on November 22, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–1087 and are available online by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2011–1087 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email Chief Petty Officer Ryan Christensen, Sector Upper Mississippi River Response Department at telephone (314) 269–2721, email *Ryan.D.Christensen@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not using the NPRM process. The Coast Guard received notice that bridge span movement operations would take place on November 22, 2011. This short notice did not allow for the time needed to publish a NPRM and provide for a comment period. The Coast Guard determined that a safety zone is necessary to protect vessels and mariners from the hazards associated with transporting the bridge spans. Delaying this rule and the necessary protections by publishing a NPRM would be impracticable and would unnecessarily delay the bridge span operations. This rule is needed to protect vessels and mariners from the safety hazards associated with transporting bridge spans in the vicinity of Mile 389.4 to 403.1 on the Upper Mississippi River.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for

making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received notice that the bridge spans would be transported and impact navigation on November 22, 2011. This short notice did not allow for a 30 day notice period. The Coast Guard determined that a safety zone is necessary to protect vessels and mariners from the hazards associated with transporting the bridge spans. Delaying the rule's effective date would be impracticable because immediate action is needed to protect vessels and mariners from the safety hazards associated with transporting bridge spans in the vicinity of Mile 389.4 to 403.1 on the Upper Mississippi River.

Basis and Purpose

On November 22, 2011, Ames Construction will be transporting bridge spans between Mile 389.4 to 403.1 on the Upper Mississippi River located on the Iowa and Illinois border. This event presents safety hazards to the navigation of vessels between Mile 389.4 to 403.1, extending the entire width of the river.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River, Mile 389.4 to 403.1, extending the entire width of the river and located on the Iowa and Illinois border. Entry into this zone is prohibited to all vessels and persons except participants and those persons and vessels specifically authorized by the Captain of the Port Upper Mississippi River. This rule is effective from 7 a.m. on November 22, 2011 through 7 p.m. CST on December 21, 2011. The currently scheduled date for bridge span operations and enforcement of this rule is November 22, 2011. Dates of bridge span operations may change within the November 22, 2011 through December 21, 2011 effective period for this rule. The Captain of the Port Upper Mississippi River will inform the public through broadcast notice to mariners of all safety zone requirements, changes, and enforcement periods.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Upper Mississippi River on the Iowa and Illinois border between Mile 389.4 to 403.1, from 7 a.m. on November 22, 2011 through 7 p.m. CST on December 21, 2011. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will only be in effect for a limited period of time.

If you are a small business entity and are significantly affected by this regulation, please contact Chief Petty Officer Ryan Christensen, Sector Upper Mississippi River at (314) 269–2721.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the

Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule establishes a temporary safety zone.

An environmental analysis checklist and a categorical exclusion determination are required for this rule, and will be provided as indicated in the **ADDRESSES** Section.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T08–1087 is added to read as follows:

§ 165.T08–1087 Safety Zone; Upper Mississippi River, Mile 389.4 to 403.1.

(a) *Location.* The following area is a safety zone: All waters of the Upper Mississippi River, Mile 389.4 to 403.1, extending the entire width of the waterway and located on the Iowa and Illinois border.

(b) *Effective date.* This rule is effective from 7 a.m. on November 22, 2011 through 7 p.m. CST on December 21, 2011.

(c) *Periods of Enforcement.* This rule will be enforced during bridge span operations scheduled for 7 a.m. through 12:00 noon CST on November 22, 2011. Additional bridge span operations occur within the period from November 22, 2011 through December 21, 2011. The Captain of the Port Upper Mississippi River will inform the public of the enforcement periods, planned dates of bridge span operations and any safety zone changes through broadcast notice to mariners.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Upper Mississippi River or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Upper Mississippi River or a designated representative. The Captain of the Port Upper Mississippi River representative may be contacted at (314) 269–2332.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Upper Mississippi River or their designated representative. Designated Captain of the Port representatives include United States Coast Guard commissioned, warrant, and petty officers.

Dated: November 22, 2011.

B.L. Black,

Captain, U.S. Coast Guard, Captain of the Port Upper Mississippi River.

[FR Doc. 2011–32137 Filed 12–14–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2010–0937–201164; FRL–9506–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Kentucky Portion of the Cincinnati-Hamilton, OH-KY-IN 1997 Annual Fine Particulate Matter Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a request submitted on January 27, 2011, from the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality (DAQ), to redesignate the Kentucky portion of the Cincinnati-Hamilton, Ohio-Kentucky-Indiana (hereafter referred to as the ''Tri-state Cincinnati-Hamilton Area'') fine particulate matter ($PM_{2.5}$) nonattainment area to attainment for the 1997 Annual $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). The Tri-state Cincinnati-Hamilton Area is comprised of Boone, Campbell, and Kenton Counties in Kentucky (hereafter referred to as the ''Northern Kentucky Area'' or ''Area''); Butler, Clermont, Hamilton, and Warren Counties in Ohio; and a portion of Dearborn County in Indiana. EPA's approval of the redesignation request is based on the determination that Kentucky has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA or Act). Additionally, EPA is approving a revision to the Kentucky State Implementation Plan (SIP) to include the 1997 Annual $PM_{2.5}$ maintenance plan for the Northern Kentucky Area that contains the new 2015 and 2021 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and $PM_{2.5}$ for that Area. On December 9, 2010, and January 25, 2011, respectively, Ohio and Indiana submitted requests to redesignate their portion of the Tri-state Cincinnati-Hamilton Area to attainment for the 1997 $PM_{2.5}$ NAAQS. EPA is taking

action on the requests from Ohio and Indiana in an action separate from this final action. This action also approves the emissions inventory submitted with the maintenance plan. Additionally, EPA is responding to comments received on EPA's October 21, 2011, proposed rulemaking.

DATES: *Effective Date:* This rule will be effective December 15, 2011.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2010–0937. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* 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 Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Madolyn Dominy or Joel Huey, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Madolyn Dominy may be reached by phone at (404) 562–9644 or via electronic mail at *dominy.madolyn@epa.gov*. Joel Huey may be reached by phone at (404) 562–9104 or via electronic mail at *huey.joel@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

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I. What is the background for the actions?

On January 27, 2011, Kentucky, through DAQ, submitted a request to redesignate the Northern Kentucky Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS and for EPA approval of the Kentucky SIP revision containing a maintenance plan for the Area. In an action published on October 21, 2011 (76 FR 65458), EPA proposed approval of Kentucky's plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS, including the emissions inventory submitted pursuant to CAA section 172(c)(3); and the NO_X and $PM_{2.5}$ MVEBs for the Northern Kentucky Area as contained in the maintenance plan. At that time, EPA also proposed to approve the redesignation of the Northern Kentucky Area to attainment.[1] Additional background for today's action is set forth in EPA's October 21, 2011, proposal.

The MVEBs, specified in tons per year (tpy), included in the maintenance plan are as follows:

TABLE 1—NORTHERN KENTUCKY AREA MVEBS

[tpy]

	$PM_{2.5}$	NO_X
2015 Mobile Emissions	371.11	6,996.22
2015 Safety Margin Allocation	18.56	1,049.43
2015 Total Mobile Budget	389.67	8,045.65
2021 Mobile Emissions	275.38	6,421.15
2021 Safety Margin Allocation	27.54	963.17
2021 Total Mobile Budget	302.92	7,384.32

In its October 21, 2011, proposed action, EPA noted that the adequacy public comment period on these MVEBs (as contained in Kentucky's submittal) began on February 14, 2011, and closed on March 16, 2011. No comments were received during the public comment period. In today's action, EPA is concluding the adequacy process by finding the new MVEBs for the Northern Kentucky Area adequate for the purposes of transportation conformity.

As stated in the October 21, 2011, proposal, this redesignation addresses the Northern Kentucky Area's status solely with respect to the 1997 Annual $PM_{2.5}$ NAAQS, for which designations were finalized on January 5, 2005 (70 FR 944), and as supplemented on April 14, 2005 (70 FR 19844).

EPA reviewed $PM_{2.5}$ monitoring data from ambient $PM_{2.5}$ monitoring stations in the Cincinnati-Hamilton Area from 2007–2010. These data have been quality-assured and are recorded in Air Quality System (AQS). The annual arithmetic mean $PM_{2.5}$ concentrations for 2007–2010 and the 3-year averages of these values (*i.e.,* design values) for 2007–2009 and 2008–2010 are summarized in Table 2. The design values demonstrate that the Northern Kentucky Area (as part of the Cincinnati-Hamilton Area) continues to meet the $PM_{2.5}$ NAAQS and that the ambient concentrations of $PM_{2.5}$ are continuing to decrease in the Area. EPA has also reviewed preliminary monitoring data for 2011, which indicate that the Cincinnati-Hamilton Area continues to attain the 1997 $PM_{2.5}$ NAAQS. These preliminary data are available in the Docket for today's action although it is not yet certified.

[1] On September 29, 2011, at 76 FR 60373, EPA determined that the Tri-state Cincinnati-Hamilton Area attained the 1997 $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010, and that the Area was continuing to attain the $PM_{2.5}$ standard with monitoring data that was currently available.

TABLE 2—DESIGN VALUE CONCENTRATIONS FOR THE TRI-STATE CINCINNATI-HAMILTON AREA FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS (μg/m³)

Location	County	Monitor ID	Annual mean concentrations				3-Year design values	
			2007	2008	2009	2010	2007–2009	2008–2010
John Hill	Campbell, KY	21–037–3002	14.36	11.83	11.34	11.8	12.3	11.6
Dixie	Kenton, KY	21–117–0007	14.20	11.99	11.04	*12.1	12.4	11.5
Bonita & St John	Butler, OH	39–017–0003	15.40	13.80	12.83	13.6	13.9	13.4
Nilles	Butler, OH	39–017–0016	14.94	13.75	13.08	13.5	13.8	13.4
Hook Field	Butler, OH	39–017–1004	14.62	n/a	n/a	n/a	14.6	n/a
Clermont Center	Clermont, OH	39–025–0022	14.01	11.75	11.01	12.0	12.2	11.6
Grooms	Hamilton, OH	39–061–0006	14.63	12.48	12.11	*12.7	13.1	12.4
Seymour & Vine	Hamilton, OH	39–061–0014	16.59	15.06	13.38	14.8	15.0	14.4
WM. Howard Taft	Hamilton, OH	39–061–0040	15.09	12.62	12.73	13.3	13.4	12.9
W. 8th	Hamilton, OH	36–061–0042	15.90	14.40	13.71	14.5	14.6	14.2
E. Kemper	Hamilton, OH	36–061–0043	14.85	13.32	n/a	n/a	14.1	n/a
Sherman	Hamilton, OH	39–061–7001	15.09	13.74	12.97	14.1	14.0	13.6
Murray	Hamilton, OH	39–016–8001	16.07	14.40	13.40	*17.6	14.6	n/a
Southeast	Warren, OH	39–165–0007	13.98	11.92	11.70	11.9	12.4	11.8

*Design value does not meet data completeness requirements due to closure or start-up of the monitoring stations.

II. What are the actions EPA is taking?

In today's rulemaking, EPA is approving: (1) Kentucky's emissions inventory, which was submitted pursuant to CAA section 172(c)(3); (2) Kentucky's 1997 Annual $PM_{2.5}$ maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the Northern Kentucky Area, including MVEBs; and, (3) Kentucky's redesignation request to change the legal designation of Boone, Campbell and Kenton Counties in their entireties from nonattainment to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. The maintenance plan is designed to demonstrate that the Northern Kentucky Area will continue to attain the 1997 Annual $PM_{2.5}$ NAAQS through 2021. EPA's approval of the redesignation request is based on EPA's determination that the Northern Kentucky Area meets the criteria for redesignation set forth in CAA, sections 107(d)(3)(E) and 175A, including EPA's determination that the Northern Kentucky Area has attained the 1997 Annual $PM_{2.5}$ NAAQS. EPA's analyses of Kentucky's redesignation request, emissions inventory, and maintenance plan are described in detail in the October 21, 2011, proposed rule (76 FR 65458).

Consistent with the CAA, the maintenance plan that EPA is approving also includes 2015 and 2021 MVEBs for NO_X and $PM_{2.5}$ for the Northern Kentucky Area. In this action, EPA is approving these NO_X and $PM_{2.5}$ MVEBs for the purposes of transportation conformity. For required regional emissions analysis years involving 2015 and prior to 2021, the applicable budgets will be the new 2015 MVEBs. For required regional emissions analysis years that involve 2021 or beyond, the applicable budgets will be the new 2021 MVEBs.

III. What is EPA's response to comments?

EPA received one set of comments on the October 21, 2011, proposed actions associated with the redesignation of the Northern Kentucky Area for the 1997 Annual $PM_{2.5}$ NAAQS. A summary of the comments and EPA's responses are provided below.

Comment 1: The Commenter states "EPA has failed to conduct an adequate analysis under Clean Air Act Section 110(l) on what effect redesignation will have on the 2006 24 hour $PM_{2.5}$ NAAQS, the 1-hour NO_X NAAQS, the 1-hour SO_2 [sulfur dioxide] NAAQS and the 2008 75 parts per billion ozone NAAQS."

Response 1: Section 110(l) provides in part: "[t]he Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress * * *, or any other applicable requirement of this chapter." EPA disagrees with the Commenter's assertion that EPA did not consider 110(l) in terms of the October 21, 2011, proposed action. As a general matter, EPA must and does consider section 110(l) requirements with action on each SIP revision, although EPA does not interpret section 110(l) as requiring a full attainment demonstration for every SIP revision. *See, e.g.,* 70 FR 53, 57 (January 3, 2005); 70 FR 17029, 17033 (April 4, 2005); 70 FR 28429, 28431 (May 18, 2005); and 70 FR 58119, 58134 (October 5, 2005). However, the redesignation does not relax any existing control requirements, nor does it alter any existing control requirements. On that basis, EPA concludes that this redesignation will not interfere with attainment or maintenance of any of these air quality standards. The Commenter does not provide any information in its comment to indicate that approval of Kentucky's redesignation would have any impact on the Area's ability to comply with on the 2006 24-hour $PM_{2.5}$ NAAQS, the 1-hour NO_X NAAQS, the 1-hour SO_2 NAAQS or the 2008 75 parts per billion ozone NAAQS. Kentucky's January 27, 2011, redesignation request and maintenance plan for the 1997 annual $PM_{2.5}$ NAAQS does not revise or remove any existing emissions limit for any NAAQS, or any other existing substantive SIP provisions. In fact, the maintenance plan provided with the Commonwealth's submission demonstrates a decline in the direct $PM_{2.5}$ and $PM_{2.5}$ precursor (*e.g.,* NO_X and SO_2) emissions over the timeframe of the initial maintenance period.[2] For these reasons, EPA disagrees that the Commenter has identified a rationale on which EPA could disapprove of the SIP revision at issue.

Comment 2: The Commenter states that "EPA has not established that any of the emission reductions did not come from the NO_X SIP Call, CAIR [Clean Air Interstate Rule] and CSAPR [Cross State Air Pollution Rule]. Emission

[2] EPA notes that the Cincinnati/Northern Kentucky Area does not have violating monitors for the 2006 24-hour $PM_{2.5}$ NAAQS, the 1-hour NO_X NAAQS, or the 1-hour SO_2 NAAQS, and that this Area has never been designated nonattainment for 2006 24-hour $PM_{2.5}$ NAAQS, the 1-hour NO_X NAAQS, or the 1-hour SO_2 NAAQS.

reductions pursuant to these programs are not permanent and enforceable because these programs are cap and trade programs. Any source which reduced its actual emissions pursuant to one of these trading programs could at any time in the future choose to increase their emissions by purchasing emission credits.'' The Commenter further opines that ''[t]his problem is worsened by EPA's recent proposal to all[ow] increased trading under CSAPR until 2014.''

Response 2: Contrary to the Commenter's statement, EPA did establish in the proposal notice that at least part of the emission reductions that helped the area achieve attainment came from programs other than the NO_X SIP Call, CAIR and CSAPR. The notice lists several permanent and enforceable reductions in emissions resulting from implementation of the Kentucky SIP, applicable Federal air pollution control regulations, and other reductions that are not ''cap and trade'' programs. Those programs include Tier 2 vehicle standards, heavy-duty gasoline and diesel highway vehicle standards, nonroad spark-ignition engines and recreational engines standards, large nonroad diesel engine standards, open burning bans, and fugitive emissions standards. *See* 76 FR 65465.

Further, EPA disagrees with the Commenter's conclusion that emission reductions associated with trading programs such as the NO_X SIP Call, CAIR, and CSAPR are not permanent and enforceable simply because the underlying program is an emissions trading program. The Commenter appears to be arguing that these reductions cannot be considered permanent and enforceable within the meaning of section 107(d)(3)(E)(iii) of the CAA. Section 107(d)(3)(E)(iii) requires that, in order to redesignate an area to attainment, the Administrator must determine that ''the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions.'' EPA disagrees with the Commenter's conclusion that reductions from trading programs cannot be considered permanent and enforceable because these programs allow individual sources to choose between purchasing emission credits and reducing emissions.

The final CSAPR allows sources to trade allowances with other sources in the same or different states while firmly constraining any emissions shifting that may occur by requiring a strict emission ceiling in each state (the budget plus variability limit). As explained in EPA's proposed redesignation notice for the Northern Kentucky Area, the emission reduction requirements of CAIR are enforceable through the 2011 control period, and because CSAPR has now been promulgated to address the requirements previously addressed by CAIR and gets similar or greater reductions in the relevant areas in 2012 and beyond, EPA considers the emission reductions that led to attainment in the Northern Kentucky Area to be permanent and enforceable. The emission ceilings within each state are a permanent requirement of the CSAPR and are made enforceable through the associated Federal Implementation Plans.

EPA responded to a similar comment in its ''Approval and Promulgation of Air Quality Implementation Plans; Redesignation of the Evansville area to attainment of the Fine Particulate Matter Standard.'' 76 FR 59527, 59529, September 27, 2011. In that notice, EPA discusses several factors which support EPA's determination that the SO_2 reductions in the Evansville area are permanent and enforceable and which also apply to the Northern Kentucky Area. First, given the mandates under CSAPR, any utility that has already spent the hundreds of millions of dollars to install scrubbers will find continued effective operation of those controls to be far more cost-effective than disregarding this investment and either expending similar capital installing replacement scrubbers elsewhere or purchasing credits at a price equivalent to that capital already spent. In short, any utility in a state covered by CSAPR provisions related to $PM_{2.5}$ that has installed scrubbers is almost certain under CSAPR to retain the scrubbers and operate them effectively. Second, any action by a utility that increases its emissions, requiring the purchase of allowances, necessitates a corresponding reduction by the utility that sells the allowances. Given the regional nature of particulate matter, this corresponding emission reduction will have an air quality benefit that will compensate at least in part for the impact of any emission increase from utility companies outside Kentucky but near the Kentucky area. Third, in response to the opinion of the Court of Appeals for the District of Columbia Circuit, CSAPR includes assurance provisions to ensure that the necessary emission reductions occur within each covered state.

The recent proposed rule revision referenced by the Commenter would amend the CSAPR assurance penalty provisions for all states within the program so they start in 2014 instead of 2012. 76 FR 63860 (October 14, 2011). As explained in the proposal, which was subject to public review and comment, this revision would promote the development of allowance market liquidity, thereby smoothing the transition from the CAIR programs to the CSAPR programs in 2012. As further explained in the proposal, the proposed revisions:

> Would not affect, in any way, the requirements of the rule in 2014 and beyond. EPA is proposing only a short postponement of the assurance penalty provisions to ensure a smooth transition from CAIR to the Transport Rule programs. EPA believes that, notwithstanding postponement of the assurance penalty provisions, the states covered by the Transport Rule programs will still achieve the emission reductions in 2012 and 2013 necessary to eliminate each state's significant contribution to nonattainment and interference with maintenance identified in the final Transport Rule (with the revisions included in this proposal). The highly detailed state-specific bases on which individual state budgets were determined using the approach and methodologies developed in the final Transport Rule, and included in the record for the Transport Rule, together with the derivation of the variability limits from historic data reflecting state-level year-to-year variation in power sector emissions, support EPA's belief. *See* 76 FR at 63871.

Further, Kentucky's maintenance plan provides for verification of continued attainment by performing future reviews of triennial emissions inventories and also for contingency measures to ensure that the NAAQS is maintained into the future if monitored increases in ambient $PM_{2.5}$ concentrations occur. *See* 76 FR 65469. For this and the above reasons, EPA disagrees that the Commenter has identified a basis on which EPA should disapprove this SIP revision.

Comment 3: The Commenter states that Kentucky does not have fully approved adequate SIPs due to what the Commenter characterizes as an ''exemption'' for excess emissions due to malfunction and shutdown in the discretion of the director. The Commenter cites to a number of different provisions to support the conclusion that Kentucky's regulations should be revised to ''clearly comply'' with the CAA and EPA guidance (citations also provided) such that all excess emissions are violations and to preserve the authority of EPA and citizens to enforce the SIP standards and limitations.

Response 3: The CAA sets forth the general criteria for redesignation of an area from nonattainment to attainment in Section 107(d)(3)(E). Specifically, that section identifies five main criteria

including that ''the Administrator has fully approved the applicable implementation plan for the area under section 7410(k) of this title.'' 42 U.S.C. 7407(d)(3)(E)(ii). Although the Commenter does not specifically cite to section 107(d)(3)(E)(ii), the language used in the comment (''fully approved adequate SIP'') appears to derive from this section of the CAA (and the Commenter does later cite to 107(d)(3)(E) in the concluding paragraph of the comment letter. As a preliminary matter, the issue before EPA in the current rulemaking action is a redesignation for the Kentucky portion of the Tri-state Cincinnati-Hamilton Area to attainment for the 1997 $PM_{2.5}$ standard, including the maintenance plan. The SIP provisions identified in the Commenter's letter are not currently being proposed for revision as part of the redesignation submittal. Thus, EPA's review here is limited to whether the already approved provisions affect any of the requirements for redesignation in a manner that would preclude EPA from approving the redesignation request. Because the rules cited by the Commenter are not pending before EPA and/or are not the subject of this rulemaking action, EPA did not undertake a full SIP review of the individual provisions. It has long been established that EPA may rely on prior SIP approvals in approving a redesignation request plus any additional measures it may approve in conjunction with a redesignation action. *See e.g.,* page 3 of the September 4, 1992, John Calcagni Memorandum; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001); 68 FR 25413, 25426 (May 12, 2003).

Additionally, in the comment the word ''adequate'' was inserted into the statement ''fully approved SIP'' (which is the language of Section 107(d)(3)(E)(ii)) such that the Commenter stated that Kentucky must have a ''fully approved adequate SIP.'' The word ''adequate'' is not included in Section 107(d)(3)(E)(ii), and its inclusion alters the plain text of the CAA for that particular provision. Furthermore, while the Commenter opines that the eight cited-to provisions of the Kentucky rules result in a ''regulatory structure that is inconsistent with the fundamental requirement that all excess emissions be considered violations,'' the Commenter does not link this concern with deficiencies in Kentucky's redesignation submittal for the Northern Kentucky Area. There is no information provided indicating that Kentucky has excused violations and that such actions result in Kentucky failing to meet a requirement for redesignation. Furthermore, there is no information provided indicating that even if Kentucky were to excuse such violations that the violations would not be actionable by EPA or citizens.

To the contrary, on November 4, 2011, Kentucky's Energy and Environment Cabinet, Department for Environmental Protection, Division for Air Quality, explained in a letter to EPA Region 4 that ''The Division would like to make clear that no provision in 401 KAR 50:055 prohibits the Director from taking enforcement action for excess emissions resulting from startup, shutdown, and malfunction events.'' The letter further states that ''EPA's enforcement authorities are established pursuant to Section 113 of the CAA, and a determination by the Director does not limit EPA's authority to take enforcement action. Similarly, Section 304 of the CAA provides enforcement authority requirements to citizens and is not limited by the Director's determination.'' EPA understands that the Commenter has other concerns; however, with regard to this issue on enforcement authorities, Kentucky's November 4, 2011, correspondence addresses the Commenter's apparent misconception.[3]

Notably, on June 30, 2011, Sierra Club filed a Petition to Find Inadequate and Correct Several State Implementation Plans under Section 110 of the Clean Air Act Due to Startup, Shutdown, Malfunction, and/or Maintenance Provisions. EPA has agreed to respond to this petition by August 31, 2012, as part of settlement of a lawsuit. *See Sierra Club et al.* v. *Jackson,* No. 3:10–cv–04060–CRB (N.D. Cal). The comments regarding start up, shut down and malfunctions submitted on this redesignation action are identical to the Kentucky-specific portion of the above-referenced Petition (at pages 39–40). EPA intends to review those provisions consistent with its review of the Petition. At this time, with regard to the redesignation of the Kentucky portion of the Tri-state Cincinnati-Hamilton Area, Kentucky has a fully approved SIP consistent with applicable requirements and EPA does not agree that the Commenter has raised a basis on which EPA could disapprove of the redesignation request at issue.

[3] Although EPA interprets the SIP as indicated by the Commonwealth in its letter, EPA recognizes that the citations identified by the commenter may not be as clear as would be ideal. EPA encourages the Commonwealth to clarify the language in any future revisions to these provisions of the SIP.

IV. Why is EPA taking these actions?

EPA has determined that the Northern Kentucky Area (as part of the Tri-state Cincinnati-Hamilton Area) has attained the 1997 Annual $PM_{2.5}$ NAAQS and has also determined that all other criteria for the redesignation of the Northern Kentucky Area from nonattainment to attainment of the 1997 Annual $PM_{2.5}$ NAAQS have been met. *See* CAA section 107(d)(3)(E). One of those requirements is that the Northern Kentucky Area has an approved plan demonstrating maintenance of the 1997 Annual $PM_{2.5}$ NAAQS. EPA is also taking final action to approve the maintenance plan for the Northern Kentucky Area as meeting the requirements of sections 175A and 107(d)(3)(E) of the CAA. In addition, EPA is approving the emissions inventory as meeting the requirements of section 172(c)(3) of the CAA. Finally, EPA is approving the new NO_X and $PM_{2.5}$ MVEBs for the years 2015 and 2021 as contained in Kentucky's maintenance plan for the Northern Kentucky Area because these MVEBs are consistent with maintenance of the 1997 Annual $PM_{2.5}$ standard in the Area. The detailed rationale for EPA's findings and actions are set forth in the proposed rulemaking and in other discussion in this final rulemaking.

V. What are the effects of these actions?

Approval of the redesignation request changes the legal designation of Boone, Campbell and Kenton Counties in their entireties from nonattainment to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. EPA is modifying the regulatory table in 40 CFR 81.318 to reflect a designation of attainment for these counties. EPA is also approving, as a revision to the Kentucky SIP, the Commonwealth's plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS in the Northern Kentucky Area through 2021. The maintenance plan includes contingency measures to remedy possible future violations of the 1997 Annual $PM_{2.5}$ NAAQS, and establishes NO_X and $PM_{2.5}$ MVEBs for the years 2015 and 2021 for the Northern Kentucky Area. Additionally, this action approves the emissions inventory for the Northern Kentucky Area pursuant to section 172(c)(3) of the CAA.

VI. Final Action

EPA is taking final action to approve the redesignation and change the legal designation of Boone, Campbell, and Kenton Counties in their entireties from nonattainment to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. Through this action, EPA is also approving into

the Kentucky SIP the 1997Annual $PM_{2.5}$ maintenance plan for the Northern Kentucky Area, which includes for this Area the new MVEBs of 8,045.65 tpy of NO_X and 389.67 tpy of $PM_{2.5}$ for 2015 and 7,384.32 tpy of NO_X and 302.92 tpy of $PM_{2.5}$ for 2021.

Additionally, EPA is approving the 2008 emissions inventory for the Northern Kentucky Area pursuant to section 172(c)(3) of the CAA. In today's action, EPA is concluding the adequacy process by finding the new MVEBs for the Northern Kentucky Area adequate for the purposes of transportation conformity. Within 24 months from the date of publication for this final action, the transportation partners are required to demonstrate conformity to the new $PM_{2.5}$ and NO_X MVEBs pursuant to 40 CFR 93.104(e).

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the Area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule grants or recognizes an exemption or relieves a restriction, and section 553(d)(3), which allows an effective date less than 30 days after publication as otherwise provided by the agency for good cause found and published with the rule. The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the Commonwealth of various requirements for the Northern Kentucky Area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective on the date of publication of this action.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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 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 these reasons, these actions:

- Are 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);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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,
- Do 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 final 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 Commonwealth, 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 13, 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. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Particulate matter.

40 CFR Part 81

Environmental protection, Air pollution control, National parks.

Dated: December 7, 2011.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

40 CFR parts 52 and 81 are 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 S—Kentucky

■ 2. Section 52.920(e) is amended by adding a new entry ''1997 Annual $PM_{2.5}$

Maintenance Plan for the Northern Kentucky Area'' at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanations
*	*	*	*	*
1997 Annual $PM_{2.5}$ Maintenance Plan for the Northern Kentucky Area.	Boone, Campbell and Kenton Counties (Kentucky portion of the Cincinnati-Hamilton OH-KY-IN Area).	1/27/11	12/15/2011. [Insert citation of publication].	For the 1997 Annual $PM_{2.5}$ NAAQS.

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.318, the table entitled ''Kentucky—$PM_{2.5}$ (Annual NAAQS)'' is amended under ''Cincinnati-Hamilton, OH-KY-IN'' by revising the entries for ''Boone County,'' ''Campbell County,'' and ''Kenton County'' to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY—$PM_{2.5}$

[Annual NAAQS]

Designated area	Designation [a]	
	Date [1]	Type
Cincinnati-Hamilton, OH-KY-IN:		
Boone County	This action is effective December 15, 2011	Attainment.
Campbell County	This action is effective December 15, 2011	Attainment.
Kenton County	This action is effective December 15, 2011	Attainment.
*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.

* * * * *

[FR Doc. 2011–32058 Filed 12–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2010–0672; FRL–9507–6]

RIN 2060–AQ39

Protection of Stratospheric Ozone: Extension of the Laboratory and Analytical Use Exemption for Essential Class I Ozone-Depleting Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is extending the laboratory and analytical use exemption for the production and import of Class I ozone-depleting substances through December 31, 2014. This action is taken under the Clean Air Act consistent with the recent actions by the Parties to the *Montreal Protocol on Substances that Deplete the Ozone Layer.* The exemption allows the production and import of controlled substances in the United States for laboratory and analytical uses that have not been already identified by EPA as nonessential.

DATES: This action is effective on December 15, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2010–0672. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, 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 Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742).

FOR FURTHER INFORMATION CONTACT: Jeremy Arling by regular mail: U.S. Environmental Protection Agency, Stratospheric Protection Division (6205J), 1200 Pennsylvania Avenue NW., Washington, DC 20460; by courier service or overnight express: 1301 L Street NW., Washington, DC 20005; by *telephone:* (202) 343–9055; or by *email: arling.jeremy@epa.gov.* You may also visit the EPA's Ozone Protection Web site at *http://www.epa.gov/ozone/strathome.html* for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and other related topics.

SUPPLEMENTARY INFORMATION: Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally

provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under section 307(d)(1) of the Clean Air Act, which states: ''The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies.'' Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the policies underlying APA section 553(d) in making this rule effective on December 15, 2011. APA section 553(d) allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' As explained below, EPA finds that there is good cause for this rule to become effective on December 15, 2011, even though this results in an effective date fewer than 30 days from the date of publication in the **Federal Register**. The purpose of the 30-day waiting period prescribed in APA section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This final rule extends an exemption from the phaseout of class I ozone depleting substances for limited laboratory and analytical uses that is set to expire on December 31, 2011. A shorter effective date in such circumstances is consistent with the purposes of APA section 553(d), which provides an exception for any action that grants or recognizes an exemption or relieves a restriction. Accordingly, we find good cause exists to make this rule effective December 15, 2011.

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I. Extension of the Laboratory and Analytical Use Exemption

The *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol, or Protocol) is the international agreement to reduce and eventually eliminate the global production and consumption [1] of ozone-depleting substances (ODS). This goal is accomplished through adherence by each country that is a Party to the Montreal Protocol to phaseout schedules for specific controlled substances. The Protocol established January 1, 1996, as the date by which the production and import of most Class I controlled substances—including chlorofluorocarbons (CFCs), carbon tetrachloride, and methyl chloroform [2]—were phased out in developed countries, including the United States. The Clean Air Act grants EPA the authority to implement the Protocol's phaseout schedules in the United States. Section 604 of the Clean Air Act requires EPA to promulgate regulations phasing out production and consumption of Class I ODS according to a prescribed schedule. EPA's phaseout regulations for ODS are codified at 40 CFR part 82, subpart A.

The Montreal Protocol provides exemptions that allow for the continued import and/or production of ODSs for specific uses. Under the Montreal Protocol, for most Class I ODSs, the Parties may collectively grant exemptions to the ban on production and import of ODS for uses that they determine to be ''essential.'' For example, with respect to CFCs, Article 2A(4) provides that the phaseout will apply ''save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.'' Similar language appears in the control provisions for halons (Art. 2B), carbon tetrachloride (Art. 2D), methyl chloroform (Art. 2E), hydrobromofluorocarbons (Art. 2G), and chlorobromomethane (Art. 2I). As defined by Decision IV/25 of the Parties, ''use of a controlled substance should qualify as 'essential' only if: ''(i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health.''

Decision X/19 under the Montreal Protocol (taken in 1998) allowed a general exemption for essential laboratory and analytical uses through December 31, 2005. EPA codified this exemption at 40 CFR part 82, subpart A. While the Clean Air Act does not specifically provide for this exemption, EPA determined that an exemption for essential laboratory and analytical uses was allowable under the Act as a *de minimis* exemption. EPA addressed the *de minimis* exemption in a regulation issued March 13, 2001 (66 FR 14760).

Decision X/19 also requested the Montreal Protocol's Technology and Economic Assessment Panel (TEAP), a group of technical experts from various Parties, to report annually to the Parties to the Montreal Protocol on laboratory and analytical procedures that could be performed without the use of controlled substances. It further stated that at future Meetings of the Parties (MOPs), the Parties would decide whether such procedures should no longer be eligible for exemptions. Based on the TEAP's recommendation, the Parties to the Montreal Protocol decided in 1999 (Decision XI/15) that the general exemption no longer applied to the following uses: Testing of oil and grease and total petroleum hydrocarbons in water; Testing of tar in road-paving materials; and forensic finger-printing. EPA incorporated these exclusions at Appendix G to subpart A of 40 CFR part 82 on February 11, 2002 (67 FR 6352).

At the 18th MOP, the Parties acknowledged the need for methyl bromide for laboratory and analytical procedures, and added methyl bromide to the ODSs under the essential laboratory and analytical use exemption. Decision XVIII/15 outlined specific uses and exclusions for methyl bromide under the exemption. EPA incorporated specific uses of methyl bromide in the essential laboratory and analytical use exemption at Appendix G to subpart A of 40 CFR part 82 on December 27, 2007 (72 FR 73264).

In November 2009, at the 21st MOP, the Parties in Decision XXI/6 extended the global laboratory and analytical use exemption through December 31, 2014. Decision XXI/6 also notes laboratory and analytical uses of ODSs for which the TEAP and its Chemicals Technical Options Committee (CTOC), determined that alternative procedures exist. However, the Parties did not exclude any of those procedures from the exemption for laboratory and analytical uses. The Parties asked the TEAP and the CTOC to continue to consider

[1] ''Consumption'' is defined as the amount of a substance produced in the United States, plus the amount imported into the United States, minus the amount exported from the United States to other Parties to the Montreal Protocol (*see* Section 601(6) of the Clean Air Act).

[2] Class I controlled substances are listed at 40 CFR part 82, subpart A, Appendix A.

possible alternatives and report back to the Parties.

EPA's regulations regarding this exemption at 40 CFR 82.8(b) currently state, ''A global exemption for Class I controlled substances for essential laboratory and analytical uses shall be in effect through December 31, 2011, subject to the restrictions in appendix G of this subpart, and subject to the recordkeeping and reporting requirements at § 82.13(u) through (x). There is no amount specified for this exemption.'' Because certain laboratory procedures continue to require the use of Class I substances in the United States, because non-ODS replacements for the Class I substances have not been identified for all uses, and because the Parties, via Decision XXI/6, extended this exemption through December 31, 2014, EPA proposed to revise 40 CFR 82.8(b) to reflect the extension of the exemption to December 31, 2014. The EPA received two comments in total on the proposed rule, including the proposal to adopt the Parties' extension, one from a corporation (the company commenter) and one from a laboratory. The company commenter supported the proposed extension of the global laboratory use exemption through December 31, 2014, while the other commenter supported the extension insofar as it applied to the use of carbon tetrachloride. For a more detailed discussion of the reasons for the exemption, refer to the regulation issued March 13, 2001 (66 FR 14760). That rule discusses how the controls in place for laboratory and analytical uses provide adequate assurance that very little, if any, environmental damage will result from the handling and disposal of the small amounts of Class I ODS used in such applications, due to the Appendix G requirements for small quantity and high purity. In the decade since EPA issued the exemption, EPA and has not received information that would suggest otherwise.

In the proposed rule, EPA also sought comment on adding to the list of procedures that are excluded from the exemption under 40 CFR part 82, appendix G. EPA did not propose to add these procedures at this time. The following uses are noted in Decision XXI/6 as being laboratory and analytical procedures for which the TEAP and its CTOC have concluded that alternatives exist:

(a) Analyses in which the ODS is used as a solvent for spectroscopic measurements:
(i) Of hydrocarbons (oil and grease) in water or soil;
(ii) Of simethicone (polydimethylsiloxane);
(iii) When recording infrared and nuclear magnetic resonance (NMR) spectra, including hydroxyl index.
(b) Analyses in which the ODS is used as a solvent for electrochemical methods of analysis of:
(i) Cyanocobalamin;
(ii) Bromine index.
(c) Analyses involving selective solubility in the ODS of:
(i) Cascarosides;
(ii) Thyroid extracts;
(iii) Polymers.
(d) Analyses in which the ODS is used to preconcentrate the analyte, for:
(i) Liquid chromatography (HPLC) of drugs and pesticides;
(ii) Gas chromatography of organic chemicals such as steroids;
(iii) Adsorption chromatography of organic chemicals.
(e) Titration of iodine with thiosulfate (iodometric analyses) for determination of:
(i) Iodine;
(ii) Copper;
(iii) Arsenic;
(iv) Sulphur.
(f) Iodine and bromine index measurements (titrations).
(g) Miscellaneous analyses, namely:
(i) Stiffness of leather;
(ii) Jellification point;
(iii) Specific weight of cement;
(iv) Gas mask cartridge breakthrough.
(h) Use of ODS as a solvent in organic chemical reactions:
(i) O- and N-difluoromethylation.
(i) General use as laboratory solvent, namely:
(i) Washing of NMR tubes;
(ii) Removal of greases from glassware.

EPA sought comment on whether alternative procedures exist in the United States for each of these laboratory applications. EPA received comments from the same two commenters noted above regarding the use of carbon tetrachloride (CTC), which is an ODS, in analyses under section (a)(iii) of Decision XXI/6, which analyses are described above. Due to its unique properties (*e.g.* lack of carbon-hydrogen bonds, small but non-zero solubility), the commenters stated that CTC is used as a solvent in certain analytical measurements.

The company commenter stated that the procedures listed in section (a)(iii) of Decision XXI/6 are standard spectroscopic procedures for which CTC is not required. Therefore, the commenter does not oppose the exclusion of those procedures from the exemption. The commenter did describe its own current use of the chemical for a proprietary method of hydroxyl analysis that does not fall under the analysis listed in section (a)(iii) and for which CTC would still be required.

The laboratory commenter also discussed CTC's unique properties and commented that the continued use of CTC as a solvent is essential for some of the uses listed in section (a)(iii) of Decision XXI/6. It interpreted the Decision language quoted above as proposed regulatory language and requested that the following line be added to the potential exclusion that appears in paragraph (a)(iii) of the Decision: ''Research applications for which there are no effective alternate solvents for carbon tetrachloride are not prohibited.''

EPA did not propose to remove any of these procedures from the list of exempted uses of ODS and is not taking action in this final rule. However, EPA continues to be interested in laboratory uses of ODS for which there are no effective alternatives since this issue continues to be discussed by the Parties to the Protocol.

II. Statutory and Executive Order Reviews

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

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Order 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action extends the existing laboratory and analytical use exemption allowing the production and import of Class I ozone-depleting substances until December 31, 2014. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR 82.8(a) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0170. The OMB control numbers for EPA's regulations in 40 CFR part 82 are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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 today's rule 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) pharmaceutical preparations manufacturing businesses (NAICS code 325412) that have fewer than 750 employees; (3) 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 (4) 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 today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This action provides an otherwise unavailable benefit to those companies that obtain ozone-depleting substances under the essential laboratory and analytical use exemption. We have therefore concluded that today's rule will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. This action merely extends the essential laboratory and analytical use exemption from the 1996 and 2005 phaseouts of Class I ODS until December 31, 2014. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

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. This action merely extends the essential laboratory and analytical use exemption from the 1996 and 2005 phaseouts of Class I ODS until December 31, 2014. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on this action from State and local officials.

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). This rule does not significantly or uniquely affect the communities of Indian tribal governments, nor does it impose any enforceable duties on communities of Indian tribal governments. This action merely extends the essential laboratory and analytical use exemption from the 1996 and 2005 phaseouts of Class I ODS until December 31, 2014. Thus, Executive Order 13175 does not apply to this action. EPA specifically solicited comment on this action from tribal officials.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (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 rule does not pertain to any segment of the energy production economy nor does it regulate any manner of energy use. Therefore, we have concluded that this rule does not have any adverse energy effects.

I. National Technology Transfer and Advancement Act

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

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

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

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it will not affect the level of protection provided to human health or the environment. The controls in place for laboratory and analytical uses provide adequate assurance that very little, if any, environmental impact will result from the handling and disposal of the small amounts of Class I ODS used in such applications.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A ''major rule,'' as defined by 5 U.S.C. 804(2), cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule.'' This rule will be effective January 1, 2012.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Imports, Methyl chloroform, Ozone, Reporting and recordkeeping requirements.

Dated: December 9, 2011.

Lisa P. Jackson,

Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

■ 2. Section 82.8 is amended by revising paragraph (b) to read as follows:

§ 82.8 Grant of essential use allowances and critical use allowances.

* * * * *

(b) A global exemption for class I controlled substances for essential laboratory and analytical uses shall be in effect through December 31, 2014, subject to the restrictions in appendix G of this subpart, and subject to the recordkeeping and reporting requirements at § 82.13(u) through (x). There is no amount specified for this exemption.

* * * * *

[FR Doc. 2011–32179 Filed 12–14–11; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register

Vol. 76, No. 241

Thursday, December 15, 2011

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

9 CFR Part 121

[Docket No. APHIS–2009–0070]

RIN 0579–AD09

Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Amendments to the Select Agent and Toxin Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We are reopening the comment period for our proposed rule that would amend and republish the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products, reorganize the list of select agents and toxins based on the relative potential of each select agent or toxin to be misused to adversely affect human, plant, or animal health, and amend the regulations in order to add definitions and clarify language concerning security, training, biosafety, biocontainment, and incident response. This action will allow interested persons additional time to prepare and submit comments.

DATES: The comment period for the proposed rule published October 3, 2011 (76 FR 61228), is reopened. We will consider all comments that we receive on or before January 17, 2012.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2009-0070-0035.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2009–0070, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0070* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Divan, Branch Chief, APHIS Agriculture Select Agent Program, APHIS, 4700 River Road Unit 2, Riverdale, MD 20737–1231; (301) 734–5960.

SUPPLEMENTARY INFORMATION: On October 3, 2011, we published in the **Federal Register** (76 FR 61228–61244, Docket No. APHIS–2009–0070) a proposal to amend and republish the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products, reorganize the list of select agents and toxins based on the relative potential of each select agent or toxin to be misused to adversely affect human, plant, or animal health, and amend the regulations in order to add definitions and clarify language concerning security, training, biosafety, biocontainment, and incident response.

Comments on the proposed rule were required to be received on or before December 2, 2011. We are reopening the comment period on Docket No. APHIS–2009–0070 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments. We will also consider all comments we receive between December 3, 2011, and the date of this document.

Done in Washington, DC, this 12th day of December 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–32240 Filed 12–14–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[Docket No. EERE–2010–BT–TP–0044]

RIN 1904–AC37

Energy Conservation Program for Certain Commercial and Industrial Equipment: Test Procedures for High-Intensity Discharge Lamps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE) proposes to establish its test procedures for high-intensity discharge (HID) lamps under the Energy Policy and Conservation Act of 1975 (EPCA), as amended. The proposed test procedures are based on industry standard procedures and practices already established by the American National Standards Institute (ANSI), the Illuminating Engineering Society of North America (IES), and the International Commission on Illumination (Commission Internationale de l'Eclairage (CIE)). The proposed test procedures would include measurement of parameters to enable calculation of lamp efficacy (in lumens per watt or lm/W), and would also provide for the efficiency measurement of directional lamps using center beam intensity (in candelas) and beam angle. The proposed procedures would also measure lumen maintenance (*i.e.,* the fraction or percentage of lamp light output relative to initial output, over time) at 40 percent and 70 percent of rated lamp lifetime. Correlated color temperature (CCT) and color rendering index (CRI) would also be measured as potential means to delineate equipment classes for HID lamps. This notice of proposed rulemaking (NOPR) also discusses DOE's conclusion that HID lamps do not operate or use energy in standby mode or off mode. Therefore, DOE does not propose test procedures for these modes.

DATES: DOE will hold a public meeting on Thursday, January 19, 2012, from 9 a.m. to 2 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section V, ''Public Participation,'' for webinar registration information, participant instructions,

and information about the capabilities available to webinar participants.

DOE will accept comments, data, and information regarding this NOPR before and after the public meeting, but no later than February 28, 2012. See section V, ''Public Participation,'' for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089 1000 Independence Avenue SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945 to initiate the necessary procedures. Please also note that those wishing to bring laptop computers into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptop computers, or allow an extra 45 minutes for security screening procedures. Persons can attend the public meeting via webinar. For more information, refer to the Public Participation section near the end of this notice.

Any comments submitted must identify the NOPR for test procedures for high-intensity discharge lamps, and provide docket number EERE–2010–BT–TP–0044 and/or regulatory information number (RIN) 1904–AC37. Comments may be submitted using any of the following methods:

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

2. *Email: HIDLamps-2010-TP-0044@ee.doe.gov.* Include the docket number EERE–2010–BT–TP–0044 and/or RIN 1904–AC37 in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024.

Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Public Participation).

Docket: The docket is available for review at *http://www.regulations.gov,* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *http://www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/high_intensity_discharge_lamps.html.* This web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through regulations.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Tina Kaarsberg, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Telephone:* (202) 287–1393. *Email: Tina.Kaarsberg@ee.doe.gov.*

Ms. Elizabeth Kohl or Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Telephone:* (202) 586–7796 or (202) 287–6111. *Email: Elizabeth.Kohl@hq.doe.gov* or *Jennifer.Tiedeman@hq.doe.gov.*

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VI. Approval of the Office of the Secretary

I. Background and Authority

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291, *et*

seq.; ''EPCA'' or, ''the Act'') sets forth a variety of provisions designed to improve energy efficiency. (All references to EPCA refer to the statute as amended through the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140 (Dec. 19, 2007)). Part B of title III (42 U.S.C. 6291–6309) establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' Part C of title III, ''Certain Industrial Equipment'' (42 U.S.C. 6311–6317), establishes an energy conservation program for such equipment. (For editorial reasons, Parts B and C were re-designated as Parts A and A–1 on codification in the U.S. Code). While HID lamps are defined in 42 U.S.C. 6291(46), DOE is required to set standards for HID lamps in 42 U.S.C. 6317(a)(1)). Therefore, DOE has determined that the provisions of Part C are applicable to HID lamps.

Under EPCA, this program consists essentially of four parts: (1) Testing; (2) labeling; and (3) Federal energy conservation standards; and (4) certification, compliance, and enforcement. The testing requirements consist of test procedures that manufacturers of covered equipment must use (1) As the basis for certifying to DOE that their equipment complies with the applicable energy conservation standards adopted under EPCA (42 U.S.C. 6295(s) and 6316(a)); and (2) for making representations about the efficiency of this equipment (42 U.S.C. 6315(b)). Similarly, DOE must use these test requirements to determine whether the equipment complies with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s) and 6316(a)(1))

General Test Procedure Rulemaking Process

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment. EPCA provides in relevant part that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results that measure energy efficiency, energy use, or estimated annual operating cost of a covered product or equipment during a representative average use cycle or period of use, as determined by the Secretary of Energy (Secretary), and shall not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

EPCA requires DOE to prescribe test procedures for HID lamps within 30 months of determining that energy conservation standards are technologically feasible and economically justified, and would result in significant energy savings. (42 U.S.C. 6317(a)(1)) DOE published a positive final notice of determination (determination) regarding HID lamps on July 1, 2010, concluding that energy conservation standards for certain HID lamps are technologically feasible and economically justified, and would likely result in significant energy savings. 75 FR 37975. DOE intends to publish any final HID lamp test procedures by January 1, 2013.

In today's NOPR, DOE proposes to establish test procedures for HID lamps based on industry standards pertaining to HID lamp measurements.

II. Summary of the Notice of Proposed Rulemaking

The proposed test procedures include methods to determine lamp power and lumen output [1] (lamp efficacy in lumens per watt), and would also provide for the efficiency measurement of directional lamps using center beam intensity (in candelas [2]) [3] and beam angle. The proposed procedures would also measure lumen maintenance (*i.e.,* the percentage of lamp light output relative to initial output, over time) [4] at 40 percent and 70 percent of rated lamp lifetime. CCT and CRI would also be measured because DOE may consider delineating HID equipment classes using these metrics.

Efficacy of HID lamps is calculated based on the measured lumen output and the measured input electrical power. DOE proposes that the input power measurements be performed using the measurement methods for lamp current and voltage prescribed in American National Standards Institute (ANSI) C78.389–2006 (C78.389), ''Electric Lamps—High Intensity Discharge—Methods of Measuring Characteristics,'' and the measurement method for lumen output prescribed in Illuminating Engineering Society of North America (IES) LM–51 (LM–51), ''Approved Method for the Electrical and Photometric Measurements of High Intensity Discharge Lamps,'' and the measurement method for luminous intensity prescribed in ANSI C78.379–2006 (C78.379), ''For Electric Lamps—Classification of Beam Patterns of Reflector Lamps.'' DOE also proposes that lamp current, voltage, and lumen output measurements be performed while operating the lamp with an appropriately rated reference ballast.[5] DOE proposes that lumen maintenance measurements be performed using the measurement methods prescribed in IES LM–47 (LM–47), ''IESNA Approved Method for Life-Testing of HID Lamps.'' Under DOE's proposal, CCT and CRI would be obtained from spectroradiometric measurements of the light output in the visible spectrum.[6] CCT and CRI would be calculated by numerical evaluation of the color characteristics as prescribed in International Commission on Illumination (Commission Internationale de l'Eclairage (CIE)) 13.3 and CIE 15 using spectroradiometric measurement data.

The following industry standards and test procedures relevant to this NOPR are proposed to be incorporated by reference into the HID test procedure at 10 CFR part 431, subpart Y:

1. ANSI C78.379–2006, ''For Electric Lamps—Classification of Beam Patterns of Reflector Lamps'';
2. ANSI C78.389–R2009, ''For Electric Lamps—High Intensity Discharge—Methods of Measuring Characteristics'' (sections 1.0, 2.0, 3.0, and Figure 1);
3. CIE 13.3–1995 (CIE 13.3), ''Technical Report: Method of Measuring and Specifying Colour Rendering Properties of Light Sources'';
4. CIE 15:2004 (CIE 15), ''Technical Report: Colorimetry'';[7]
5. IES LM–47–01, ''Approved Method for Life Testing of High Intensity Discharge (HID) Lamps''; and
6. IES LM–51–00, ''Approved Method for the Electrical and Photometric Measurements of High Intensity Discharge Lamps'' (sections 1.0, 3.2, 9.0, 10.0, 11.0, and 12.0).

As discussed in further detail in section III.E, DOE has concluded that HID lamps (without ballasts) are incapable of either standby mode or off mode energy use. HID lamps do not have additional features besides light output and thereby cannot operate in standby mode. HID lamps cannot be in off mode because there is no condition in which the lamp is connected to the

[1] A lumen is a unit of light output weighted to the spectral response of the human eye.

[2] One candela is equal to one lumen per steradian.

[3] Center beam intensity is synonymous with centerbeam candlepower (commonly abbreviated as CBCP). Candlepower is now an obsolete term, but equates directly to the candela.

[4] Lumen maintenance is the percentage or fraction of initial lumens. The higher the lumen maintenance value (closer to 1.00), the more the source maintains the initial efficacy at the point time measured.

[5] An appropriately rated reference ballast provides specified power, voltage, and current required to operate the lamp. Its ballast and power supply specifications are from data sheets listed by the references in ANSI C78.389. They are intended to provide reasonable stringency in terms of power quality and to ensure repeatable and consistent electrical measurements.

[6] Spectroradiometry is the measurement of the spectral content of a radiating source as a function of wavelength.

[7] ''Colorimetry'' referenced is the science and technology of human color perception.

main power source (via the ballast) and is not in a mode already accounted for in either active mode or standby mode. Therefore, DOE does not propose measurement methods to determine energy use in either standby mode or off mode for HID lamps.

III. Discussion

DOE proposes to require measurement of both photometric and electrical characteristics of HID lamps to calculate HID lamp efficacy. DOE reviewed ANSI C78.379, ANSI C78.389, CIE 13.3, CIE 15, IES LM–47, and IES LM–51 in developing the proposed test procedures for HID lamps. From these industry test procedures, DOE proposes lamp selection, test setup, and test conditions for HID lamps.

The proposed photometric measurement methods for lamp light output (also referred to as luminous flux) for omni-directional lamps, measured in lumens, and luminous intensity for directional lamps, measured in candelas,[8] are detailed in LM–51. CCT and CRI typically are derived from spectroradiometric measurement of lamp light output. Color measurement and calculation of CCT are detailed in CIE 15. Calculation of CRI is detailed in CIE 13.3.

The proposed electrical measurement methods are provided in ANSI C78.389 and include line voltage, lamp voltage, current (measured in amperes), and lamp electrical power input (measured in watts). Under ANSI C78.389, electrical measurements are to be performed when operating the lamp with an appropriately rated reference ballast that provides specified power, voltage, and current required to operate the lamp as stated in data sheets referenced by ANSI C78.389. The reference ballast itself is to be operated from a power supply with specified voltage and impedance requirements. Reference ballast and power supply specifications, set forth in the standards referenced by ANSI C78.389, are intended to provide a level of power quality that enables repeatable and consistent electrical measurements.

DOE further proposes that, prior to any measurement, lamps be stabilized by the methods specified for each lamp type in ANSI C78.389, section 3.7. A lamp is considered to be stabilized when successive electrical characteristic measurements remain within a given percentage range over a given period of time. There is some variation in the ANSI measurement procedure to determine lamp stabilization proposed for the three types of HID lamps—mercury vapor (MV), high-pressure sodium (HPS), and metal halide (MH). For MV lamps, electrical characteristic measurement values must remain within 1 percent of each other for three consecutive measurements over a 15 minute period. For HPS lamps, electrical characteristic measurement values must also remain within 1 percent of each other for three consecutive measurements spaced 10–15 minutes apart. For MH lamps, electrical characteristic measurement values may vary up to 3 percent of each other for three consecutive measurements spaced 10–15 minutes apart.

In accordance with the stabilization methods in ANSI C78.389, DOE specifies a lamp aging time and burning position, as described in section III.D. DOE further proposes that all test measurements be performed at an ambient temperature of 25 °C ± 5 °C with an interior air speed rate of less than or equal to 0.5 meters/second.

The following sections set forth proposed definitions for the HID test procedure, detailed discussion of the proposed test method, and proposed laboratory accreditation requirements.

A. Definitions

In today's proposed rule, DOE proposes definitions for the following terms based on the EPCA definitions of these terms: ''ballast'' (42 U.S.C. 6291(58)), ''color rendering index'' (42 U.S.C. 6291(30)(J)), ''correlated color temperature'' (42 U.S.C. 6291(30)(K)), ''high-intensity discharge lamp'' (42 U.S.C. 6291(46)), ''mercury vapor lamp'' (42 U.S.C. 6291(47)(A)), and ''metal halide lamp'' (42 U.S.C. 6291(63)).

As explained in section III.A.1, DOE also proposes to adopt definitions of ''beam angle,'' ''directional lamp,'' ''high-pressure sodium lamp,'' ''lamp electrical power input,'' ''lamp wattage,'' ''lumen maintenance,'' ''rated luminous flux or rated lumen output,'' and ''self-ballasted lamp.'' Many of the proposed definitions are identical or very similar to the definitions set forth in 10 CFR part 430 for consumer products. As discussed in section III.A.2, DOE also proposes to amend the definition of ''ballast efficiency.'' As discussed in III.A.3, DOE proposes a definition of ''basic model'' for HID lamps.

1. Definitions Relevant to High-Intensity Discharge Lamps

In this NOPR, DOE proposes to define the following terms: ''beam angle,'' ''directional lamp,'' ''high-pressure sodium lamp,'' ''lamp efficacy,'' ''lamp electrical power input,'' ''lamp wattage,'' ''lumen maintenance,'' ''rated luminous flux or rated lumen output,'' and ''self-ballasted lamp.''

DOE proposes to define ''beam angle'' as follows: '' 'Beam angle' means the beam angle (or angles) as measured according to the requirements of ANSI C78.379, including complex beam angles as described in ANSI C78.379.''

DOE proposes to define ''directional lamp'' as follows: '' 'Directional lamp' means a lamp emitting at least 80 percent of its light output within a solid angle of π steradians (corresponding to a cone with an angle of 120 degrees).''[9]

DOE proposes to define ''high-pressure sodium lamp'' as follows: '' 'High-pressure sodium (HPS) lamp' means a high-intensity discharge lamp in which the major portion of the light is produced by radiation from sodium vapor operating at a partial pressure of about 6,670 pascals (approximately 0.066 atmospheres or 50 torr) or greater.'' By including pressure equivalents in both atmospheres and torr, DOE's proposed definition would harmonize with the existing statutory definition of ''mercury vapor lamp,'' which includes both units of pressure (pascals and atmospheres). (42 U.S.C. 6291(47)(A))[10]

DOE proposes to adopt a definition for ''lamp efficacy'' similar to that set

[8] Center beam intensity is the intensity at nadir (directly in front of the lamp). Luminous intensity is the output in candelas at multiple angles beyond nadir and is how beam angle is calculated.

[9] DOE reviewed definitions for directional lamps with optical characteristic similar to those of HID directional lamps (*e.g.,* incandescent reflector lamps) and found that definitions for reflector lamps typically focus on the construction of the lamp and not the direction in which the light leaves the lamp. 10 CFR 430.2 Existing HID lamps that are considered directional are offered in various bulb shapes (*e.g.,* R40, R111, PAR 20, PAR 30, and PAR 38), and future lamps may take different non-conforming shapes and forms while providing similar light output delivery. Therefore the proposed DOE definition is based on the directional delivery of light output and not the construction of the lamp. The proposed definition of ''directional lamp'' is based on the European Union definition (Commission Regulation (EC) No 244/2009, O.J. L 76, 24 March 2009).

[10] DOE proposes to define ''high-pressure sodium lamp'' based on a comment from the National Electrical Manufacturers Association (NEMA) in response to the HID lamps notice of proposed determination, 75 FR 22031, 22033 (April 27, 2010), and discussed in the HID lamps final determination, 75 FR 37975, 37977 (July 1, 2010). NEMA recommended that DOE adopt the definition for ''HPS lamps'' from ANSI C82.9–1996, ''American National Standard for High-Intensity Discharge and Low-Pressure Sodium Lamps, Ballasts and Transformers—Definitions (ANSI C82.9).'' (Docket No. EERE–2006–DET–0112, NEMA, No. 0021.1 at p. 3) Under subsection 3.27, ''Definitions,'' ANSI C82.9–1996 defines ''HPS lamp'' as ''[a] high-intensity-discharge (HID) lamp in which the major portion of the light is produced from radiation from sodium vapor operating at a partial pressure of about 6.67×10^3 pascals (50 torr) or greater.'' DOE proposes to adopt a similar definition.

forth at 10 CFR part 430, subpart B, appendix R,[11] where DOE defines ''lamp efficacy'' as ''the ratio of measured lamp lumen output in lumens to the measured lamp electrical power input in watts, rounded to the nearest tenth, in units of lumens per watt.'' DOE proposes in this rulemaking to replace ''lamp lumen output'' with ''rated luminous flux or rated lumen output'' and to add the abbreviation ''lm/W'' after ''lumens per watt.'' The term ''rated luminous flux or rated lumen output'' is consistent with DOE's proposed definition for ''lumen maintenance,'' and means the same thing as ''lamp lumen output.'' Therefore, DOE proposes to define ''lamp efficacy'' as follows: '' 'Lamp efficacy' means the ratio of rated lumen output (or rated luminous flux) to the measured lamp electrical power input in watts, rounded to the nearest tenth, in units of lumens per watt (lm/W).'' [12]

DOE proposes to define ''lamp electrical power input'' as follows: '' 'Lamp electrical power input' means the total electrical power input to the lamp, including both arc and cathode power where appropriate, at the reference condition, in units of watts.'' This definition is the same as that set forth at 10 CFR part 430, subpart B, appendix R.

DOE proposes the following definition for ''lamp wattage'' in this rulemaking: '' 'Lamp wattage' means the total electrical power required by a lamp in watts, measured following the initial aging period referenced in the relevant industry standard.'' (42 U.S.C. 6291(30)(O)) [13]

DOE proposes a definition for ''lumen maintenance'' as follows: '' 'Lumen maintenance' means the luminous flux or lumen output at a given time in the life of the lamp and expressed as a percentage of the rated luminous flux or rated lumen output, respectively.'' This definition is the same as that set forth at 10 CFR part 430, subpart B, appendix W, section (2)(c).

DOE proposes a definition for ''rated luminous flux or rated lumen output'' as follows: '' 'Rated luminous flux or rated lumen output' means the initial lumen rating (100 hour) declared by the manufacturer, which consists of the lumen rating of a lamp at the end of 100 hours of operation.'' [14] This is the same definition as is set forth at 10 CFR part 430, subpart B, appendix W, section (2)(d).

DOE proposes to define ''self-ballasted lamp'' [15] based on the definition for ''self-ballasted CFL lamp'' found in 10 CFR 430 subpart B, appendix W, section (2)(h), as follows: '' 'Self-ballasted lamp' means a lamp unit that incorporates all elements that are necessary for the starting and stable operation of the lamp in a permanent enclosure, and that does not include any replaceable or interchangeable parts.''

2. Definition of ''Ballast Efficiency'' for Metal Halide Lamp Fixtures

DOE proposes an amended definition of ''ballast efficiency'' for metal halide lamp fixtures, currently set forth at 10 CFR 431.322, to correspond to the definitions proposed in section III.B.1. Currently, ''ballast efficiency'' for a high-intensity discharge fixture means, in relevant part, the efficiency of a lamp and ballast combination, expressed as a percentage, and calculated in accordance with the following formula: Efficiency = P_{out}/P_{in} where:

(1) P_{out} equals the measured operating lamp wattage;

(2) P_{in} equals the measured operating input wattage;''

10 CFR 431.322 [16]

The meaning of the term ''P_{out}'' as currently defined for ballast efficiency is the same as DOE is proposing for ''lamp electrical power input.'' To avoid confusion where ''P_{out}'' refers to the lamp wattage when testing a ballast for HID fixtures, and ''lamp electrical power input'' refers to lamp wattage when testing a HID lamp, DOE proposes to amend the definition of ''ballast efficiency'' as follows: '' 'Ballast efficiency' means, in the case of a high-intensity discharge fixture, the efficiency of a lamp and ballast combination, expressed as a percentage, and calculated in accordance with the following formula: Efficiency = Lamp electrical power input/Ballast power input where:

(1) Lamp electrical power input means the total electrical power input to the lamp, including both arc and cathode power where appropriate, at the reference condition, units of watts;

(2) Ballast power input equals the measured operating input wattage;

(3) The lamp, and the capacitor when the capacitor is provided, shall constitute a nominal system in accordance with the ANSI C78.43 (incorporated by reference; see § 431.323);

(4) For ballasts with a frequency of 60 Hz, ballast power input and lamp electrical power input shall be measured after lamps have been stabilized according to section 4.4 of ANSI C82.6 (incorporated by reference; see § 431.323) using a wattmeter with accuracy specified in section 4.5 of ANSI C82.6; and

(5) For ballasts with a frequency greater than 60 Hz, ballast power input and lamp electrical power input shall have a basic accuracy of ±0.5 percent at the higher of either 3 times the output operating frequency of the ballast or 2.4 kHz.''

3. Definition of ''Basic Model'' for High-Intensity Discharge Lamps

DOE also proposes a definition of ''basic model'' for the HID lamp test procedures. DOE provides extensive discussion of the concept of ''basic model'' in the 2010 NOPR for certification, compliance, and enforcement. 75 FR 56796, 56798–99 (Sept. 16, 2010).

DOE proposes to define ''basic model'' for HID lamps as follows: '' 'Basic model' with respect to HID lamps means all units of a given type of covered equipment (or class thereof) manufactured by one manufacturer, having the same primary energy source and which have essentially identical electrical, physical, and functional (or hydraulic) characteristics that affect energy consumption, energy efficiency, water consumption, or water efficiency, and are rated to operate a given lamp type and wattage.''

DOE invites comment on the definitions set forth in this section.

[11] 10 CFR 430.2 defines lamp efficacy as ''the measured lumen output of a lamp in lumens divided by the measured lamp electrical power input in watts expressed in units of lumens per watt (LPW).'' 10 CFR part 430, subpart B, appendix R defines it as ''the ratio of measured lamp lumen output in lumens to the measured lamp electrical power input in watts, rounded to the nearest tenth, in units of lumens per watt.'' The primary difference between the definitions is the rounding of the values.

[12] DOE notes that EPCA defines ''lamp efficacy'' to mean the lumen output of a lamp divided by its wattage, expressed in lumens per watt. This proposed definition interprets the EPCA definition for this rulemaking.

[13] The EPCA definition for ''lamp wattage'' is ''the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.'' This proposed definition interprets the EPCA definition for this rulemaking.

[14] Luminous flux is the numerator in the lamp efficacy equation.

[15] Self-ballasted lamps have different characteristics from lamps that work with an external ballast. This definition is required to distinguish this lamp type.

[16] EPCA provides a similar definition for the ballast efficiency of an HID ballast and authorizes DOE to modify the definition as necessary or appropriate to carry out the purposes of EPCA. (42 U.S.C. 6291(59)) DOE proposes the amended definition for HID fixtures in accordance with this provision of EPCA because the proposed definition would eliminate ambiguity in the terms used to measure energy efficiency for HID fixtures.

B. Test Procedure for Measuring Energy Efficiency of High-Intensity Discharge Lamps

1. Test Setup and Conditions

The proposed test procedures adopt the methods and safety precautions set forth in ANSI C78.389 and LM–51 to obtain consistent and reproducible measurements of the electrical and photometric characteristics of HID lamps. In particular, the lamps being tested are to be operated at the specified conditions (*i.e.,* tested at a given temperature and air speed), with the appropriate power supply characteristics, the lamps operating on the reference circuit before measurements are taken, and the appropriate instrumentation. Each of these factors is described in the following discussion. Lamp stabilization and aging are discussed in section III.B.2, Lamp Selection and Setup.

As stated previously, photometric characteristics proposed to be measured are total luminous flux (lumens), luminous intensity (candelas), CCT, and CRI. Lamp electrical characteristics proposed to be measured are those required to calculate lamp efficacy during normal operation (*e.g.,* line voltage, lamp voltage, input current, and lamp electrical power input). All measured quantities are proposed to be obtained using an appropriately rated reference ballast or power source whose characteristics are within the required specifications listed in section III.B.1.c. The test equipment required to conduct all the test procedures' electric and photometric measurements is proposed to be calibrated and meet the required performance specifications in ANSI C78.389 and LM–51.

a. Ambient Conditions

The test apparatus must be operated in a location where ambient conditions (*e.g.,* ambient temperature and air speed) are stable, in accordance with the specifications listed as follows.

i. Ambient Test Temperature

DOE proposes an ambient temperature requirement of 25 °C ± 5 °C for HID lamp testing in accordance with ANSI C78.389. This is the industry standard temperature for testing most ballasted and non-ballasted light sources (both HID and other types of sources). It is also the temperature required by the MH lamp ballast [17] test procedures final rule. 75 FR 10950, 10956 (March 9, 2010). Although HID lamps are not as sensitive as other lamps to temperature, temperature still affects their performance such that it could affect test results. A specific, standardized, temperature allows for the use of relative photometry for light fixtures. Thus, an ambient temperature requirement of 25 °C ± 5 °C is followed in industry standards and practices for HID lamps. DOE invites comment on the proposed ambient temperature requirement.

ii. Air Speed

DOE proposes an air speed limit of ≤ 0.5 meters per second (m/s) for HID lamp testing because, as detailed in the following, higher air speeds affect photometric and electrical data measurements. Although LM–51, section 2.3, states that special precautions against normal room air movements are unnecessary, ANSI C78.389, section 3.3, states that ambient conditions shall be draft-free (but provides no definition of the term ''draft-free''). During the public meeting for the MH lamp ballast test procedures NOPR, the National Electrical Manufacturers Association (NEMA) requested a definition of ''draft-free.'' (Docket No. EERE–2008–BT–TP–0017, NEMA, No. 0013 at p. 13) [18] Following the public meeting and comment period, DOE received a comment from NEMA requesting that DOE either define ''draft-free'' or remove it from the MH lamp ballast test procedures. (Docket No. EERE–2008–BT–TP–0017, NEMA, No. 0024 at p. 3) In preparing the MH lamp ballast test procedures final rule, DOE reviewed industry test procedures for the topic of air speed. (Various documents use different terms; therefore, DOE also specifically reviewed the terms ''airflow'' and ''air movement.'') 75 FR at 10956 (March 9, 2010). DOE found that air speed requirements varied, with some industry test procedures using non-quantitative terms such as ''still air'' or ''draft free.'' This proposed HID lamps air speed requirement is the same as the MH lamp ballast testing requirement. DOE's view is that specifying a maximum air speed requirement as part of the test conditions acknowledges industry practices intended to minimize forced convection cooling that could affect measured photometric and electrical data. Thus, DOE proposes to adopt for HID lamp testing the air speed limit of ≤ 0.5 m/s used for testing MH lamp ballasts (75 FR at 10957 (March 9, 2010)) and invites comment on this proposed requirement.

b. Power Supply Characteristics

DOE proposes power supply characteristics for HID lamps test procedures based on ANSI C78.389 and LM–51, as follows.

i. Voltage Waveshape

DOE proposes to adopt the waveshape requirements set forth in ANSI C78.389 for HID lamp testing. DOE proposes that any lamp being tested be operated with a sinusoidal voltage supply waveshape as recommended by ANSI C78.389, section 3.2, which states that the waveshape of the power supply shall have a root-mean-square (RMS) [19] summation of the harmonic components that remains below 3 percent of the fundamental frequency (*i.e.,* the lowest frequency of the waveform). DOE invites comment on these proposed voltage waveshape requirements.

ii. Voltage Regulation

DOE proposes to adopt the voltage regulation requirements set forth in LM–51, section 3.2, for HID lamp testing, which states that the voltage regulation shall be within ± 0.1 percent. DOE also considered ANSI C78.389, section 3.2, which states that the power supply voltage should be regulated such that it will be steady and free of sudden changes (*e.g.,* noise, line transients) and shall be regulated to within ± 0.5 percent of the reference ballast voltage rating. ANSI C78.389, section 3.2, also notes that if automatic voltage regulation is not provided, constant checking and readjustments of the supply will be necessary for accurate lamp test measurements. DOE proposes to use the LM–51 requirement for voltage regulation, however, to minimize variations in electrical and photometric measurements and provide more consistent test measurements. DOE proposes that voltage regulation be within ± 0.1 percent of the reference ballast voltage rating. DOE invites comment on the voltage requirements proposed.

iii. Power Supply Impedance

For HID lamp testing, DOE proposes to adopt the power supply impedance

[17] MH (metal halide) is one of the three types of HID lamps.

[18] A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to develop test procedures for metal halide lamp ballasts (Docket No. EERE–2008–BT–TP–0017), which is maintained at *http://www.regulations.gov*. This notation indicates that the statement preceding the reference is document number 0013 in the docket for the metal halide lamp ballasts test procedures rulemaking, and appears at page 13 of that document.

[19] RMS—is the root-mean-square and comes from a mathematical formula that calculates the ''effective'' value of any alternating current wave shape. ''True'' means that the RMS is calculated to the formula where ''average responding'' use scaling function to calculate the value. ''True'' is the more accurate type.

measurement method and impedance limit specified in ANSI C78.389, section 3.2, which requires that power supply impedance remain at or below 2 percent of the reference ballast impedance, measured at the point where the reference ballast and lamp are connected. This method requires that variable autotransformers or other voltage transformation devices have kilovolt-ampere ratings of at least five times the lamp wattage. DOE invites comment on this proposed power supply impedance measurement method and impedance limit.

c. Reference Ballasts

DOE proposes to adopt the reference ballast requirements of ANSI C78.389 for HID lamp testing. For HID lamp measurements (electrical and photometric), ANSI C78.389, section 3.4, requires that tested lamps be operated with (1) An appropriately rated reference ballast or (2) a reference ballast with variable impedance that can be set to match the impedance and electrical requirements for each lamp type to be tested. ANSI C78.389 states that the reference ballast should have the impedance and the electrical characteristics required by the lamp being tested to prevent the measured characteristics from differing from those stated by the lamp manufacturer. DOE notes that a ballast with different electrical characteristics, regardless of its impedance, can materially alter the measured electrical characteristics of the lamp.[20] If electrical readings are to be taken on a lamp for which no ANSI standard exists, DOE proposes that the HID reference ballast have impedance appropriate for the lamp as specified in the standards incorporated by reference in ANSI C78.389.

DOE has determined that reference ballasts are readily available, based on review of industry literature, communication with independent testing laboratories, and communication with industry, and that their use is likely to provide repeatable and consistent measurements. DOE invites comment on its proposed reference ballast requirements based on ANSI C78.389.

d. Instrumentation

DOE proposes to adopt the electrical and photometric instrumentation requirements of ANSI C78.389 and LM–51, respectively, for its HID lamp test procedures. The instruments proposed here for electrical measurements are described in ANSI C78.389, section 3.8. The instruments proposed here for photometric instruments are described in LM–51, section 9.0. These instrumentation requirements for electrical and photometric measurements are detailed in the following sections.

i. Instrumentation Required for Electrical Measurement

DOE proposes that instruments used for electrical measurements be accurate to better than 0.75 percent over a frequency range of 40 to 1000 Hz, with calibration capability (*e.g.,* scale calibration). These accuracy and range requirements are the same as the industry requirement in ANSI C78.389, section 3.8.1.

DOE also proposes that instrument impedance be high compared to the load impedance (high impedance is typically in the megaohm range) for voltage measurements, and low compared to the load impedance (low impedance is typically in the milliohm range) for current measurements to reduce the effects of the measurement instrumentation in the circuit. Specifically, for lamp current measurements, instruments connected in series with the HID lamp being tested would have an impedance such that the voltage drop remains at or below 2 percent (1 percent for HPS lamps) of the rated lamp voltage under the proposal, unless the instrument impedance has already been included as part of the reference ballast impedance. If corrections for the presence of instrumentation in the circuit are to be avoided, the voltage drop shall be at or below 0.75 percent (0.50 percent for HPS lamps) of the rated lamp voltage. For lamp voltage measurements, instruments connected in parallel with the lamp being tested are proposed to not draw more than 1 percent of the rated lamp current. If the correction due to the presence of such instruments is to be avoided, then the current draw is proposed to be limited to 0.5 percent of the rated lamp current. These proposals are consistent with section 3.8.2 of ANSI C78.389.

DOE proposes that instruments selected for HID lamp voltage and current measurement be of the true RMS type and have a specified accuracy and frequency response adequate to meet the specified uncertainty requirements (*i.e.,* ±0.5 percent for voltage and current and ±0.75 percent for wattage).

ii. Instrumentation for Photometric Measurement

DOE proposes that the photometer have a relative spectral responsivity that approximates that of the human eye (*i.e.,* the V-lambda (V(λ)) function). DOE accepts use of either an integrating sphere or a goniophotometer for such measurements. DOE proposes that photometric measurements of color characteristics be specified in terms of the CIE colorimetry system and CRI. LM–51 provides further details regarding photometric measurements as well as colorimetry and CRI.

In the case of integrating sphere measurements, the spectral responsivity would be measured taking into account the relative spectral throughput of the sphere and detector spectral responsivity.[21] The detector used in an integrating sphere measurement must have a wide field of view (approximating a cosine response) to maximize the sampled area of the sphere wall during measurement. If a diffuser is used on the detector, its surface would need to be mounted flush with the sphere wall.

An integrating sphere for luminous flux measurements must be large enough to allow the sphere's interior ambient temperature to reach thermal equilibrium at the specified ambient temperature and to permit the internal baffle(s) to be small relative to the size of the integrating sphere.

For measurements using a goniophotometer, DOE proposes that the detector required for intensity distribution measurements have a cosine response. This proposed requirement is particularly important for those cases in which the calibration source subtends a smaller viewing angle than the test source. The intensity distribution around a lamp would be determined with a photometer at a recommended minimum distance of five times the longest dimension of the lamp. The axis of rotation used to vary the angle between the lamp and the detector is to preserve the lamp orientation relative to the detector to provide measurement consistency and repeatability.

These proposals are consistent with LM–51–00. DOE invites comment on these proposed requirements for instrumentation.

[20] ANSI C78.389 states that measuring lamp characteristics using ballasts other than reference ballasts produces results that are not consistent with these test procedures and are only valid for the ballast and circuit used to obtain the results.

[21] The relative spectral throughput of an integrating sphere is the ratio of the spectral irradiance on the detector port of the sphere by a reference light source and the spectral irradiance of the same source measured outside the integrating sphere.

2. Lamp Selection and Setup

a. Basic Model

For HID lamp testing, DOE proposes that the energy efficiency characteristics of each basic model be determined using these test procedures. As discussed in section III.A.2, a ''basic model'' is a group of lamp models that are essentially identical in design and performance. The rated performance characteristics proposed to be measured (*i.e.,* lumen output, CCT, and CRI) should be similar for all of the lamps represented by a basic model.

b. Sampling Plans

For HID lamp testing, DOE proposes a lamp sampling method similar to that used for general service fluorescent lamps, incandescent reflector lamps, and general service incandescent lamps (GSFL/GSIL/IRL).[22] 10 CFR 430.27(a)(2)(i)–(ii)

DOE proposes to adopt the lamp sampling method from 10 CFR 429.27 for HID lamp testing as follows:

For each basic model of HID lamps, samples of production lamps from a minimum sample size of 21 lamps are to be tested, and the results for all samples are to be averaged over a consecutive 12-month period. The manufacturer is to randomly select a minimum of three lamps from each month of production for a minimum of 7 months out of the 12-month period. If production occurs during fewer than 7 of such 12 months, the manufacturer is to randomly select three or more lamps from each month of production, and the number of lamps selected for each month is to be distributed as evenly as practicable among the months of production to obtain a minimum sample of 21 lamps. Due to inherent uncertainty in any sample measurement, the confidence limit is set to 95 percent based on the sample's statistical t-test.[23] Any represented characteristic value of a basic model is to be based on this sample and this characteristic value is to be no greater than the lower of:

(A) The mean of the sample, where:

$$\bar{X} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and $\bar{X}$ is the sample mean of the characteristic value,[24]
n is the number of samples, and
x_i is the ith sample;

Or,

(B) The lower 95 percent confidence limit (LCL) of the characteristic value true mean divided by 0.97, where:

$$LCL = \bar{X} - t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

and $\bar{X}$ is the sample mean of the characteristic value,
s is the sample standard deviation,
n is the number of samples, and
$t_{0.95}$ is the t statistic for a 95-percent one-tailed confidence interval with n-1 degrees of freedom (from statistical tables).

In determining the proposed sampling plan requirements, DOE reviewed sample size requirements for voluntary programs for HID lamps (ENERGY STAR®), European testing requirements, and sample size requirements for other lighting technologies.

ENERGY STAR luminaires (*i.e.,* light fixtures) specification includes testing requirements for luminaires using HID lamps. Metal halide (quartz and ceramic) and HPS lamps are the only HID lamps allowed for ENERGY STAR-qualified luminaires. ENERGY STAR lamp-ballast efficacy testing requires a minimum sample of three lamp-ballast combinations. The remaining ENERGY STAR criteria (CCT, CRI, and lumen maintenance) require a minimum 10 samples of each lamp model be tested.

In 2009, Commission Regulation (EC) No 245 was published in the *Official Journal of the European Union.* This document included both energy efficiency standards and testing requirements for fluorescent and HID lamps. Annex IV of the document defines the sample size for all lamps as a total of 20 lamps of the same model and from the same manufacturer, randomly selected.

DOE also surveyed testing requirements for non-HID light sources. In 2011, the IES published TM–21–11, which provides the methodology for the lumen maintenance of light-emitting diode (LED) sources and requires a sample size of 20 LEDs. Covered lighting products and equipment where non-power values are being measured (*e.g.,* lumens, CCT, CRI, lumen maintenance) typically have sample sizes of 21 including general service fluorescent, general service incandescent, and incandescent reflector lamps (10 CFR 429.27) and candelabra base incandescent lamps and intermediate base incandescent lamps (10 CFR 429.40). Bared or covered (no reflector) medium base compact fluorescent lamps (CFLs), however, have sample sizes that vary with the value being measured. Only 5 lamps are needed for efficacy or lumen maintenance, 6 unique (and not previously tested) lamps are required for rapid cycle stress testing, and a minimum of 10 units are required for life testing for these CFLs.

Based on its review of sample size requirements, DOE proposes to use a sample size of 21 for HID lamps. This is the same requirement as GSFL/GSIL/IRL, and is similar to the European Union's requirement of 20 samples. An odd number of lamps is required to establish a majority of surviving or failed lamps for life testing, whereas an even number could produce a 50–50 split. Although lamp life is not a metric required in these proposed test procedures, manufacturers will likely use the same set of lamps for life testing as they do for the lumen maintenance testing. The sample size of 21 addresses the variability in lamp production, and the 95 percent confidence limit minimizes the tolerances in the testing instrumentation.

In summary, DOE proposes to base the sampling method for HID lamp testing on the method set forth in 10 CFR 429.27. For each basic model of HID lamp, DOE proposes that the same samples be used for measuring color characteristics as were used for luminous output (*i.e.,* lumens and candelas (where required)) and power. The sampling method for HID lamps would be set forth as a new section in 10 CFR part 429. DOE invites comment on the accuracy and applicability of the proposed sampling method, and whether an alternative sampling method would be more appropriate for HID lamps.

c. Lamp Aging and Stabilization

For HID lamp testing, DOE proposes a lamp aging method based on ANSI C78.389, section 3.7, to ensure stable photometric, color, and electrical characteristics of the lamp being tested. Aging is performed once, for 100 hours, on every lamp before stabilization and testing. ANSI C78.389, section 3.7, requires that, during the aging period, the lamp be operated in the same orientation in which it will be used.[25] DOE invites comment on the proposed lamp aging method for HID lamp testing. Standard lamp orientation

[22] DOE is currently amending the GSFL/GSIL/IRL test procedures. 76 FR 566661 (Sept. 14, 2011).

[23] A t-test is used to determine if two sample groups from the same population are ''statistically'' different, *e.g.,* variability of distribution about the sample mean. The t-test evaluates this statistical difference by calculating the ratio of sample group mean difference to group variance. This ratio is analogous to a signal to noise ratio: the higher the ratio, the less likely it is that the difference between the two groups is random.

[24] The characteristic value represents the individual observations within a sample.

[25] For example, if the lamp is to be operated in the base-down position, the lamp must be operated (''burned in'' or ''aged'') in that base-down position.

(burning position) would be base up unless otherwise designated by the manufacturer.[26]

Lamps being tested for lumen maintenance are proposed to be operated with an appropriately rated ballast as described in section III.B.1.c, or power source under specified normal operating conditions, defined in the following sections, and be operated in the same orientation used for the test procedures.

DOE also proposes a lamp stabilization method based on ANSI C78.389, section 3.7. Under this proposal, after its one-time aging period, a lamp being tested should achieve stable operation prior to any measurements. DOE included metal halide lamp operational stability in the MH lamp ballast test procedures final rule, determining operational stability for tested ballasts based on three consecutive measurements of lamp power, 5 minutes apart, in which the three measurements had to remain within 2.5 percent tolerance. 75 FR at 10958 (March 9, 2010). As detailed in ANSI C78.389, section 3.7, HID lamp stabilization requirements vary with lamp type. Table III.1 lists the lamp warm-up, stabilization, and re-stabilization requirements for MV, HPS, and MH lamps under ANSI C78.289. For example, MV lamps require a 15 to 20 minute warm-up period, with stable operation indicated by three consecutive measurements of the lamp's electrical characteristics over a 15 minute period that vary by 1 percent or less.

TABLE III.1—ANSI C78.389 HID LAMP WARM-UP AND STABILIZATION CRITERIA

Lamp type	Lamp warm-up time	Stabilization criteria
MV	15–20 mins	3 successive measurements (voltage and current). 5 minute measurement intervals. Change in value < 1.0%.
HPS	1 hour	3 successive measurements (voltage and current). 10–15 minute measurement intervals. Change in value < 1.0%.
MH	6 hours operated within ±10% rated wattage	3 successive measurements (voltage and current). 10–15 minute measurement intervals. Change in value < 3.0%.

For HID lamp testing, DOE proposes to adopt the more detailed lamp-specific stabilization requirements of ANSI C78.389, section 3.7, as shown in Table III.1. DOE invites comment on these proposed requirements, as well as any appropriate alternative lamp stabilization procedures.

d. Lamp/Circuit Transfer

DOE proposes to adopt the lamp transfer and re-stabilization methods of ANSI C78.389, section 3.7, for HID lamp testing. HID lamps are very sensitive to movement once they are warmed up and stabilized. Therefore, any significant movement or disturbance could destabilize the lamp operation, altering its output or electrical characteristics and requiring the lamp to be re-stabilized prior to testing. The re-stabilization time varies by lamp type, whether the lamp arc has been extinguished, and whether lamp orientation has changed. Lamps are often ''pre-burned'' on a different ballast than that used for final electrical and photometric testing, which requires moving and re-stabilizing the lamp before final testing can begin.

The lamp cool down and transfer requirements of ANSI C78.389, section 3.7, are shown in Table III.2. The requirements vary by HID lamp type and with the specifics of the lamp movement. Under ANSI requirements, MH lamps that will be physically relocated without a change in orientation must be allowed to cool to 60 °C before moving and then be warmed up for 30 minutes in the new location before stabilization measurements may begin. If its orientation changes, the MH lamp is to be operated for 6 hours in the final testing orientation before stabilization measurements may be taken. HPS lamps require a cooling period of at least 1 hour before the lamps may be moved and restarted prior to stabilization measurements. MV lamps do not require cooling, but must be warmed up before stabilization measurements may be taken after the lamps are moved.

Alternatively, LM–51, section 6.2, states that stabilization may be minimized by switching the lamp between ballasts without extinguishing the arc. Less warm-up time is required if the two ballasts being switched are electrically equivalent; otherwise, an additional warm-up period of 5 to 10 minutes may be required. According to LM–51, section 6.2, some HID lamps may require a brief cooling period before testing may be restarted, in which case another 10 to 30 minutes of warm-up time may be required before stabilization measurements may be taken. LM–51 does not specifically give guidance regarding the cooling requirements, whereas ANSI C78.389 gives specific requirements (*e.g.,* time or temperature) for cooling. LM–51 also generalizes re-stabilization, whereas ANSI C78.389 provides specific guidance for re-stabilization requirements for each of the HID lamp types. Therefore, given the sensitivity to movement of certain types of HID lamps, DOE has opted for the ANSI C78.389 re-stabilization requirements.

TABLE III.2—ANSI C78.389 HID LAMP COOL DOWN AND RE-STABILIZATION REQUIREMENTS

Lamp type	Cooling requirement	Re-stabilization time
MV	None	Not in standard, Reconfirm stabilized operations upon transfer/restrike.
HPS	Allow to cool for 1 hour minimum before relocating.	Not in standard, Reconfirm stabilized operations upon transfer/restrike.

[26] Lamp orientation is designated in the lamp designation (catalog code) and included in manufacturer catalogs, specification sheets, and the packaging.

TABLE III.2—ANSI C78.389 HID LAMP COOL DOWN AND RE-STABILIZATION REQUIREMENTS—Continued

Lamp type	Cooling requirement	Re-stabilization time
MH	Cool to below 60 °C if relocating	No relocation no reorientation—30 minutes, Relocation with no reorientation—30 minutes, Reorientation—6 hours.

In summary, DOE proposes to adopt the lamp transfer and re-stabilization methods of ANSI C78.389, section 3.7, for HID lamp testing, as summarized in Table III.2. DOE invites comment on these proposed methods, as well as any alternative appropriate lamp transfer and re-stabilization methods.

e. Lamp Orientation

DOE proposes to adopt the lamp orientation requirements of ANSI C78.389, section 3.6, for HID lamp testing. Lamp orientation is critical for the testing of most HID lamps, and industry procedures have been developed to ensure the correct orientation is maintained for consistent electrical and photometric measurements.

ANSI C78.389, section 3.6, requires that a lamp marked or designated on the lamp's data sheet for use in a specific operating position be tested in that position. If no operating position is specified or the lamp is marked ''universal,'' the lamp is to be operated in the base up position.

In contrast, LM–51 does not contain lamp orientation requirements for testing, except to note that lamp orientation during warm-up must be the same as that during photometry. LM–51 also states that the manufacturer's specifications should be consulted for any restrictions on lamp orientation.

In summary, DOE proposes to adopt the more specific lamp orientation requirements of ANSI C78.389, section 3.6, for HID lamp testing because ANSI provides specific guidance for both MH and MV lamps where lamp position is critical. ANSI C78.389 also provides default guidance if no position is specified. DOE invites comment on these proposed requirements, as well as on any appropriate alternative lamp testing orientation requirements.

3. Special Considerations for Directional Lamps

Directional lamps, which are typically reflector lamps with a discernible beam pattern, have different set-up and measurement requirements than do omni-directional lamps. Care must be taken to ensure a directional lamp is properly positioned prior to testing for accurate measurement of center beam intensity and beam angle. There are also additional calculations required to determine the beam angle of directional lamps. DOE proposes that set-up and measurement of directional lamps be done in accordance with ANSI C78.379, which provides classification of beam patterns and specification of directional lamp measurement and evaluation. DOE invites comment on its proposal to adopt the test methods outlined in ANSI C78.379 for directional lamps.

C. Laboratory Accreditation Program

DOE proposes to adopt the requirements for selecting testing laboratories for HID lamps from the GSFL/GSIL/IRL test procedures final rule. 74 FR 31829, 31841 (July 6, 2009). That rule states that testing is to be conducted by test laboratories accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) or by an accrediting organization recognized by NVLAP. NVLAP establishes standards for the accreditation of laboratories that test for compliance with relevant industry standards pursuant to 15 CFR 285.3. A manufacturer's or importer's own laboratory, if accredited, may be used to conduct the applicable testing. 15 CFR 285.3

DOE invites comment on these proposed requirements, as well as any alternative requirements for testing laboratory selection.

D. Test Measurements and Calculations

1. Measurement and Calculation of Efficacy

DOE proposes that HID lamp efficacy be calculated as the lumen output divided by the input lamp wattage measured, with the resulting quotient rounded off to the nearest tenth of a lumen per watt. This requirement is consistent with the 2009 GSFL/GSIL/IRL test procedures final rule, in which DOE required testing to a tenth of a lumen per watt. 74 FR 31829, 31836 (July 6, 2009). DOE invites comment on this proposed efficacy calculation method.

2. Measurement and Calculation of Center Beam Intensity and Beam Angle

As indicated in section III.B.3, directional lamps have different set-up and measurement requirements than do omni-directional lamps. DOE proposes to adopt the procedure described in ANSI C78.379 for measuring center beam intensity, beam angle, and other relevant characteristics of directional lamps with symmetrical or asymmetrical beams. For lamps with complex beam patterns (*e.g.,* containing multiple lobes of varying intensity), DOE proposes to adopt the procedure described in ANSI C78.379, annex A, for HID lamp testing. DOE invites comment on the proposed test procedures, as well as any appropriate alternative test procedures for center beam intensity measurement.

3. Test Method for Measuring Lumen Maintenance

DOE received comments on the proposed HID lamps determination from NEMA supporting DOE's inclusion of lumen maintenance in potential energy conservation standards. (Docket No. EERE–2006–DET–0112, NEMA, No. 0021 at p. 2) DOE proposes to include measuring lumen maintenance (*i.e.,* the percentage (or fraction) of lamp light output relative to initial output, over time) for HID lamps. As discussed in the HID lamp determination technical support document, different manufacturers choose different points of rated life to measure lumen maintenance for the different HID lamps.[27] The proposed DOE test method for lumen maintenance would provide a standard measurement for this metric. In addition, lumen maintenance is a more significant issue for HID lamps than for other electric lamps, and DOE already measures lumen maintenance for compact fluorescent lamps, using the procedure at 10 CFR part 430, subpart B, appendix W. For HID lamp testing, DOE proposes to adopt the test method described in LM–47, wherein lamp lumen maintenance is determined after initial lamp aging and initial lumen output measurement. At a minimum, the lumen maintenance measurements are to be collected at 40 percent and 70

[27] U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy. Energy Conservation Program for Commercial and Industrial Equipment: Technical Support Document: High-Intensity Discharge Lamps Analysis of Potential Energy Savings Final Determination. June 2010. Washington, DC *www1.eere.energy.gov/buildings/appliance_standards/commercial/pdfs/hid_nod_tsd_ch3_ta_07_01_2010.pdf.*

percent of rated lamp life, as described in LM–47.

DOE invites comment on the proposed test method, as well as any appropriate alternative test method for determining HID lamp lumen maintenance.

4. Measurement and Calculation of Correlated Color Temperature and Color Rendering Index

DOE proposes to adopt CCT and CRI measurement methods based on CIE 15 and CIE 13.3. The CIE is internationally accepted as the authority for industry standards and references for color, colorimetry, and related practices and procedures. CIE recommendations are peer-reviewed by committee and revised and expanded as needed given new developments in lighting practice and science. DOE has previously incorporated these standards in the GSFL/GSIL/IRL test procedures final rule. 74 FR 31829, 31834 (July 6, 2009).

In the past, DOE has used CCT to define and categorize certain kinds of lamps (*e.g.,* modified-spectrum fluorescent and incandescent lamps, and general service fluorescent lamps). DOE also created product classes and set efficacy standards based on CCT in the GSFL/GSIL/IRL test procedures final rule. 74 FR at 34097 (July 6, 2009). DOE is considering chromaticity (CCT) as a means to define equipment classes and set energy conservation standards for HID lamps. Currently, there are no industry-accepted color/chromaticity guidelines for HID lamps. DOE examined industry practices and, in particular, the recommendations from IES and CIE organization and industry standards regarding color. For HID lamp testing, DOE proposes to adopt the procedures and methods in CIE 15 to determine HID lamp CCT.

DOE is also considering CRI as a means to define equipment classes and set energy conservation standards for HID lamps. DOE proposes to adopt the methods and procedures set forth in CIE 13.3 to determine lamp CRI. In particular, the methods identified in CIE 13.3 determine a set of 14 special CRI values, 8 of which are used to calculate the lamp CRI.[28] [29]

DOE invites comment on the proposal to adopt the procedures and methods set forth in CIE 15 to determine lamp CCT, and the procedure and methods in CIE 13.3 to determine CRI, as well as any appropriate alternative methods for determining these lamp color properties.

E. Standby Mode and Off Mode Energy Usage

As discussed previously in section II, there is no standby mode or off mode energy use by HID lamps. DOE has preliminarily concluded that HID lamps do not operate in a standby or off mode. If a covered product is a single-function product and does not offer any secondary user-oriented or protective functions, it does not satisfy the EPCA definition for ''standby mode.'' (42 U.S.C. 6259(gg)(1)(A)(iii)) All covered equipment that meets a relevant definition of HID lamp is single-function equipment that does not offer any secondary user-oriented or protective functions, thus HID lamps do not operate in standby mode. With respect to off mode, HID lamps must be entirely disconnected from the main power source (*i.e.,* the lamp is switched off) in order to not provide any active mode or standby mode functions (*i.e.,* emit light or instant start readiness state), to meet the second provision in the definition of ''off mode.'' (42 U.S.C. 6259(gg)(1)(A)(ii)) [30] Therefore, DOE has determined that the HID lamps that are the subject of this rulemaking do not operate in standby mode or off mode, and does not propose to incorporate a test method for either of these modes into the test procedures for HID lamps.[31]

F. Effective Date and Compliance Date to the Test Procedures and Compliance Date for Submitting High-Intensity Discharge Certification Reports

The effective date for these test procedures would be 30 days after publication of any final test procedures in the **Federal Register**.

The compliance date for making any representations of the energy efficiency derived from the test procedures is 180 days from the date of the publication of any final test procedures in the **Federal Register**. On or after that date, any such representations, including those made on marketing materials and product labels, would be required to be based on results generated under the final test procedures and the applicable sampling plans.

Until DOE establishes energy conservation standards for HID lamps, manufacturers, including importers, are not required to submit compliance statements or certification reports for HID lamps. DOE will address these requirements should DOE establish energy conservation standards for HID lamps.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug.16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's web site: *http://www.gc.doe.gov*.

Today's proposed rule would adopt test procedures for HID lamps based on active industry testing standards, ANSI C78.379, ANSI C78.389, CIE 13.3, CIE 15, IES LM–47, and IES LM–51. DOE

[28] The special values or indices are not actually measured. Standard measurement software incorporates algorithms that compare the measured color information against the indices. CRI then averages the values for special values 1–8.

[29] DOE notes that individual special CRI values can also be used to assess the color rendering or reproduction ability of a lamp for a certain color or colors. When a lighting application requires saturated color rendering to provide accurate or enhanced color appearance, however, the CRI value may not provide sufficient information to make the appropriate choice of lamp. The special CRI value R_9 provides additional color rendering information necessary to select lamps. DOE may consider the CRI value R_9 in setting standards for HID lamps but does not propose measurement of that value in today's test procedures for HID lamps.

[30] While EPCA authorizes DOE to amend these mode definitions, DOE believes that amendment is unnecessary because the active mode definition is appropriate for HID lamps, and the proposed active mode test procedure accounts for the energy use of these lamps.

[31] In the GSFL/GSIL/IRL test procedure final rule, DOE concluded that measuring off mode and standby mode energy consumption is not applicable to GSFL, GSIL, and IRL because, according to the definitions of ''standby mode'' and ''off mode,'' current technologies of GSFL, GSIL, and IRL do not employ these two modes of operation. As such, DOE did not expand the test procedures to incorporate measurement methods for off mode or standby mode energy consumption of GSFL, GSIL, and IRL. 74 FR 31820, 31833 (July 6, 2009).

has reviewed today's proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. For the reasons explained as follows, DOE certifies that this test procedure rulemaking would not have a significant economic impact on a substantial number of small entities.

The Small Business Administration (SBA) has set size standards for an entity to be classified as a ''small business'' for the purpose of the regulatory flexibility analysis. DOE used the SBA's size standards to determine whether any small entities would be required to comply with the rule. *See* 13 CFR part 121. The size standards are listed by NAICS code and industry description and are available at *http://www.sba.gov/sites/default/files/Size_Standards_Table.pdf*. DOE identified applicable size standards for HID lamp manufacturers as NAICS 335110, ''Electric Lamp Bulb and Part Manufacturing,'' and NAICS 335121, ''Residential Electric Lighting Fixture Manufacturing.'' The SBA's size standard for the respective NAICS codes are 1,000 employees or less (NAICS 335110) and 500 employees or less (NAICS 335121).

DOE examined small business manufacturers of equipment covered by this rulemaking to determine whether any of these manufacturers qualified as a small business under the SBA size standards. DOE conducted a market survey in which it reviewed industry trade association membership directories (including NEMA), individual company Web sites, and marketing research tools (*e.g.,* Dun and Bradstreet reports, Manta) to create a list of companies that manufacture or sell HID lamps covered by this rulemaking. Using these sources, DOE identified 15 possible manufacturers of HID lamps. Table IV.1 lists these manufacturers, the primary NAICS code for the company, and the SBA size standard for the applicable NAICS code.

TABLE IV.1—POSSIBLE MANUFACTURERS OF HID LAMPS

Manufacturer	NAICS code	SBA threshold
Eiko	423610	100 employees.
Eye (Iwasaki)	335121	500 employees.
Fulham	335311	100 employees.
GE Lighting	335121	500 employees.
Halco	423610	1,000 employees.
Havells	335110	1,000 employees.
LiteTronics	423610	1,000 employees.
OSRAM SYLVANIA	423490	100 employees.
Philips	339112	500 employees.
Superior Lamp Inc	335110	1,000 employees.
Superior Lamp Inc	335110	1,000 employees.
Technical Consumer Products (TCP Inc.)	452990	$30M in sales.
Topaz	423610	100 employees.
Ushio America	423610	100 employees.
Venture	335110	1000 employees.
Westinghouse Lighting	423610	100 employees.

Of the 15 companies listed in the table,[32] DOE could not identify any small business manufacturers. All of the companies either exceeded the applicable size standard, were foreign owned and operated, or were not manufacturers of HID lamps.

In addition, DOE notes that the proposed test procedures for HID lamps are based on test procedures developed and already in general use by industry. These are the same industry standards that manufacturers would need for existing voluntary performance standards, such as the ENERGY STAR program requirements that are the basis for the proposed test procedures. The costs of this testing are described in the following paragraph.

DOE reviewed the potential costs for testing basic models of HID lamps for lumen output, power input, lumen maintenance, color characteristics, and, when applicable, intensity. Recently, NEMA provided a detailed list of costs for testing the lifetime of general service incandescent lamps. Although this is a different product, the two test procedures share elements. Per NEMA's itemized list, $66 is needed for materials per lamp tested and labor and benefits equate to $30 per lamp tested. (Docket No. EERE–2011–BT–TP–0012, NEMA, No. 0008 at p. 4) The HID lamps test procedures involve more tasks (*i.e.,* measuring lumens, measuring power, measuring color characteristics, lumen maintenance) than a lifetime test (*e.g.,* operating the lamps until a sample population fails); therefore, labor and material costs will probably be somewhat greater for the HID test procedures. DOE estimates approximately between $100 to $200 in both materials and labor per lamp for the HID lamp test procedures. Therefore, with a sample size of 21, the total costs per basic model are between $2,100 and $4,200.

In this NOPR, DOE also proposes to require test facilities conducting HID lamp efficacy, color, and lumen maintenance testing to be accredited by NVLAP or an organization recognized by NVLAP. When accreditation is sought for the first time, DOE has determined that NVLAP imposes fees of $9,000 and $8,000 on years one and two of accreditation, respectively. For the years following, the fees alternate between $5,000 and $8,000, with the $8,000 fee corresponding to the on-site evaluation required every other year. DOE does not expect this requirement to impose a significant additional burden for most manufacturers. Most HID lamp manufacturers also make other lamps that are currently covered products (*e.g.,* GSFL, GSIL, IRL, medium-base compact fluorescent lamps). The test procedures for those lamps already require a laboratory accredited by NVLAP or an NVLAP-recognized organization.

Because the proposed test procedure incorporates the same industry standards that manufacturers would need for existing voluntary performance standards, such as the ENERGY STAR program requirements that are the basis for the proposed test procedures, and because NVLAP certification is already required for other types of lamps typically made by HID manufacturers,

[32] Table IV.1 has 16 entries because DOE located two headquarters for Superior Lamp Inc.; however, both headquarters appear to belong to the same company.

DOE does not find that the requirements in this document would result in any significant increase in testing costs.

For the reasons stated in this section, DOE certifies that this proposed rule would not have a significant impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b). DOE seeks comment regarding whether the proposed amendments in today's rule would have a significant economic effect on any small entities.

C. Review Under the Paperwork Reduction Act of 1995

There is currently no information collection requirement related to the test procedure for HID lamps. In the event that DOE proposes an energy conservation standard with which manufacturers must demonstrate compliance, or otherwise proposes to require the collection of information derived from the testing of HID lamps according to this test procedure, DOE will seek OMB approval of such information collection requirement.

Manufacturers of covered products must certify to DOE that their products comply with any applicable energy conservation standard developed by DOE. In certifying compliance, manufacturers must test their products according to the applicable DOE test procedure, including any amendments adopted for that test procedure.

DOE established regulations for the certification and recordkeeping requirements for certain covered consumer products and commercial equipment. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping was subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement was approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the certification was estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

As stated above, in the event DOE proposes an energy conservation standard for HID lamps with which manufacturers must demonstrate compliance, DOE will seek OMB approval of the associated information collection requirement. DOE will seek approval either through a proposed amendment to the information collection requirement approved under OMB Control Number 1910–1400 or as a separate proposed information collection requirement.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this proposed rule, DOE proposes test procedures that it expects will be used to develop and implement future energy conservation standards for HID lamps. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would establish test procedures without affecting the amount, quality, or distribution of energy usage, and therefore would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A6 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR at13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the equipment that are the subject of today's proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, section 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely

to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://www.gc.doe.gov.* DOE examined today's proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's regulatory action to create the test procedures for measuring the energy efficiency of HID lamps is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The proposed test procedures incorporate testing methods contained in the following commercial standards:

1. ANSI C78.379–2006, ''For Electric Lamps—Classification of Beam Patterns of Reflector Lamps'';
2. ANSI C78.389–R2009, ''For Electric Lamps—High Intensity Discharge—Methods of Measuring Characteristics'' (sections 1.0, 2.0, 3.0, and Figure 1);
3. CIE 13.3–1995, ''Technical Report: Method of Measuring and Specifying Colour Rendering Properties of Light Sources'';
4. CIE 15:2004, ''Technical Report: Colorimetry'';
5. IES LM–47–01, ''Approved Method for Life Testing of High Intensity Discharge (HID) Lamps''; and
6. IES LM–51–00, ''Approved Method for the Electrical and Photometric Measurements of High Intensity Discharge Lamps'' (sections 1.0, 3.2, 9.0, 10.0, 11.0, and 12.0).

DOE evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the Federal Energy Administration Act, (*i.e.,* that they were developed in a manner that fully provides for public participation, comment, and review). Before prescribing a final rule, DOE will consult with the Attorney General and the Chairman of the FTC about the effect of these test procedures on competition.

V. Public Participation

A. Attendance at Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov.* As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/high_intensity_discharge_lamps.html.*

Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statement for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

C. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via regulations.gov. The regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. Email submissions are preferred. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked

confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

DOE proposes that HID lamp efficacy testing be based on the industry standards ANSI C78.379, ANSI C78.389, CIE 13.3, CIE 15, LM–47, and LM–51.

DOE invites comments and data on the proposed HID lamp test procedures. Although comments are welcome on all aspects of this rulemaking, DOE is particularly interested in comments on the following:

1. Definitions

DOE seeks comments on all of the proposed definitions in this NOPR; see section III.A.

2. Ambient Test Temperatures

DOE invites comments and data on the applicability of the proposed ambient test temperature requirements (25 °C ±5 °C) based on ANSI C78.389. DOE is particularly interested in comments on whether an alternate set of ambient test conditions might be more appropriate for HID lamp testing. See section III.B.1.a.i for a discussion of the proposed ambient temperature conditions.

3. Air Speed

DOE invites comments and data on the appropriateness of adopting the maximum air speed limit (5 ≤ meters per second) for HID lamp testing that DOE required for the MH lamp ballast test procedures. See section III.B.1.a.ii for a discussion of the proposed air movement requirements.

4. Power Supply Characteristics

DOE invites comments on the appropriateness of adopting the waveshape and power source impedance requirements set forth in ANSI C78.389 and the voltage regulation requirement set forth in LM–51, as summarized and discussed in section III.B.1.b.

5. Reference Ballasts

DOE invites comments on the proposed reference ballast requirements and the appropriateness of adopting the recommendations in ANSI C78.389, as summarized and discussed in section III.B.1.c.

6. Instrumentation

DOE invites comments on the proposed instrumentation specifications and the appropriateness of adopting these requirements from the industry standards ANSI C78.389, section 3.8, and LM–51, section 9.0, as summarized and discussed in section III.B.1.d.

7. Sampling Plans

DOE invites comments and data on the precision and applicability of the proposed sample of 21 for HID lamps for testing. DOE seeks comments on whether an alternative sampling method exists that might be more appropriate for HID lamps. See section III.B.2.b for a discussion of the proposed sampling method.

8. Lamp Aging and Stabilization

DOE invites comments and data on the applicability of the proposed 100-hour lamp aging requirement and lamp stabilization method, both of which are set forth in ANSI C78.389, section 3.7. DOE is particularly interested in whether a preferred lamp aging or lamp stabilization approach exists within the industry. See section III.B.2.c for a discussion of the proposed lamp aging and stabilization conditions and requirements.

9. Lamp/Circuit Transfer

DOE has proposed that lamp transfer and re-stabilization methods of HID lamps be performed using the method described in section 3.7 of ANSI C78.389. DOE invites data and comments on whether an alternative method for re-stabilization after lamp transfer should be considered. See section III.B.2.d for a discussion of the method for lamp transfer and re-stabilization.

10. Lamp Orientation

DOE invites comments on the appropriateness of DOE's proposed adoption of the lamp orientation requirements specified in section 3.6 of ANSI C78.389, which require base up positioning unless the manufacturer specifies a different orientation on the lamp, lamp packaging, or lamp data sheet. DOE also seeks comments on whether a preferred lamp orientation approach exists within the industry for lamp testing. See section III.B.2.e for a discussion of the proposed lamp orientation requirements.

11. Special Consideration for Directional Lamps

DOE invites comments on the proposed set-up and measurement methods for directional lamps based on ANSI C78.379. See section III.B.3 for a discussion of proposed beam angle calculations, and section III.D.2 for a discussion of proposed test set-up and measurement requirements.

12. Laboratory Accreditation Program

DOE has proposed adopting the lab accreditation plan in the GSFL/GSIL/IRL test procedures, which would require laboratories that have been accredited by NVLAP or by an accrediting organization recognized by NVLAP for the testing of HID lamps. DOE invites comments on whether additional or alternative requirements for testing laboratories should be considered. See section III.C for a discussion of the proposed laboratory accreditation program.

13. Test Measurements and Calculations

DOE invites data and comments on the applicability of the proposed measurement and calculation of lamp efficacy procedures for omni-directional lamps, as well as the proposed efficiency measurements and calculation procedures for directional lamps using center beam intensity and beam angle. DOE also seeks comment on the measurement methods proposed for lumen maintenance and color characteristics (CCT and CRI) according to the requirements of ANSI C78.379, CIE 13.3, CIE 15, IES LM–47, and LM–51. See section III.E for a discussion of the proposed testing measurements and calculations.

14. Small Entities

DOE seeks comments on its reasoning that the proposed test procedures will not have a significant effect on a substantial number of small entities.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Buildings and facilities, Business and industry, Energy conservation, Grants programs—energy, Housing, Reporting and recordkeeping requirements, Technical assistance.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Incorporation by reference, Reporting and recordkeeping requirements, and Small business.

Issued in Washington, DC, on November 28, 2011.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Office of Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE proposes to amend parts 429 and 431 of chapter II of title 10, of the Code of Federal Regulations, as set forth as follows.

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

2. In § 429.2 revise paragraph (a) to read as follows:

§ 429.2 Definitions.

(a) The definitions found in §§ 430.2, 431.2, 431.62 431.72, 431.82, 431.92, 431.102, 431.132, 431.152, 431.172, 431.192, 431.202, 431.222, 431.242, 431.262, 431.282, 431.292, 431.302, 431.322, 431.442, and 431.452 apply for purpose of this part.

* * * * *

3. Section 429.55 is added to read as follows:

§ 429.55 High-intensity discharge (HID) lamps.

(a) *Sampling plan for selection of units for testing.* (1) The requirements of § 429.11 are applicable to high-intensity discharge (HID) lamps. HID lamps include high-pressure sodium, mercury vapor, and metal halide lamps.

(2)(i) For each basic model of HID lamp, samples of production lamps shall be obtained from a 12-month period, tested, and the results averaged. A minimum sample of 21 lamps shall be tested. The manufacturer shall randomly select a minimum of 3 lamps from each month of production for a minimum of 7 out of the 12-month period. In the instance where production occurs during fewer than 7 of such 12 months, the manufacturer shall randomly select 3 or more lamps from each month of production, where the number of lamps selected for each month shall be distributed as evenly as practicable among the months of production to attain a minimum sample of 21 lamps. Any represented value of lamp efficacy and lumen maintenance of a basic model shall be based on the sample and shall be less than or equal to the lower of:

(A) The mean of the sample, where:

$$\bar{X} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and $\bar{X}$ is the sample mean;
n is the number of samples; and
x_i is the ith sample;

Or,

(B) The lower 95 percent confidence limit (LCL) of the true mean divided by 0.97, where:

$$LCL = \bar{X} - t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

and $\bar{X}$ is the sample mean;
s is the sample standard deviation;
n is the number of samples, and
$t_{0.95}$ is the t statistic for a 95-percent one-tailed confidence interval with n-1 degrees of freedom (from appendix A).

(ii) For each basic model of high-intensity discharge lamp, the color rendering index (CRI) shall be measured from the same lamps selected for the lumen output and watts input measurements in paragraph (a)(2)(i) of this section *i.e.,* the manufacturer shall measure all lamps for lumens, lamp electrical input power, and CRI. The CRI shall be represented as the average of a minimum sample of 21 lamps and shall be less than or equal to the lower of:

(i) The mean of the sample, where:

$$\bar{X} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and $\bar{X}$ is the sample mean;
n is the number of samples; and
x_i is the ith sample;

Or,

(ii) The lower 95 percent confidence limit (LCL) of the true mean divided by 0.97, where:

$$LCL = \bar{X} - t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

and $\bar{X}$ is the sample mean;
s is the sample standard deviation;
n is the number of samples, and
$t_{0.95}$ is the t statistic for a 95-percent one-tailed confidence interval with n-1 degrees of freedom (from appendix A).

(b) *Certification reports.*

[Reserved]

(c) *Test data.* Manufacturers must include the production date codes and the accompanying decoding scheme corresponding to all of the units tested for a given basic model in the detailed test records maintained under § 429.71.

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

2. Subpart 431.2 is amended by adding in alphabetical order, definitions for ''Ballast'', ''Beam angle'', ''Color rendering index or CRI'', ''Correlated color temperature'', ''Directional lamp'', ''High-intensity discharge lamp'', ''High-pressure sodium (HPS) lamp'', ''Lamp efficacy'', ''Lamp electrical power input'', ''Lamp wattage'', ''Lumen maintenance'', ''Mercury vapor lamp'', ''Metal halide lamp'', ''Rated luminous flux or rated lumen output'', and ''Self-ballasted lamp'' to read as follows:

§ 431.2 Definitions.

* * * * *

Ballast means a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current, and waveform) for starting and operating.

Beam angle means the beam angle (or angles) as measured according to the requirements of ANSI C78.379 (incorporated by reference, see § 431.453), including complex beam angles, as described in ANSI C78.379.

Color rendering index or CRI means the measured degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

Correlated color temperature means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

* * * * *

Directional lamp means a lamp emitting at least 80 percent of its light output within a solid angle of π steradians (corresponding to a cone with an angle of 120 degrees).

* * * * *

High-intensity discharge lamp means an electric-discharge lamp in which—

(i) The light-producing arc is stabilized by the arc tube wall temperature; and

(ii) The arc tube wall loading is in excess of 3 watts/cm^2, including such lamps that are high-pressure sodium, mercury vapor, and metal halide lamps.

High-pressure sodium (HPS) lamp means a high-intensity discharge lamp in which the major portion of the light is produced by radiation from sodium vapor operating at a partial pressure of about 6,670 pascals (approximately 0.066 atmospheres or 50 torr) or greater.

* * * * *

Lamp efficacy means the ratio of rated lumen output (or rated luminous flux) to the measured lamp electrical power input in watts, rounded to the nearest tenth, in units of lumens per watt (lm/W).

Lamp electrical power input means the total electrical power input to the lamp, including both arc and cathode power where appropriate, at the reference condition, units of watts.

Lamp wattage means the total electrical power required by a lamp in watts measured following the initial aging period referenced in the appropriate industry standard.

Lumen maintenance means the luminous flux or lumen output at a given time in the life of the lamp and expressed as a percentage of the rated luminous flux or rated lumen output, respectively.

Mercury vapor lamp means a high-intensity discharge lamp, including clear, phosphor-coated, and self-ballast screw base lamps, in which the major portion of the light is produced by radiation from mercury typically operating at a partial vapor pressure in excess of 100,000 Pa (approximately 1 atm).

Metal halide lamp means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

* * * * *

Rated luminous flux or rated lumen output means the initial lumen rating (100 hour) declared by the manufacturer, which consists of the lumen rating of a lamp at the end of 100 hours of operation.

Self-ballasted lamp means a lamp unit that incorporates all elements that are necessary for the starting and stable operation of the lamp in a permanent enclosure, and that does not include any replaceable or interchangeable parts.

* * * * *

§ 431.282 [Amended]

3. Section 431.282 is amended by removing the definitions of ''ballast'', ''high intensity discharge lamp'', and ''mercury vapor lamp''.

4. Section 431.322 is amended by removing the definitions of ''ballast'' and ''metal halide ballast'', and revising the definition of ''ballast efficiency'' to read as follows: *§ 431. 322 Definitions concerning metal halide lamp ballasts and fixtures.*

* * * * *

Ballast efficiency means, in the case of a high-intensity discharge fixture, the efficiency of a lamp and ballast combination, expressed as a percentage, and calculated in accordance with the following formula: Efficiency = Lamp electrical power input/Ballast power input where:

(1) Lamp electrical power input means the total electrical power input to the lamp, including both arc and cathode power where appropriate, at the reference condition, units of watts;

(2) Ballast power input equals the measured operating input wattage;

(3) The lamp, and the capacitor when the capacitor is provided, shall constitute a nominal system in accordance with the ANSI C78.43 (incorporated by reference; see § 431.323);

(4) For ballasts with a frequency of 60 Hz, ballast power input and lamp electrical power input shall be measured after lamps have been stabilized according to section 4.4 of ANSI C82.6 (incorporated by reference; see § 431.323) using a wattmeter with accuracy specified in section 4.5 of ANSI C82.6; and

(5) For ballasts with a frequency greater than 60 Hz, ballast power input and lamp electrical power input shall have a basic accuracy of ±0.5 percent at the higher of either 3 times the output operating frequency of the ballast or 2.4 kHz.

* * * * *

5. Subpart Y is added to part 431 to read as follows:

Subpart Y—High-Intensity Discharge Lamps

Sec.

431.451 Purpose and scope.
431.452 Definitions concerning high-intensity discharge lamps.
431.453 Material incorporated by reference.
431.454 Uniform test method for calculation of lamp efficacy and lumen maintenance from lamp measurements.
431.455 Energy conservation standards and their dates.

§ 431.451 Purpose and scope.

This subpart contains energy conservation requirements for high-intensity discharge lamps, pursuant to Part A–1 of Title III of the Energy Policy and Conservation Act, as amended, and 42 U.S.C. 6311–6317.

§ 431.452 Definitions concerning high-intensity discharge lamps.

Basic model with respect to HID lamps means lamps that are of the same designation, or class, and that have identical electrical characteristics and performance characteristics—including wattage, bulb shape, base, lumen output, starting method, correlated color temperature (CCT), and color rendering index (CRI)—and do not have any differing physical or functional characteristics that affect their energy use.

§ 431.453 Material incorporated by reference.

(a) *General.* We incorporate by reference the following standards into Subpart Y of Part 431. The material listed has been 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. Any subsequent amendment to a standard by the standard-setting organization will not affect the DOE regulations unless and until amended by DOE. Material is incorporated as it exists on the date of the approval, and a notice of any change in the material will be published in the **Federal Register**. All approved material is available for inspection 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.* Also, this material is available for inspection at U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024, (202) 586–2945, or go to: *http://www1.eere.energy.gov/buildings/appliance_standards/.* Standards can be obtained from the sources listed as follows.

(b) *ANSI.* American National Standards Institute, 25 W. 43rd Street, 4th Floor, New York, NY 10036, (212)

642–4900, or go to *http://www.ansi.org.*

(1) ANSI C78.379–2006 (''ANSI C78.379''), For Electric Lamps—Classification of the Beam Patterns of Reflector Lamps, approved 2006, IBR approved for § 431.454.

(2) ANSI C78.389–2004 (R2009) (''ANSI C78.389''), American National Standard Institute Electric Lamps—High Intensity Discharge—Methods of Measuring Characteristics, approved August 9, 2009, IBR approved for § 431.454.

(c) *CIE.* International Commission on Illumination (Commission Internationale de l'Eclairage) Central Bureau, Kegelgasse 27, A–1030, Vienna, Austria, 011+43 1 714 31 87 0, or go to *http://www.cie.co.at.*

(1) CIE 13.3–1995 (''CIE 13.3''), Technical Report: Method of Measuring and Specifying Colour Rendering Properties of Light Sources, 1995. IBR approved for § 431.454.

(d) CIE 15:2004 (''CIE 15''), Technical Report: Colorimetry, 2004. IBR approved for § 431.454.

(c) *IES.* Illuminating Engineering Society of North America, 120 Wall Street, Floor 17, New York, NY 10005–4001, (212) 248–5000, or go to *http://www.iesna.org.*

(1) IES LM–47–01 (''LM–47''), Approved Method for Life Testing of High Intensity Discharge (HID) Lamps, 2001. IBR approved for § 431.454.

(2) IES LM–51–00 (''LM–51''), Approved Method for the Electrical and Photometric Measurements of High Intensity Discharge Lamps, 2000. IBR approved for § 431.454.

§ 431.454 Uniform test method for calculation of lamp efficacy and lumen maintenance from lamp measurements.

(a) *Test Method for Measuring Energy Efficiency of High-Intensity Discharge Lamps*—(1) Test Setup and Conditions.

The lamps being tested are to be operated at the required specified conditions with the lamps stabilized and operating on the reference circuit before any measurements are taken. Photometric characteristics to be measured are total luminous flux (lumens), luminous intensity (candelas), and color characteristics (CCT and CRI). Lamp electrical characteristics to be measured are those required to calculate lamp efficacy during normal operation (*e.g.,* line voltage, lamp voltage, input current, and lamp electrical power input). All measured quantities must be obtained using an appropriately rated reference ballast or power source whose characteristics are within the required specifications listed as follows. The test equipment required to conduct all the necessary test procedure electrical and photometric measurements must be within calibration and meet the required performance specifications in ANSI C78.389 (incorporated by reference, see § 431.453) and LM–51 (incorporated by reference, see § 431.453). All lamps to be tested must be aged for 100 hours in the same burning position as would be used during testing; typical lamp orientation will be base up unless otherwise designated by the manufacturer. Prior to any measurement, all lamps must be stabilized according to specific methods for each lamp type identified in ANSI C78.389, section 3.7. Lamps placed into long-term testing to determine lumen maintenance shall be operated with an appropriately rated ballast, as described as follows, or power source under specified normal operating conditions, outlined as follows, and must be operated in the orientation specified in paragraph (b)(4) of this section.

(i) Ambient Conditions

The test apparatus must be operated in a location where ambient conditions are stable (*e.g.,* ambient temperature and air movement), in accordance with the specifications listed as follows.

A. Ambient Test Temperature

The ambient temperature shall be 25 °C ± 5 °C.

B. Air Speed

The air speed limit shall be ≤ 0.5 meters per second.

(ii) Power Supply Characteristics

Power supply characteristics and instrumentation requirements are specified in ANSI C78.389 and LM–51.

A. Waveshape

Waveshape requirements are set forth in ANSI C78.389. The lamp being tested shall be operated with a sinusoidal voltage supply, and the power supply voltage waveshape shall have a root-mean-square summation of the harmonic components that does not exceed 3 percent of the fundamental frequency.

B. Voltage Regulation

The power supply voltage shall be regulated to within ±0.1 percent of the reference ballast voltage rating.

C. Power Supply Impedance

The power supply impedance shall not exceed 2 percent of the reference ballast impedance measured at the point where the reference ballast and lamp are connected. This method implies that variable autotransformers or other voltage transformation devices have kilovolt-amperes ratings of at least five times the normal lamp wattage.

(iii) Reference Ballasts

For HID lamp testing, the reference ballast used must meet the requirements of ANSI C78.389. For HID lamp measurements (electrical and photometric), the tested lamps must be operated with (1) An appropriately rated reference ballast or (2) a reference ballast with variable impedance that can be set to match each lamp type to be tested. The reference ballast must have the impedance and the electrical characteristics required by the lamp being tested. If electrical readings are to be taken on a lamp for which no ANSI standard exists, the ballast used shall comply with the general requirements for HID lamp reference ballasts and have impedance appropriate for the lamp as specified in ANSI C78.389.

(iv) Instrumentation

The instruments required for electrical measurements are described in ANSI C78.389, section 3.8. The required photometric instruments are described in LM–51, section 9.0.

A. Instrumentation Required for Electrical Measurement

Instruments used for electrical measurements must be accurate to better than 0.75 percent over a frequency range of 40 to 1000 Hz, with calibration capability (*e.g.,* scale calibration). *See* ANSI C78.389, section 3.8.1. Instruments connected in series with the HID lamp being tested are to have an impedance such that the voltage drop does not exceed 2 percent (1 percent for HPS lamps) of the rated lamp voltage, unless the impedance has already been included as part of the reference ballast impedance. To avoid instrument-in-circuit corrections, the voltage drop shall not exceed 0.75 percent (0.50 percent for HPS lamps) of the rated lamp voltage. For lamp voltage measurements, instruments connected in parallel with the lamp being tested shall draw less than 1 percent of the rated lamp current. To avoid correcting for the presence of such instruments, the current draw shall be limited to 0.5 percent of the rated lamp current. Instruments selected for HID lamp voltage and current measurement shall be of the true RMS type and have a specified accuracy and frequency response adequate to meet the specified uncertainty requirements (*i.e.,* ±0.5 percent for voltage and current and ±0.75 percent for wattage).

B. Instrumentation for Photometric Measurement

The photometer shall have a relative spectral responsivity that approximates the V-lambda (V(λ)) function. The detector used in an integrating sphere measurement shall have a wide field of view (approximating a cosine response). If a diffuser is used on the detector, its surface shall be mounted flush with the sphere wall. An integrating sphere shall be used for luminous flux measurements and must be large enough to allow the sphere interior ambient temperature to reach thermal equilibrium at the specified ambient temperature and to permit the internal baffle(s) to be small relative to the size of the integrating sphere. In the case of goniophotometer measurements, the detector required for intensity distribution measurements shall have a cosine response. The intensity distribution around a lamp may be determined with a photometer at a recommended minimum distance of five times the longest dimension of the lamp. The axis of rotation chosen to vary the angle between the lamp and the detector shall preserve the lamp orientation relative to the detector to provide measurement consistency and repeatability. Photometric measurements of color characteristics shall be specified in terms of the CIE colorimetry system and CRI.

(b) *Lamp Selection and Setup*—

(1) Lamp Aging and Stabilization.

For HID lamp testing, a lamp must be aged using the aging method set forth in ANSI C78.389, section 3.7 (incorporated by reference, see § 431.453). A 100-hour aging period must be used by manufacturers of HID lamps to ensure stable photometric, color qualities, and electrical characteristics of the lamp being tested. This aging is performed once for every lamp before stabilization and testing. During the aging period, the lamp must be operated in the same orientation in which it will be used.

After this one-time aging process, a lamp being tested must achieve stable operation prior to any measurements and the lamp stabilization method specified in ANSI C78.389, section 3.7, must be used. As detailed in ANSI C78.389, HID lamp stabilization requirements vary with lamp technology. Table I lists the lamp warm-up, stabilization, and re-stabilization requirements for MV, HPS, and MH lamps.

TABLE I—ANSI C78.389 HID LAMP WARM-UP AND STABILIZATION CRITERIA

Lamp type	Lamp warm-up time	Stabilization criteria
MV	15–20 mins	3 successive measurements (voltage and current). 5 minute measurement intervals. Change in value < 1.0%.
HPS	1 hour	3 successive measurements (voltage and current). 10–15 minute measurement intervals. Change in value < 1.0%.
MH	6 hours Operated within ±10% rated wattage.	3 successive measurements (voltage and current). 10–15 minute measurement intervals. Change in value < 3.0%.

(2) Lamp/Circuit Transfer.

Lamp transfer and re-stabilization must be conducted according to ANSI C78.389, section 3.7.

The lamp cool down and transfer requirements of ANSI C78.389, section 3.7, are shown in Table II. The requirements vary with HID lamp type, as well as with the specifics of the lamp movement. MH lamps that will be physically relocated without a change in orientation must be allowed to cool to 60 °C before moving and then warmed up for 30 minutes in any new location before stabilization measurements may begin; if the orientation will change, the MH lamp must be operated for 6 hours in the final testing orientation before stabilization measurements may be taken. HPS lamps require a cooling period of at least 1 hour before the lamp may be moved and re-started prior to stabilization measurements. MV lamps do not require cooling, but must be warmed up before stabilization measurements may be taken after the lamps are moved.

TABLE II—ANSI C78.389 HID LAMP COOL DOWN AND RE-STABILIZATION REQUIREMENTS

Lamp type	Cooling requirement	Re-stabilization time
MV	None	Not in standard, Reconfirm stabilized operations upon transfer/restrike.
HPS	Allow to cool for 1 hour minimum before relocating.	Not in standard, Reconfirm stabilized operations upon transfer/restrike.
MH	Cool to below 60 °C if relocating	No relocation no reorientation—30 minutes, Relocation with no reorientation—30 minutes, Reorientation—6 hours.

(3) Lamp Orientation.

Lamp orientation requirements are those specified in ANSI C78.389, section 3.6, for HID lamp testing. A lamp marked or otherwise designated for use in a specific operating position must be tested in that position. If no operating position is specified or the lamp is marked ''universal,'' the lamp shall be operated in the base up position.

(c) *Laboratory Accreditation Program.*

Testing for HID lamps shall be conducted by test laboratories accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) or by an accrediting organization recognized by NVLAP. NVLAP establishes standards for the accreditation of laboratories that test for compliance with relevant industry standards pursuant to 15 CFR 285.3. A manufacturer's or importer's own laboratory, if accredited, may be used to conduct the applicable testing.

(d) *Test Measurements and Calculations*—

(1) Measurement and Calculation of Efficacy.

HID lamp efficacy shall be calculated as the lumen output divided by the input lamp wattage measured, with the resulting quotient rounded off to the nearest tenth of a lumen per watt.

(2) Measurement and Calculation of Center Beam Intensity and Beam Angle.

The test procedure described in ANSI C78.379 (incorporated by reference, see § 431.453) shall be followed for measuring center beam intensity and beam angle of directional lamps with symmetrical or asymmetrical beams. For lamps with complex beam patterns, the test procedure described in ANSI C78.379, annex A, shall be followed.

(3) Test Method for Measuring Lumen Maintenance.

HID lamp lumen maintenance shall be determined, following the method specified in LM–47 (incorporated by reference, see § 431.453), after initial lamp aging and initial lumen output measurement. At a minimum, the lumen maintenance measurements shall be collected at 40 percent and 70 percent of rated lamp life, as described in LM–47.

(4) Measurement and Calculation of Correlated Color Temperature and Color Rendering Index.

HID lamp CCT and CRI shall be determined using the methods for measurement and characterizing color set forth in CIE 15 and CIE 13.3 (incorporated by reference, see §§ 431.453).

§ 431.455 Energy conservation standards and their compliance dates.

[Reserved]

[FR Doc. 2011–32162 Filed 12–14–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1321; Directorate Identifier 2011–NM–045–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A319 series airplanes, Model A320–211, –212, –214, –231, –232, and –233 airplanes, and Model A321 series airplanes that would supersede an existing AD. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Following an automatic [additional center tank(s)] ACT fuel transfer failure on an A319, it was noted that the ACT manhole cover seals were extruded, allowing leakage.

This condition, if not corrected, can lead to fuel and/or vapour leakage, possibly resulting in a combustible fuel vapour/air mixture in the cargo compartment, which would constitute a fire risk.

* * * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by January 30, 2012.

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

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

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com; Internet http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call (425) 227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–1321; Directorate Identifier 2011–NM–045–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On October 26, 2005, we issued AD 2005–23–02, Amendment 39–14360 (70 FR 69067, November 14, 2005). That AD required actions intended to address an unsafe condition on Airbus Model A319–100 Series Airplanes, Model A320–111 airplanes, Model A320–200 series airplanes, and Model A321–100 series airplanes.

Since we issued AD 2005–23–02, Amendment 39–14360 (70 FR 69067, November 14, 2005), The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0177, dated August 30, 2010 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Following an automatic ACT fuel transfer failure on an A319, it was noted that the ACT manhole cover seals were extruded, allowing leakage.

This condition, if not corrected, can lead to fuel and/or vapour leakage, possibly resulting in a combustible fuel vapour/air mixture in the cargo compartment, which would constitute a fire risk.

DGAC France AD F–2004–038 [which corresponds to FAA AD 2005–23–02] was issued to require the replacement of the ACT manhole cover and its seal in accordance with SB A320–28–1105, but this modification has proved not to be fully effective. Therefore, it is necessary to replace the seal material and to change the installation process in order to prevent such seal deformation and possibility of leakage.

For the reasons described above, this [EASA] AD supersedes DGAC France AD F–2004–038 (EASA approval 2004–2110) and requires the replacement of the existing manhole seal with a new seal.

This AD also adds certain ACT equipped airplanes, produced after AD 2005–23–02, Amendment 39–14360 (70 FR 69067, November 14, 2005) was issued, to the applicability. This AD also removes Model A320–111 airplanes from the applicability because there are no operational Model A320–111 airplanes in the United Stated and Airbus intends to remove this model from the EASA Type Data Sheet. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Mandatory Service Bulletin A320–28–1162, Revision 02, dated December 18, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 721 products of U.S. registry.

The actions that are required by AD 2005–23–02, Amendment 39–14360 (70 FR 69067, November 14, 2005) and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of $85 per work hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the currently required actions is $85 per product.

We estimate that it would take about 3 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $183,855, or $255 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14360 (70 FR 69067, November 14, 2005) and adding the following new AD:

Airbus: Docket No. FAA–2011–1321; Directorate Identifier 2011–NM–045–AD.

Comments Due Date

(a) We must receive comments by January 30, 2012.

Affected ADs

(b) This AD supersedes AD 2005–23–02, Amendment 39–14360 (70 FR 69067, November 14, 2005).

Applicability

(c) This AD applies to Airbus airplanes listed in paragraphs (c)(1), (c)(2), and (c)(3) of this AD; certificated in any category; all serial numbers; if equipped with one or more additional center tank(s) (ACT) with a part number (P/N) listed in table 1 of this AD. This AD does not apply to airplanes already having received Airbus modification 38036 in production.

(1) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(2) Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(3) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

TABLE 1—AFFECTED ACT PART NUMBERS FOR APPLICABILITY

D2827091100000	D2827105100200	D2827105300600	D2827105500400
D2827091100200	D2827105100400	D2827105300800	D2827105500600
D2827091100400	D2827105100600	D2827105400000	D2827105500800
D2827091100600	D2827105100800	D2827105400200	D2827105600000
D2827091100800	D2827105200000	D2827105400400	D2827105600200
D2827091101000	D2827105200200	D2827105400600	D2827105600400
D2827091300000	D2827105200400	D2827105400800	D2827105600600
D2827091300200	D2827105200600	D2827105401000	D2827105600800
D2827091300400	D2827105200800	D2827105401200	D2827107500000
D2827091300600	D2827105300000	D2827105401400	D2827107500200
D2827091300800	D2827105300200	D2827105500000	D2827107500400
D2827105100000	D2827105300400	D2827105500200	D2827107500600

Subject

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

Reason

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

Following an automatic ACT fuel transfer failure on an A319, it was noted that the ACT manhole cover seals were extruded, allowing leakage.

This condition, if not corrected, can lead to fuel and/or vapour leakage, possibly resulting in a combustible fuel vapour/air mixture in the cargo compartment, which would constitute a fire risk.

* * * * *

Compliance

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

Restatement of Requirements of AD 2005–23–02, Amendment 39–14360 (70 FR 69067, November 14, 2005), With New Sealing Procedures

(g) Within 30 days (for Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes) or 12 months (for Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, and –131 airplanes) after December 19, 2005 (the effective date of AD 2005–23–02, Amendment 39–14360 (70 FR 69067, November 14, 2005): Determine whether the part number (P/N) of each ACT installed on the airplane is included in table 2 of this AD. If no ACT installed on the airplane has a P/N included in table 2 of this AD, no further work is required by this paragraph.

TABLE 2—AFFECTED ACT P/NS FOR AD 2005–23–02, AMENDMENT 39–14360 (70 FR 69067, NOVEMBER 14, 2005)

D2827091100000	D2827105100200	D2827105300400	D2827105500200
D2827091100200	D2827105100400	D2827105400000	D2827105500400
D2827091100600	D2827105200000	D2827105400200	D2827105600000
D2827091300000	D2827105200200	D2827105400400	D2827105600200
D2827091300200	D2827105200400	D2827105400600	D2827105600400
D2827091300400	D2827105300000	D2827105400800	D2827107500000
D2827105100000	D2827105300200	D2827105500000	D2827107500200

Manhole Cover/Seal Replacement

(h) Within 30 days (for Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes) or 12 months (for Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, and –131 airplanes) after December 19, 2005: For each ACT P/N listed in table 2 of this AD: Before further flight, replace the outer ACT manhole cover with a reinforced manhole cover and replace the outer manhole cover seal with a new seal, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–28–1105, Revision 02, dated March 11, 2005. Replacements are also acceptable if done before December 19, 2005, in accordance with Airbus Service Bulletin A320–28–1105, Revision 01, dated March 18, 2003; and Airbus Service Bulletin A320–28–1105, dated October 22, 2002. As of the effective date of this AD, doing the manhole cover seal replacement required by paragraph (i) of this AD, terminates the manhole cover seal replacement required by this paragraph.

New Requirements of This AD

ACT Modification

(i) Within 3,000 flight cycles or 24 months, whichever occurs first after the effective date of this AD: Modify the affected ACT listed in table 1 of this AD by replacing the manhole seal, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320–28–1162, Revision 02, dated December 18, 2009. Accomplishing the manhole cover sealing replacement specified in this paragraph terminates the manhole cover sealing replacement required in paragraph (h) of this AD.

Parts Installation

(j) As of the effective date of this AD, no person may install an ACT, whose part number is listed in table 1 of this AD, on any airplane unless it has been modified prior to its installation, in accordance with Airbus Mandatory Service Bulletin A320–28–1162, Revision 02, dated December 18, 2009.

Credit for Actions Accomplished in Accordance With Previous Service Information

(k) Modifying the ACT in accordance with Airbus Mandatory Service Bulletin A320–28–1162, dated February 6, 2008; or Revision 01, dated July 16, 2008; before the effective date of this AD is acceptable for compliance with the corresponding modification required by paragraph (i) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/

certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

Related Information

(m) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2010–0177, dated August 30, 2010; Airbus Mandatory Service Bulletin A320–28–1162, Revision 02, dated December 18, 2009; and Airbus Service Bulletin A320–28–1105, Revision 02, dated March 11, 2005; for related information.

Issued in Renton, Washington, on December 6, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–32076 Filed 12–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1320; Directorate Identifier 2011–NM–208–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model 777 airplanes. This proposed AD was prompted by four reports of retaining cross bolt hardware not fully engaged into the fuse pins of the forward trunnion lower housing of the main landing gear (MLG), which could result in an incorrect MLG emergency landing break-away sequence. This proposed AD would require a detailed inspection of the fuse pin cross bolts and fuse pins of the left and right MLG forward trunnion lower housing to verify that the cross bolts are correctly installed and that there are no missing fuse pins, and replacement of the fuse pins if necessary. We are proposing this AD to prevent an incorrect emergency landing MLG break-away sequence, which could result in puncturing of the wing box and consequent fuel leaks and an airplane fire. Failure of the fuse pins could also result in a premature landing gear collapse causing a runway excursion during take-off or landing.

DATES: We must receive comments on this proposed AD by January 30, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: James Sutherland, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6533; fax: (425) 917–6590; email: *James.Sutherland@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–1320; Directorate Identifier 2011–NM–208–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received four reports of retaining cross bolt hardware not fully engaged into the fuse pins of the MLG forward trunnion lower housing. Reports indicated the incorrectly installed cross bolts were found during a scheduled C-check inspection, an MLG replacement, a 4C inspection, and a hard landing inspection. All findings indicated that the cross bolt and lock wire were intact, but the cross bolt had not properly engaged in the fuse pin. The cross bolt and lock wire are used to prevent the fuse pin from migrating out of position. A migrated or missing fuse pin in the MLG forward trunnion lower housing can cause the remaining fuse pins in the MLG forward trunnion upper and lower housing to wear at a faster rate and also result in possible failure of the adjacent fuse pins in the MLG forward trunnion upper and lower housing. Failure of the fuse pins in the MLG forward trunnion upper and lower housing could result in an incorrect emergency landing MLG break-away sequence, which will cause the MLG to puncture the wing box and consequent fuel leaks and possible airplane fire. Failure of the fuse pins could also result in a premature landing gear collapse causing a runway excursion during take-off or landing.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011. This service information describes procedures for doing a detailed inspection of the fuse pin cross bolts and fuse pins of the left and right MLG forward trunnion lower housing to verify that the cross bolts are correctly

installed and that there are no missing fuse pins, and replacing all fuse pins in the MLG forward trunnion upper and lower housing with new fuse pins if necessary.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD will affect 166 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Detailed Inspection	3 work-hours × $85 per hour = $255	$0	$255	$42,330

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace fuse pins	44 work-hours × $85 per hour = $3,740.	Between $15,216 and $52,620	Between $18,956 and $56,360.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2011–1320; Directorate Identifier 2011–NM–208–AD.

(a) Comments Due Date

We must receive comments by January 30, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes; certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by four reports of retaining cross bolt hardware not fully engaged into the fuse pins of the forward trunnion lower housing of the main landing gear (MLG), which could result in an incorrect MLG emergency landing break-away sequence. We are issuing this AD to prevent an incorrect emergency landing MLG break-away sequence, which could result in puncturing of the wing box and consequent fuel leaks and an airplane fire. Failure of the fuse pins could also result in a premature landing gear collapse causing a runway excursion during take-off or landing.

(f) Compliance

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

(g) Detailed Inspection and Replacement

Within 1,125 days after the effective date of this AD, perform a detailed inspection of

the fuse pin cross bolts and fuse pins of the left and right MLG forward trunnion lower housing to verify that the cross bolts are installed correctly and that there are no missing fuse pins, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011. If any cross bolt of the MLG forward trunnion lower housing is not installed correctly, or if any fuse pin of the MLG forward trunnion lower housing is missing: Before further flight, replace all fuse pins in the MLG forward trunnion upper and lower housing, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0090, dated August 24, 2011.

Note 1: The service bulletin accomplishment instructions might refer to other procedures. When the words ''refer to'' are used and the operator has an accepted alternative procedure, the accepted alternative procedure can be used to comply with the AD. When the words ''in accordance with'' are included in the instruction, the procedure in the design approval holder (DAH) document must be used to comply with the AD.

(h) Alternative Methods of Compliance (AMOCs)

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

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

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

(i) Related Information

(1) For more information about this AD, contact James Sutherland, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6533; fax: (425) 917–6590; email: *James.Sutherland@faa.gov*.

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

Issued in Renton, Washington, on December 6, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–32077 Filed 12–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125, 129, and 135

Proposed Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed policy and request for comments.

SUMMARY: The Federal Aviation Administration (FAA) seeks comments on a proposed transition of the U.S. National Airspace System (NAS) navigation infrastructure to enable performance-based navigation (PBN) as part of the Next Generation Air Transportation System (NextGen). The FAA plans to transition from defining airways, routes and procedures using VHF Omni-directional Range (VOR) and other legacy navigation aids (NAVAIDs) [1] towards a NAS based on Area Navigation (RNAV) everywhere and Required Navigation Performance (RNP) where beneficial. Such capabilities will be enabled largely by the Global Positioning System (GPS) and the Wide Area Augmentation System (WAAS). The FAA plans to retain an optimized network of Distance Measuring Equipment (DME) stations and a minimum operational network (MON) of VOR stations to ensure safety and continuous operations for high and low altitude en route airspace over the conterminous US (CONUS) and terminal operations at the Core 30 airports.[2] The FAA is also conducting research on Alternate Positioning, Navigation and Timing (APNT) solutions that would enable further reduction of VORs below the MON.

In addition, the FAA plans to satisfy any new requirements for Category I instrument operations with WAAS localizer performance with vertical guidance (LPV) procedures. A network of existing Instrument Landing Systems (ILS) would be sustained to provide alternative approach and landing capabilities to continue recovery and dispatch of aircraft during GPS outages.

This transition would be consistent with the FAA's NextGen Implementation Plan (NGIP), NAS Enterprise Architecture (EA), and other documentation. More information is available on the FAA's NextGen Web site at *http://www.faa.gov/nextgen* and the EA Web site at *https://nasea.faa.gov*.

DATES: Comments must be received on or before March 7, 2012.

ADDRESSES: Send comments identified by Docket No. FAA–2011–1082 using any of the following methods:

- *Federal eRulemaking 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 9 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 dockets, 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.*

FOR FURTHER INFORMATION CONTACT: Mr. Greg Joyner, AJW–911, Navigation Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; *telephone:* (202) 493–5721.

[1] Includes Tactical Air Navigation (TACAN) Azimuth, VOR/TACAN (VORTAC), VOR/DME, Non-Directional Beacon (NDB) operated by the FAA.

[2] Core 30 airports are those with significant activity serving major metropolitan areas and also serve as hubs for airline operations, found at *http://aspmhelp.faa.gov/index.php/Core_30.*

SUPPLEMENTARY INFORMATION:

The Proposal

Purpose

This notice announces the FAA's proposed strategy to meet requirements for air navigation service in the United States. The FAA is committed to maintaining the highest levels of safety, capacity, and efficiency in the NAS while transitioning from the legacy station-referenced system of airways, routes and procedures to a performance-based system providing flexible point-to-point navigation enabled by geospatial positioning, navigation, and timing (PNT) infrastructure and aircraft advanced navigation systems.

Transition to PBN for En Route, Terminal and Approach Operations in CONUS

Many NextGen benefits depend on PBN, specifically RNAV and RNP routes, arrivals, departures, instrument approaches and other procedures to increase capacity and efficiency, and reduce aircraft noise and emissions while enhancing safety. All of these operations are enabled primarily by GPS and WAAS.

GPS provides a level of service that supports lateral navigation for en route through non-precision instrument approaches. GPS is an internationally accepted navigation system, standardized by the International Civil Aviation Organization (ICAO), and has been approved for use by many countries. Additional information concerning GPS can be found at *www.gps.gov* and *www.pnt.gov*. The U.S. government has committed to maintaining GPS services in accordance with the Standard Positioning Service Performance Standard of September 2008. The U.S. is improving GPS services by adding a second frequency which will make GPS more resistant to unintentional radio frequency interference (RFI) sources.

WAAS is a GPS augmentation system for aviation use that has been operational since 2003 and is used to improve the accuracy, integrity, and availability of GPS. WAAS also improves the availability of GPS to support PBN operations, even if several GPS satellites were to go out of service. WAAS is a satellite-based augmentation system (SBAS) standardized by ICAO. Compatible systems are operational in Japan and Europe, and other SBASs are in development in India and Russia.

Even though basic and augmented GPS services enable all of the PBN capabilities for NextGen, the signals are vulnerable to scheduled and unscheduled outages. For example, the U.S. government regularly conducts scheduled testing in the NAS that impacts GPS use in selected regions. Unscheduled GPS outages have been caused by interference from intentional or unintentional sources of RFI. The FAA will ensure sufficient infrastructure is provided to mitigate the effects of scheduled GPS outages in designated areas and unscheduled outages which could otherwise significantly disrupt air commerce.

The FAA also provides a network of distance measuring equipment (DME) that enable aircraft with suitable RNAV avionics to fly RNAV routes and terminal procedures where sufficient DME coverage exists. (See FAA Advisory Circular (AC) 90–100A, U.S. Terminal and En Route Area Navigation (RNAV) Operations.) In the near term, the FAA plans to enhance DME facilities to provide unrestricted RNAV operations for DME/DME and DME/DME/Inertial Reference Unit (IRU) equipped aircraft operating in Class A airspace over the CONUS and in the vicinity of the Core 30 airports. Over the longer term, the FAA is investigating other APNT solutions to satisfy PNT requirements for all users in the event of a loss of GPS.

Since VORs do not enable RNAV, RNP, or Automatic Dependent Surveillance-Broadcast (ADS–B) operations, the FAA plans to reduce costs by drawing down the number of FAA-provided VORs. Currently, over 80% of the 967 VORs in the NAS inventory are past their economic service life and cost the FAA more than $110M per year to operate. Likewise, replacement parts are becoming increasingly difficult to obtain. The replacement of all of the VORs would cost over $1.0B. Therefore, the FAA is planning a gradual discontinuance (removal from service) of VOR facilities in CONUS to a minimum operational network (MON). The MON would enable aircraft anywhere in the CONUS to proceed safely to a destination with a GPS-independent approach within 100 nm. MON coverage is planned to be provided at altitudes above 5,000 feet above ground level (AGL). The FAA would also retain VORs to support international arrival airways from the Atlantic, Pacific, Caribbean, and at the Core 30 airports. The existing U.S. legacy navigation aids outside CONUS will be retained until a longer-term solution can be coordinated with users. The drawdown of VORs to a MON would be completed no later than January 1, 2020.

In considering VORs for discontinuance, each facility will be evaluated on its own merits. The FAA will convene a working group that will develop a candidate list of VORs for discontinuance using relevant operational, safety, cost, and economic criteria. As part of the process, this working group will engage aviation industry stakeholders and other members of the public for input.

Suitably equipped RNAV aircraft can continue to fly the existing Victor Airways and Jet Routes, Standard Terminal Arrivals (STAR), and Departure Procedures (DP) even if their associated VORs are not operating, by the use of RNAV substitution as described in AC 90–108, Use of Suitable Area Navigation (RNAV) Systems on Conventional Routes and Procedures. Existing airways, routes, and procedures eventually would be replaced by RNAV Q (high) and T (low) Routes, and RNAV STARs and DPs. VORs are also used for the Hazardous In-flight Weather Advisory Service (HIWAS) broadcast and voice communication with FAA Flight Service Stations. These services are not planned to be impacted by this proposal.

WAAS supports vertically-guided approach operations, called Localizer Performance with Vertical guidance (LPV). These approaches are equivalent to Category I ILS, but do not require any radio navigation equipment at or near the airport. WAAS provides LPV coverage throughout CONUS, Alaska, and most of Canada and Mexico. By 2016, the FAA expects to provide instrument approach procedures with LPV or localizer performance (LP) non-precision lines of minima to all qualified instrument runways in CONUS and Alaska (see Advisory Circular AC 150/5300–13, Airport Design, Appendix 16). In order to maximize operational benefits and take advantage of the cost savings associated with WAAS, the FAA no longer intends to establish new Category I ILSs using Facilities and Equipment (F&E) funding.

ILSs that are funded by grants from the Airport Improvement Program (AIP) will continue as an eligible project per the authorizing statute. However, the FAA is considering programmatic changes under AIP that would favor WAAS for new precision approaches at airports, rather than ILS. The FAA Office of Airports will engage with airport stakeholders and associations on these potential changes.

Existing ILSs would provide an alternative approach and landing capability in support of recovery and dispatch of aircraft during GPS outages. ILSs would provide the precision approach and landing segment for APNT.

For all approach procedures, airports will continue to be required to meet airfield design and infrastructure requirements appropriate for the approach visibility levels set forth in AC 150/5300–13.

Future Plans

Unaugmented GPS is capable of providing the accuracy and integrity required by the FAA's ADS–B Out regulations (14 CFR 91.225 and 91.227) that were effective August 31, 2010 and have a compliance date of January 1, 2020. However, at this time, WAAS augmentation is the only service that provides the 99.9 percent availability (equivalent to radar) needed for ADS–B. Operators that equip with other position sources, such as Receiver Autonomous Integrity Monitoring (RAIM) based GPS, may experience periods of unavailability that limit their access to the airspace. The FAA expects that positioning from GPS combined with future positioning sources such as the L5 GPS signal and/or other GNSS signals, and GPS tightly integrated with inertial navigation systems, will also provide 99.9 percent availability.

The FAA is conducting research on APNT for service beyond 2020. The FAA will consider, in consultation with the users, whether the MON may be further reduced after an APNT solution is selected and available. The FAA is also evaluating the use of the Ground-Based Augmentation System (GBAS) in addition to ILS to provide Category II/III approach services.

Review of Navigation Equipage Requirements

FAA regulations addressing the operational requirements to carry navigation equipment in aircraft are set forth in 14 CFR parts 91, 121, 125, 129, and 135. Operators should be familiar with their specific requirements. The following paragraphs provide an overview of those requirements to assist in understanding the context for the radionavigation services described in this Notice.

Suitable Equipage for the Route To Be Flown

The aircraft equipage rules are performance-based and the aircraft must have equipment appropriate for the route to be flown, including en route, departure, arrival, and instrument approach procedures. Operators planning to fly a variety of different routes and procedures must carry equipment suitable for the different routes and procedures.

FAA guidance describing the navigation equipment ''suitable'' to the route to be flown is provided in the Aeronautical Information Manual and in a series of advisory circulars (see AC Nos. 90–100, 90–101, 90–105, and 90–107). Equipment is considered suitable if it has been demonstrated to provide the accuracy, integrity and reliability for the operation and the necessary radionavigation service is provided for the planned route of flight. For conventional ground-based routes and procedures, suitable equipment can be directly inferred from the type of procedure (*e.g.,* a VOR receiver would be suitable for operation on a Jet Route). RNAV systems, enabled by GPS, WAAS, or DME/DME/IRU (DDI), are suitable for a variety of operations including:

- Operation on Victor Airways, Jet Routes, terminal arrivals, departures, and approach procedures, including the initial and missed approach portions of an ILS instrument approach (based on AC 90–108);
- Operation on RNAV routes (Q routes and T routes);
- Operation on RNAV arrivals and departures;
- Operation on RNAV (GPS) approaches (excluding DDI);
- Operation on RNAV (RNP) approaches (excluding DDI).

Operators must ensure that performance requirements can be met for the intended operations during flight planning. Due to integrity limitations of unaugmented GPS, aircraft using unaugmented GPS navigation equipment under IFR must be equipped with an approved and operational alternate means of navigation so that the aircraft can proceed safely to a landing at a suitable airport. This limitation also applies to required alternates: When a planned alternate is required, that alternate cannot be predicated on GPS in any way (as the primary approach aid, or as the means to accomplish the initial, intermediate or missed approach of an ILS, RNAV, or VOR approach).

General aviation aircraft using WAAS equipment under IFR do not require an alternate means of navigation, due to the improved reliability of WAAS. However in non-normal conditions resulting in the loss of WAAS services (for example catastrophic failure of the WAAS satellites), the FAA will advise WAAS users that the GPS-only restrictions should be applied until such time as WAAS service can be restored. Aircraft equipped only with WAAS would be supported by air traffic control in the event of a catastrophic failure of satellite navigation.

The planned use of GPS or WAAS during periods when GPS may be unavailable (*e.g.,* test events identified through NOTAM as areas in which GPS may be unavailable) is not appropriate. In those areas and during the test, aircraft must be equipped with other equipment suitable for the planned operation (route of flight, altitude, *etc.*). However, pilots may use GPS or WAAS during flight if onboard equipment indicates service is available.

RNAV systems using multiple DME signals are also suitable for many of the same operations. DME has several limitations compared to GPS or WAAS: the coverage of the service is not universal, so the operator must verify that it is available over the planned route of flight; and DME navigation is not currently capable of providing the more precise accuracy that is needed for approach and departure operations.

Two Independent Systems

FAA regulations applicable to domestic operations for commerce or for hire require a second system capable of reversion or contingency operations during non-normal conditions, including regional- or system-wide effects that could reasonably occur. The rules applicable to those operations require two independent navigation systems appropriate to the route to be flown, or one system that is suitable and a second, independent backup capability that allows the operator to proceed safely and land at a different airport, and the aircraft must have sufficient fuel (reference 14 CFR 121.349, 125.203, 129.17, and 135.165). These rules ensure the safety of the operation by preventing a single point of failure.

The requirements for a second system apply to the entire set of equipment needed to achieve the navigation capability, not just the individual components of the system such as the radionavigation receiver. For example, in order to use two RNAV systems to comply with the requirements, the aircraft must be equipped with two independent radionavigation receivers and two independent navigation computers (*e.g.,* flight management systems). Alternatively, to comply with the requirements using a single RNAV system with an installed and operable VOR capability, the VOR capability must be independent of the FMS. The MON described in this notice would continue to allow this equipage to fulfill the above requirements for operating within U.S. airspace.

To satisfy the requirement for two independent navigation systems, if the primary navigation system is GPS-based, the second system must be independent of GPS (*e.g.,* VOR or DDI). This allows continued navigation in case of failure of the GPS or WAAS

services. Recognizing that GPS interference and test events resulting in the loss of GPS services have become more common, the FAA requires operators conducting IFR operations under 14 CFR 121.349, 125.203, 129.17 and 135.165 to retain a non-GPS navigation capability consisting of either DME/DME, IRU or VOR for en route and terminal operations, and VOR and/or ILS for final approach. Since this system is to be used as a reversionary capability, single equipage is sufficient.

Instructions for Submission of Comments

Interested parties are invited to provide comments on the proposal. Comments that provide the factual basis supporting the views and suggestions presented would be particularly helpful in developing reasoned decisions on the proposal.

Communications should identify docket numbers (FAA Docket No. FAA–2011–1082 and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number).

All communications received on or before the specified closing date for comments will be considered before taking action on the proposal. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this proposal will be filed in the docket.

Availability of Proposal

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of 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.

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

Phillip Leman,

Acting Manager, Navigation Services.

[FR Doc. 2011–31451 Filed 12–14–11; 8:45 am]

BILLING CODE 4910–13–P

POSTAL SERVICE

39 CFR Part 121

Service Standards for Market-Dominant Mail Products

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service seeks public comment on proposed revisions to the service standards for market-dominant mail products. The most significant revision would largely eliminate overnight service for First-Class Mail.

DATES: Comments must be received on or before February 13, 2012.

ADDRESSES: Written comments should be mailed to Manager, Industry Engagement and Outreach, United States Postal Service, 475 L'Enfant Plaza SW., Room 4107, Washington, DC 20260–4107, or transmitted by email to *industryfeedback@usps.com.* Copies of all comments will be available for inspection and photocopying at the Postal Service Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor North, Washington, DC 20260, between 9 a.m. and 4 p.m., Monday through Friday, by appointment (please call (202) 268–5585 to schedule an appointment).

FOR FURTHER INFORMATION CONTACT: Wendy Hocking, Industry Engagement and Outreach, at (202) 268–8149; or Emily Rosenberg, Network Analytics, at (202) 268–5585.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On September 21, 2011, the Postal Service published an advance notice of proposed rulemaking (the Advance Notice) in the **Federal Register** soliciting public comment on a conceptual proposal to revise service standards for market-dominant products.[1] The comment period for the Advance Notice closed on October 21, 2011. Having developed the concept into a concrete proposal, the Postal Service is now publishing and soliciting public comment on proposed revisions to the service standard regulations contained in 39 CFR part 121. Pursuant to 39 U.S.C. 3661(b), the Postal Service has also requested an advisory opinion from the Postal Regulatory Commission regarding the proposed revisions.[2]

II. Advance Notice

In the Advance Notice, the Postal Service explained that the growing excess capacity in its mail processing network has led it to consider significantly consolidating that network. The excess capacity stems largely from falling mail volumes, particularly in First-Class Mail. Annual First-Class Mail volume peaked in 2001 at 103.7 billion pieces; it has fallen about 30 billion pieces since then, or 29 percent. The Postal Service's mail processing network was designed principally to achieve First-Class Mail service standards, and the decline in First-Class Mail volume has made it difficult for the Postal Service to consolidate the network quickly enough to align with current volumes.

The Postal Service stated in the Advance Notice that further changes to align the mail processing network will for the most part be unachievable without a relaxation of certain market-dominant service standards, particularly for First-Class Mail. The Postal Service set forth a proposal to eliminate the overnight service standard for First-Class Mail, narrow the product's two-day delivery range, and enlarge its three-day delivery range. The proposal also contemplated similar changes to the Periodicals service standards, because those service standards are linked to First-Class Mail service standards. The Postal Service further noted that the proposal could entail minor changes to Standard Mail service standards, and it stated that all Postal Service products could experience changes in specific 3-digit ZIP Code origin-destination pairs' transit times.

The Postal Service explained in the Advance Notice that the proposal could make possible a significant modification of the mail processing network, better

[1] Proposal to Revise Service Standards for First-Class Mail, Periodicals, and Standard Mail, 76 FR 58433 (Sept. 21, 2011).

[2] Request of the United States Postal Service for an Advisory Opinion on Changes in the Nature of Postal Services, Docket No. N2012–1 (Dec. 5, 2011). Documents pertaining to the Request are available at the Postal Regulatory Commission (PRC) Web site, *http://www.prc.gov,* under Docket No. N2012–1.

aligning the network with current and future mail volumes, and that the proposal could lead to significant cost savings. The Postal Service also described some of the effects the proposal could have on mail users. The Postal Service solicited public comment on all aspects of the proposal.

III. Comments

The Postal Service received over 4,200 comments in response to the Advance Notice, from a variety of sources, including retail customers, small businesses, periodicals publishers, parcel shippers, nonprofit mailers, commercial mail advertisers, mailer trade associations, postal unions and associations, state and local governments, members of Congress, and others. The majority of commenters expressed opposition to the proposal. Some commenters, while not opposed to the proposal, raised concerns regarding it. Some commenters requested more information. A minority of commenters supported the proposal.

Commenters who opposed the proposal cited a number of reasons for their opposition. Some stated that the current service standards constitute an essential component of the mail, without which the mail would lose its utility to those who rely upon it most, such as the elderly, those who cannot access the internet, and those who live in rural areas. They pointed out that the proposal could cause delayed receipt of vital checks and medicines and could lead to more late fees being levied by financial institutions. They stated that the proposal would lead to lower mail volumes and revenue for the Postal Service, would hurt many businesses that rely on the mail, and would damage the economy generally. Numerous commenters expressed concern regarding the impact that the closures of processing facilities would have on local communities.

Some commenters questioned whether the Postal Service's financial difficulties are significant enough to require major changes. Others suggested that the Postal Service seek to improve its financial position through other means, such as pricing and legislative changes, rather than lengthen service standards. Some commenters stated that the proposal violates the statutes governing the Postal Service, and they questioned whether the Postal Service has considered all of the requisite statutory factors in forming its proposal.

Commenters also requested more information about the proposal. Commenters asked for a calculation of the cost savings and revenue loss that would result from the proposal. They stated that the mailing industry needs comprehensive information on how the proposal would alter the service standards between each 3-digit ZIP Code origin-destination pair and Critical Entry Times. They requested an implementation timeline, including the sequence in which facilities would be closed.

Some commenters questioned whether the Postal Service would be able to maintain its current on-time delivery performance, given the longer distances that mail will be transported to and from processing facilities. Many mailers expressed concern regarding how Business Mail Entry Units (BMEUs) and Detached Mail Units (DMUs) would be affected by the proposal; for example, they asked whether BMEUs would be maintained at sites where processing facilities are closed, and whether ''stand-alone'' BMEUs might be established in more central locations. Mailers expressed concern that, after the consolidation of a significant number of processing facilities, there could be congestion at the loading docks of the remaining facilities.

Mailers sought clarification on how the Postal Service will transition customer mailing accounts if acceptance units are closed or consolidated, and whether existing permits could continue to be used at new acceptance units. Some mailers inquired whether the Postal Service would create single permits for customers that mail at multiple origin offices. More generally, many commenters asked how the Postal Service would communicate the changes associated with the proposal both to commercial customers and to the public at large.

IV. Response to Comments

The Postal Service has decided to continue pursuing the proposal, with some changes, by issuing proposed rules.[3] The Postal Service acknowledges that the proposal would cause difficulty for some customers, and would, to some degree, reduce the value of the mail to customers. However, it believes that, on balance, the proposal is in the long-term interests of the Postal Service, and that it will help maintain the viability of the Postal Service for all customers into the future. The Postal Service believes that the proposal conforms to the policies of Title 39 and, in particular, to the factors and objectives set forth in subsections (b)(1) and (c) of 39 U.S.C. 3691 for designing and revising market-dominant service standards.[4]

The primary reality driving the proposal is the decline in First-Class Mail volume. As noted above, annual First-Class Mail volume has declined 29 percent over the last decade. The Postal Service expects this volume to decline faster in the next decade—the Postal Service forecasts annual First-Class Mail volume to fall from 73.5 billion pieces in 2011 to 39 billion pieces in 2020, a decline of 47 percent from the 2011 level. The mail processing network was designed principally to achieve First-Class Mail service standards, and if the network does not undergo significant consolidation, it will be vastly oversized for the amount of First-Class Mail volume it processes. As the Postal Service has stated, a significant consolidation of the mail processing network is not possible without adjusting market-dominant service standards.

In regard to commenters' concern that the proposal will exacerbate volume declines, the Postal Service has conducted market research to determine how retail and commercial customers would react to the proposal. Based on this market research, the Postal Service estimates that the proposal will lead to an additional 1.9 percent decline in First-Class Mail (approximately 1.5 billion pieces), based on 2010 volume.[5] In light of the forecast 47 percent decline in annual First-Class Mail volume by 2020, the Postal Service believes that the additional 1.9 percent decline is, while unfortunate, acceptable.

The Postal Service has also calculated the cost savings that will likely accrue to the Postal Service upon full implementation of the proposal, by reviewing all of the operational changes that would occur if the proposal were to be implemented, and then quantifying the costs that would be saved as a result of those changes. The Postal Service believes that these cost savings will total

[3] The proposal, as modified, is described in detail in Section V.

[4] A lengthier discussion of how the proposal conforms to the policies of Title 39 and to the factors and objectives set forth in subsections (b)(1) and (c) of 39 U.S.C. 3691 is contained in the Postal Service's request to the PRC for an advisory opinion. *See* Request of the United States Postal Service for an Advisory Opinion on Changes in the Nature of Postal Services, Docket No. N2012–1 (Dec. 5, 2011); *see* also Direct Testimony of David Williams on Behalf of the United States Postal Service (USPS–T–1), Docket No. N2012–1 (Dec. 5, 2011), available at *http://www.prc.gov.*

[5] A full description of the market research is contained in testimony filed at the PRC. See Direct Testimony of Greg Whiteman on Behalf of the United States Postal Service (USPS–T–12), Docket No. N2012–1 (Dec. 5, 2011), available at *http://www.prc.gov.*

approximately $2.6 billion annually.[6] The data produced by the Postal Service's market research indicate that the proposal would lead to an annual loss of $1.3 billion in revenue, which translates to $0.5 billion in lost contribution. Subtracting this contribution loss from the cost savings yields a net annual benefit of $2.1 billion to the Postal Service. Given the multi-billion dollar deficits that the Postal Service has experienced in each of the last five years, and given the over $14 billion dollar loss it expects in 2012,[7] capturing cost savings wherever possible will be vital to the Postal Service's financial viability. The Postal Service believes that the present proposal's estimated $2.1 billion in net annual benefit will, along with other initiatives and measures, help return the Postal Service to a fiscally sound position.

To provide detail on the potential impact of the proposal on the service standards between specific 3-digit ZIP Code origin-destination pairs, the Postal Service has published an illustrative Service Standard Directory (SSD) at *http://about.usps.com/news/facility-studies/*. The SSD lists the service standards that would exist in a potential realigned network. Because the proposal could change prior to implementation or possibly not be implemented, and because the actual changes that ultimately occur will depend on the outcome of numerous Area Mail Processing studies, the SSD list is only hypothetical and illustrative. For the same reasons, the Postal Service does not presently have an implementation timeline or a planned sequence in which facilities would be closed.

The Postal Service believes that, if the proposal is implemented, the Postal Service will achieve the same rates of success in meeting the new service standards as it currently achieves in meeting the existing service standards. In response to mailers' concerns regarding BMEUs, the Postal Service will, wherever practicable, retain BMEUs in facilities where processing operations are eliminated. Where this is not practicable, the Postal Service will set up new acceptance units within relatively close geographical proximity to the original facilities. In regard to mailers' concerns about congestion at the loading docks of remaining facilities, the Postal Service will adjust local staffing levels and facility capacity as necessary to avoid congestion. In addition, Plant-Verified Drop Ship appointment windows in the Facility Access and Shipment Tracking system will be adjusted as necessary to support shifting volumes across the network. In regard to mailers' concerns about permits, the Postal Service will allow customers to maintain their existing permit account numbers from eliminated sites for use at the remaining sites. Customers will also be able to continue using existing indicia.[8]

As the Postal Service moves forward with the proposal, it is committed to communicating its plans in a clear and simple manner.

V. Proposed Revisions to Service Standards

The Postal Service's market-dominant service standards are contained in 39 CFR part 121. The proposed revised version of 39 CFR part 121 appears at the end of this Notice. The following is a summary of the proposed revisions.

A. Service Standards Generally

Before describing how service standards will be revised, it is important to understand how service standards are structured. Service standards are comprised of two components: (1) A delivery day range within which all mail in a given product is expected to be delivered;[9] and (2) business rules that determine, within a product's applicable day range, the specific number of delivery days after acceptance of a mail piece by which a customer can expect that piece to be delivered, based on the 3-Digit ZIP Code prefixes associated with the piece's point of entry into the mail stream and its delivery address.

Business rules are based on Critical Entry Times (CETs). The CET is the latest time on a particular day that a mail piece can be entered into the postal network and still have its service standard calculated based on that day (this day is termed ''day-zero''). In other words, if a piece is entered before the CET, its service standard is calculated from the day of entry, whereas if it is entered after the CET, its service standard is calculated from the following day.[10] For example, if the applicable CET is 5 p.m., and a letter is entered at 4 p.m. on a Tuesday, its service standard will be calculated from Tuesday, whereas if the letter is entered at 6 p.m. on a Tuesday, its service standard will be calculated from Wednesday.

CETs are not contained in 39 CFR part 121, because they vary based on where mail is entered, the mail's level of preparation, and other factors. The CETs at retail collection points are generally listed at those points.[11] For example, blue collection boxes list the time of day when mail is collected from them by the Postal Service; if a blue collection box lists three pick-up times on one day, the CET for that day is the latest listed pick-up time.

The Postal Service has noted below certain new CETs it plans to institute if it determines to implement the proposed rules. The CETs could, of course, be modified in the future, as the operating environment that the Postal Service faces changes over time.

B. First-Class Mail

The Postal Service is not proposing to change the first component of the First-Class Mail service standards, namely the delivery day range applicable to First-Class Mail in general. As is currently the case, the delivery day range for First-Class Mail that originates and destinates in the contiguous forty-eight states will technically remain one to three days, and the delivery day range for First-Class Mail that originates or destinates in Alaska, Hawaii, Puerto Rico, the U.S. Virgin Islands, or other U.S. territories will technically remain one to five days.

The Postal Service is, however, proposing to change the second component of the First-Class Mail service standards, namely the business rules. The most significant effect of these changes will be to drastically reduce the amount of First-Class Mail that qualifies for an overnight service standard. Under the current First-Class Mail overnight business rule, intra-Sectional Center Facility (SCF) mail is subject to overnight delivery if it is

[6] Full descriptions of the cost savings calculations are contained in testimony filed at the PRC. See Direct Testimony of Marc Smith on Behalf of the United States Postal Service (USPS–T–9), and Direct Testimony of Michael Bradley on Behalf of the United States Postal Service (USPS–T–10), Docket No. N2012–1 (Dec. 5, 2011), available at *http://www.prc.gov*.

[7] Some commenters stated that, if the statutory burden of an accelerated prefunding schedule for the Retiree Health Benefits Fund were lifted, the Postal Service would be in a financially sound position. In response, the Postal Service notes that, if it no longer had to make any prefunding payments to the Retiree Health Benefits Fund, it would still experience a projected financial loss of $3 billion in 2012.

[8] A full description of the impact of the proposal on the entry of commercial mail is contained in testimony filed at the PRC. See Direct Testimony of Pritha N. Mehra on Behalf of the United States Postal Service (USPS–T–7), Docket No. N2012–1 (Dec. 5, 2011), available at *http://www.prc.gov*.

[9] There are separate delivery day ranges for mail within the contiguous forty-eight states and mail that originates or destinates outside the contiguous forty-eight states.

[10] If the following day is a Sunday or holiday, then the service standard is calculated from the next Postal Service delivery day.

[11] The CET for outgoing mail left in a residential customer's mailbox for pick-up by the customer's carrier obviously varies based on the carrier's schedule. The same is true for collection boxes that are part of residential delivery cluster boxes.

entered before the applicable day-zero CET.[12] Mail is ''intra-SCF'' if its destination is within its designated SCF's delivery area. The current overnight business rule also includes criteria establishing an overnight service standard for some inter-SCF mail entered before the CET, depending on the mail's destination.

Under the proposed revisions to the First-Class Mail overnight business rule, overnight service would be accorded only to intra-SCF Presort First-Class Mail that is entered at the SCF prior to the CET.[13] Overnight service would not be accorded to any mail that is entered anywhere other than the designated SCF, it would not be accorded to any mail whose destination is outside the delivery area of the SCF (i.e., inter-SCF), and it would not be accorded to any mail that does not meet all of the preparation requirements for Presort mail. The CET at the SCF would be 8 a.m., with a 12 p.m. exception that would be available only to intra-SCF Presort First-Class Mail that is sorted and containerized to the 5-digit Zip Code or 5-digit scheme level.[14] Pursuant to these revisions, overnight service would no longer be available to any First-Class Mail entered by retail customers, regardless of when or where such mail is entered.[15]

Intra-SCF mail that is entered before the day-zero CET but does not meet the criteria for overnight service would be accorded a two-day service standard. The First-Class Mail two-day business rule would be revised accordingly. In addition, the current First-Class Mail two-day business rule covers any mail piece entered before the day-zero CET if the driving time between the piece's origin Processing and Distribution Center or Facility (P&DC/F) and its destination Area Distribution Center (ADC) is twelve hours or less (and the piece does not qualify for the overnight standard). This criterion would be revised to a four hour driving time between the piece's origin P&DC/F and its destination SCF.[16]

All First-Class Mail that qualifies for a two-day service standard under the current two-day business rule, but would not qualify for a two-day service standard under the proposed two-day business rule, will qualify for a three-day standard. The three-, four-, and five-day business rules for First-Class Mail will not be revised. Any First-Class Mail that currently qualifies for a three-, four-, or five-day service standard will retain its current service standard under the proposed rules.[17]

The Postal Service is not proposing any changes to the service standards for First-Class Mail International beyond the changes described above for domestic First-Class Mail. The new domestic transit time for First-Class Mail International will mirror the new domestic transit time for domestic First-Class Mail.

C. Periodicals

The Postal Service is not proposing to change the delivery day range for Periodicals mailed within the contiguous forty-eight states, but it is proposing to change the delivery day range for Periodicals that originate or destinate outside the contiguous forty-eight states. The Postal Service proposes extending such mail's maximum delivery period from the current twenty days to a proposed twenty-six days, to more accurately reflect the service that is received by such mail.[18]

The Postal Service is also proposing to change the Periodicals business rules. There are separate business rules for end-to-end Periodicals and destination-entry Periodicals.

1. End-to-End Periodicals

Under the current overnight business rule for end-to-end Periodicals, intra-SCF mail is subject to overnight delivery if it is entered before the applicable day-zero CET and its origin P&DC/F and SCF are located in the same building.[19] Under the proposed overnight business rule, overnight service would be limited to pieces that are intra-SCF, Presort, not mixed with any inter-SCF pieces, and entered at the SCF prior to the CET.[20] The differences between the current and proposed rules, then, are that the proposed rule adds requirements that the mail be Presort, that it not be mixed with inter-SCF mail, and that it be entered at the designated SCF.

Further, some of the end-to-end Periodicals CETs will change. The current CETs at facilities that do not employ the Flats Sequencing System (non-FSS facilities) are 4 p.m. for mailings that require the Postal Service to perform a bundle sort, and 5 p.m. for mailings that do not require the Postal Service to perform a bundle sort. These CETs would be changed to 11 a.m. and 2 p.m., respectively. The current CETs at FSS facilities—8 a.m. for mailings that require a bundle sort, and 11 a.m. for mailings that do not require a bundle sort—will remain unchanged.

The Postal Service is proposing to insert a new, two-day business rule for end-to-end Periodicals to cover all intra-SCF mail that is entered prior to the CET and does not meet the requirements of the proposed overnight business rule.[21] Thus, end-to-end Periodicals mail pieces that meet the requirements of the current overnight business rule but do not meet the requirements of the proposed overnight business rule will be accorded a two-day service standard.

Consequently, the current two- to four-day business rule for end-to-end Periodicals will be revised to become a three- to four-day business rule. This rule will not be revised in any other way. The current five- to nine-day business rule for end-to-end Periodicals will not be revised. The current eight- to twenty-day business rule for end-to-

[12] The rule has an exception that excludes from overnight service some mail outside of the contiguous forty-eight states, specifically: Mail between Puerto Rico and the U.S. Virgin Islands; and mail originating and destinating in the Alaska 3-digit ZIP Codes 996, 997, 998, and 999, and in the Alaska 5-digit ZIP Codes 99540 to 99591.

[13] The rule will retain the exception that the current rule has to exclude from overnight service some mail outside of the contiguous forty-eight states. However, the exception will be expanded to also include the Alaska 5-digit ZIP Codes 99592 to 99599. These ZIP Codes are currently unassigned, but they may be assigned in the future.

[14] A ''scheme'' is a collection of multiple 5-digit ZIP Codes that are processed on a single sort program.

[15] As is the case currently, First-Class Mail entered by retail customers would have varying CETs based on the point of entry. Because mail entered by retail customers cannot meet the preparation requirements for Presort mail, such mail would be ineligible for overnight service.

[16] The current business rule measures the driving time based on the destination ADC. After the proposed consolidation of so many facilities, the Postal Service believes it will be able to sort First-Class Mail at the origin to the SCF level, which is a further level of sortation than the ADC level. Therefore, mail will generally bypass ADCs and be transported directly to SCFs. For this reason, the proposed business rule measures the driving time based on the destination SCF.

[17] There will be limited, exceptional cases where, as a result of the proposed network changes, the service standards between certain origin-destination pairs will change from three days to two days.

[18] Outside the contiguous forty-eight states, mail is often dependent on transportation that does not run daily (*e.g.,* certain boat and air-taxi services used by the Postal Service operate only on certain days of the week). For this reason, the service accorded to such mail varies widely and is often much longer than stated in the current service standards.

[19] As with the First-Class Mail overnight business rule, the Periodicals overnight business rule has an exception that excludes from overnight service mail between Puerto Rico and the U.S. Virgin Islands, and mail originating and destinating in the Alaska 3-digit ZIP Codes 996, 997, 998, and 999, and in the Alaska 5-digit ZIP Codes 99540 to 99591.

[20] The rule will retain the exception that the current rule has to exclude from overnight service some mail outside of the contiguous forty-eight states. However, the exception will be expanded to also include the Alaska 5-digit ZIP Codes 99592 to 99599. These ZIP Codes are currently unassigned, but they may be assigned in the future.

[21] The proposed end-to-end Periodicals two-day business rule will have the same exception that the proposed end-to-end Periodicals overnight business rule will have to exclude from overnight service some mail outside of the contiguous forty-eight states.

end Periodicals will be revised to become an eleven- to twenty-six-day business rule. This revision is being made so that the rule more accurately reflects the service that is currently received by pieces destinating outside the contiguous forty-eight states.[22]

2. Destination-Entry Periodicals

The CETs for destination-entry Periodicals will be changed in the same manner as the CETs for end-to-end Periodicals are changed. The CETs at non-FSS facilities will change from 4 p.m. for mailings that require a bundle sort, and 5 p.m. for mailings that do not require a bundle sort, to 11 a.m. and 2 p.m., respectively. The CETs at FSS facilities will not change.

The business rules for destination-entry Periodicals will not be revised in any significant fashion. The seven-day business rule will be revised to become an eleven-day business rule, and the five- to eight-day business rule will be revised to become an eight- to eleven-day business rule. Both of these changes are being made so that the rules more accurately reflect the service that is currently received by pieces destinating outside the contiguous forty-eight states.[23]

D. Standard Mail and Package Services

The Postal Service is not proposing any revisions to the service standards for Standard Mail and Package Services pieces mailed within the contiguous forty-eight states. The Postal Service is proposing to revise the Standard Mail and Package Services service standards for pieces that originate or destinate outside the contiguous forty-eight states, to more accurately reflect the service that such pieces receive. The Postal Service is proposing to extend Standard Mail's maximum delivery period from the current twenty-two days to a proposed twenty-seven days. In the Standard Mail business rules, the end-to-end nine- to twenty-two-day rule would be revised to twelve to twenty-seven days, and the destination-entry nine- to twelve-day rule would be revised to twelve to fourteen days.

The Postal Service is proposing to extend Package Services' maximum delivery period from the current twenty days to a proposed twenty-six days. In the Package Services business rules, the end-to-end seven- to twenty-day rule would be revised to ten to twenty-six days, and the destination-entry seven- to eight-day rule would be revised to eleven to twelve days.

VI. Request for Comments

The Postal Service requests comments on the proposed revisions to 39 CFR Part 121 and on the proposal generally. A more extensive discussion of the proposal and its associated network and service implications is available in the materials filed by the Postal Service with the Postal Regulatory Commission in Docket No. N2012–1, at *http://www.prc.gov*. If the Postal Service determines to implement the proposal, it will publish final rules in the **Federal Register**.

List of Subjects in 39 CFR Part 121

Administrative practice and procedure, Postal Service.

Accordingly, for the reasons stated, the Postal Service proposes the following revision to 39 CFR part 121:

PART 121—SERVICE STANDARDS FOR MARKET DOMINANT MAIL PRODUCTS

1. The authority citation for 39 CFR Part 121 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 403, 404, 1001, 3691.

2. Revise Part 121 to read as follows:

121.1 First-Class Mail
121.2 Periodicals
121.3 Standard Mail
121.4 Package Services
Appendix A to Part 121—Tables Depicting Service Standard Day Ranges

§ 121.1 First-Class Mail.

(a) For all intra-Sectional Center Facility (SCF) domestic Presort First-Class Mail® pieces properly accepted at the designated SCF prior to the established and published Critical Entry Time, the service standard is 1-day (overnight), except for mail between Puerto Rico and the U.S. Virgin Islands and intra-SCF mail originating and destinating in the following 3-digit ZIP Code areas in Alaska or designated portions thereof: 995 (5-digit ZIP Codes 99540 through 99599), 996, 997, 998 and 999. For all intra-SCF domestic Presort First Class Mail five-digit or schemed container mail properly accepted at the designated SCF prior to the established and published Critical Entry Time, the service standard is 1-day (overnight), except for mail between Puerto Rico and the U.S. Virgin Islands and intra-SCF mail originating and destinating in the following 3-digit ZIP Code areas in Alaska or designated portions thereof: 995 (5-digit ZIP Codes 99540 through 99599), 996, 997, 998 and 999.

(b) A 2-day service standard is established for all domestic First-Class Mail pieces properly accepted before the day-zero Critical Entry Time at origin if a 1-day service standard is not required, and if the origin PDC/F to SCF surface transportation drive time is 4 hours or less; or if the origin and delivery address are separately in the territories of Puerto Rico and the U.S. Virgin Islands; or if the mail is intra-SCF and originating from or destinating to one of the following 3-digit ZIP Code areas in Alaska or designated portions thereof: 995 (5-digit ZIP Code areas 99540 through 99599), 996, 997, 998, and 999.

(c) A 3-day service standard is established for all remaining domestic First-Class Mail pieces properly accepted before the day-zero Critical Entry Time at origin, if neither a 1-day nor a 2-day service standard is required and:

(1) Both the origin SCF and the delivery address are within the contiguous 48 states;

(2) The origin SCF is in the contiguous 48 states, and the delivery address is in either of the following: the 995 3-digit ZIP Code area in the state of Alaska, or the 968 3-digit ZIP Code area in the state of Hawaii, or in the 006, 007, or 009 3-digit ZIP Code areas of the territory of Puerto Rico;

(3) The origin is in the 006, 007 or 009 3-digit ZIP Code areas of the territory of Puerto Rico and the delivery address is in the contiguous 48 states;

(4) The origin SCF is in the state of Hawaii and the delivery address is in the territory of Guam; the origin is in the territory of Guam and the delivery address is in the state of Hawaii;

(5) Both the origin SCF and the delivery address are within the state of Alaska; or

(6) The origin and delivery address are separately in the territories of Puerto Rico and the U.S. Virgin Islands.

(d) A 4-day service standard is established for all remaining First-Class Mail pieces properly accepted before the day-zero Critical Entry Time at origin, if either a 1-day, 2-day, or 3-day service standard is not required, and if:

(1) The origin SCF is in the contiguous 48 states and the delivery address is in either of the following: any portion of the state of Alaska not in the 995 3-digit ZIP Code area; or any portion of the state of Hawaii not in the 968 3-digit ZIP Code area; or the territory of the U.S. Virgin Islands.

(2) The delivery address is in the contiguous 48 states and the origin is in either of the following: the state of

[22] This rule applies only to mail originating or destinating outside the contiguous forty-eight states.

[23] In addition, the exception that the current two-day business rule has to exclude from overnight service some mail outside of the contiguous forty-eight states will be expanded in the proposed two-day business rule to include the Alaska 5-digit ZIP Codes 99592 to 99599. These ZIP Codes are currently unassigned, but they may be assigned in the future.

Alaska, the state of Hawaii, or the territory of the U.S. Virgin Islands; or

(3) The origin and delivery address are in different states or territories, excluding mail to and from the territory of Guam and mail between the territories of Puerto Rico and the U.S. Virgin Islands.

(e) A 5-day service standard is established for all remaining domestic First-Class Mail pieces properly accepted before the day-zero Critical Entry Time at origin, if those pieces originate in the territory of Guam but are not destined for Guam or the state of Hawaii, or if those pieces originate other than in Guam or Hawaii and are destined for Guam.

(f) The service standard for Outbound Single-Piece First-Class Mail International™ pieces properly accepted before the day-zero Critical Entry Time at origin is equivalent to the service standard for domestic First-Class Mail from the same origin 3-digit ZIP Code to the 3-digit ZIP Code area in which that origin's designated International Service Center is located.

(g) The service standard for Inbound Single-Piece First-Class Mail International is equivalent to the service standard for domestic First-Class Mail pieces from the 3-digit ZIP Code area in which that inbound mail's designated International Service Center is located to the 3-digit ZIP Code of the delivery address.

§ 121.2 Periodicals.

(a) *End-to-End.* (1) For all intra-Sectional Center Facility (SCF) domestic Presort pieces properly accepted at the designated SCF prior to the established and published Critical Entry Time, the service standard is 1-day (overnight), except for mail between Puerto Rico and the U.S. Virgin Islands and intra-SCF mail originating and destinating in the following 3-digit ZIP Code areas in Alaska or designated portions thereof: 995 (5-digit ZIP Codes 99540 through 99599), 996, 997, 998 and 999. For all intra-Sectional Center Facility (SCF) domestic Presort five-digit or schemed container mail properly accepted at the designated SCF prior to the established and published Critical Entry Time, the service standard is 1-day (overnight), except for mail between Puerto Rico and the U.S. Virgin Islands and intra-SCF mail originating and destinating in the following 3-digit ZIP Code areas in Alaska or designated portions thereof: 995 (5-digit ZIP Codes 99540 through 99599), 996, 997, 998 and 999.

(2) For all SCF turnaround Periodicals properly accepted before the established and published day-zero Critical Entry Time at origin, where the origin P&DC/F and SCF are in the same building, the service standard is 2 days, except for mail between the territories of Puerto Rico and the U.S. Virgin Islands, and mail originating or destinating in the following 3-digit ZIP Code areas within the state of Alaska or designated portions thereof: 995 (5-digit ZIP Code areas 99540 through 99599), 996, 997, 998, and 999.

(3) The Periodicals service standard is the sum of the applicable (2-to-3-day) First-Class Mail service standard plus one day, for each 3-digit ZIP Code origin-destination pair for which Periodicals are accepted before the day zero Critical Entry Time at origin and merged with First-Class Mail pieces for surface transportation (as defined by the Periodicals Origin Split and First-Class Mail mixed Area Distribution Center/Automated Area Distribution Center (ADC/AADC) Domestic Mail Manual label list L201).

(4) The Periodicals service standard for mail between the territories of Puerto Rico and the U.S. Virgin Islands is 3 days.

(5) The Periodicals service standard for mail between the state of Hawaii and the territory of Guam is 4 days.

(6) The Periodicals service standard for intra-Alaska mail that is not overnight is 3 to 4 days for the following 3-digit ZIP Code areas or designated portions thereof: 995 (5-digit ZIP Code areas 99540 through 99599), 996, 997, 998, and 999.

(7) The Periodicals service standard for each remaining 3-digit ZIP Code origin-destination pair within the contiguous 48 states, for which Periodicals are accepted before the day zero Critical Entry Time at origin, is the sum of 4 or 5 days, plus the number of additional days (from 1 to 4) required for surface transportation between each 3-digit ZIP Code origin-destination pair.

(8) The Periodicals service standard for each remaining 3-digit ZIP Code origin-destination pair, for which Periodicals are accepted before the day zero Critical Entry Time at origin, is the sum of 4 or 5 days, plus the number of additional days (from 7 to 21) required for intermodal (highway, boat, air-taxi) transportation outside of the contiguous 48 states for each 3-digit ZIP Code origin-destination pair.

(b) *Destination Entry.* (1) Periodicals that qualify for a Destination Delivery Unit (DDU) or Destination Sectional Center Facility (DSCF) rate, and that are accepted before the day-zero Critical Entry Time at the proper DDU or DSCF, have a 1-day (overnight) service standard, except for mail dropped at the SCF in the territory of Puerto Rico and destined for the territory of the U.S. Virgin Islands, and intra SCF mail in the following 3-digit ZIP Code areas in the state of Alaska or designated portions thereof: 995 (5-digit ZIP Code areas 99540 through 99599), 996, 997, 998 and 999.

(2) Periodicals that qualify for a Destination Area Distribution Center (DADC) rate, and that are accepted before the day zero Critical Entry Time at the proper DADC, unless the ADC is located with the contiguous 48 states and the destination is not, and where the DADC and DSCF are not the same building, have a 2-day service standard, unless the destination is the Alaska 997 3-digit ZIP Code area. Mail that qualifies for a Destination Sectional Center Facility (DSCF) rate has a 2-day service standard, if it is accepted before the day-zero Critical Entry Time, and the mail is dropped at the SCF in the territory of Puerto Rico and is destined for the territory of the U.S. Virgin Islands; or if the mail is intra-SCF in the following 3-digit ZIP Code areas of the state of Alaska: 996, 998 and 999. Periodicals that qualify for a DADC rate, and that are accepted before the day zero Critical Entry Time at the Alaska 997 DADC have a 3-day service standard.

(3) Periodicals that qualify for a Destination Network Distribution Center containerized rate, that are accepted before the day-zero Critical Entry Time at the proper destination NDC in the contiguous 48 states, and that are addressed for delivery in the contiguous 48 states, have a service standard of 1 or 2 days, corresponding to the standard for mail qualifying for the destination ADC rate, based on whether the destination ADC and SCF are the same building.

(4) Periodicals that qualify for a Destination Area Distribution Center (DADC) rate and that are accepted before the day zero Critical Entry Time at the proper DADC in the contiguous 48 states for delivery to addresses in the state of Alaska have a service standard of 11 days.

(5) Periodicals that qualify for a Destination Network Distribution Center containerized rate, that are accepted before the day-zero Critical Entry Time at the proper destination NDC in the contiguous 48 states, and that are addressed for delivery in the states of Alaska or Hawaii, or the territories of Guam, Puerto Rico, or the U.S. Virgin Islands, have a service standard of 8 to 11 days, corresponding to the standard for mail qualifying for the destination ADC rate, which is based on the number of days required for transportation outside of the contiguous 48 states and whether the destination ADC and SCF are the same building.

§ 121.3 Standard Mail.

(a) *End-to-End.* (1) The service standard for Sectional Center Facility (SCF) turnaround Standard Mail® pieces accepted at origin before the day zero Critical Entry Time is 3 days when the origin Processing & Distribution Center/Facility (OPD&C/F) and the SCF are the same building, except for mail between the territories of Puerto Rico and the U.S. Virgin Islands.

(2) The service standard for Area Distribution Center (ADC) turnaround Standard Mail pieces accepted at origin before the day zero Critical Entry Time is 4 days when the OPD&C/F and the ADC are the same building, unless the ADC is in the contiguous 48 states and the delivery address is not, or when the mail is between the territories of Puerto Rico and the U.S. Virgin Islands.

(3) The service standard for intra-Network Distribution Center (NDC) Standard Mail pieces accepted at origin before the day zero Critical Entry Time is 5 days for each remaining 3-digit ZIP Code origin-destination pair within the same Network Distribution Center service area if the origin and destination are within the contiguous 48 states; the same standard applies to mail that is intra-Alaska, intra-Hawaii, or between the state of Hawaii and the territory of Guam.

(4) For each remaining 3-digit ZIP Code origin-destination pair within the contiguous 48 states, the service standard for Standard Mail pieces accepted at origin before the day zero Critical Entry Time is the sum of 5 or 6 days plus the number of additional days (from 1 to 4) required for surface transportation between each 3-digit ZIP Code origin-destination pair.

(5) For each remaining 3-digit ZIP Code origin-destination pair, the service standard for Standard Mail pieces accepted at origin before the day zero Critical Entry Time is the sum of 5 or 6 days plus the number of additional days (from 7 to 21) required for intermodal (highway, boat, air-taxi) transportation outside of the contiguous 48 states for each 3-digit ZIP Code origin-destination pair.

(b) *Destination Entry.* (1) Standard Mail pieces that qualify for a Destination Delivery Unit (DDU) rate and that are accepted before the day zero Critical Entry Time at the proper DDU have a 2-day service standard.

(2) Standard Mail pieces that qualify for a Destination Sectional Center Facility (DSCF) rate and that are accepted before the day zero Critical Entry Time at the proper DSCF have a 3-day service standard, except for mail dropped at the SCF in the territory of Puerto Rico and destined for the territory of the U.S. Virgin Islands.

(3) Standard Mail pieces that qualify for a Destination Sectional Center Facility (DSCF) rate, and that are accepted before the day zero Critical Entry Time at the SCF in the territory of Puerto Rico, have a 4-day service standard if destined for the territory of the U.S. Virgin Islands.

(4) Standard Mail pieces that qualify for a Destination Network Distribution Center (DNDC) rate, and that are accepted before the day zero Critical Entry Time at the proper DNDC have a 5-day service standard, if both the origin and the destination are in the contiguous 48 states.

(5) Standard Mail pieces that qualify for a Destination Network Distribution Center (DNDC) rate, and that are accepted before the day zero Critical Entry Time at the proper DNDC in the contiguous 48 states for delivery to addresses in the states of Alaska or Hawaii or the territories of Guam, Puerto Rico, or the U.S. Virgin Islands, have a service standard of 12–14 days, depending on the 3-digit origin-destination ZIP Code pair. For each such pair, the applicable day within the range is based on the number of days required for transportation outside of the contiguous 48 states.

§ 121.4 Package Services.

(a) *End-to-End.* (1) The service standard for Sectional Center Facility (SCF) turnaround Package Services mail accepted at the origin SCF before the day zero Critical Entry Time is 2 days when the origin Processing & Distribution Center/Facility and the SCF are the same building, except for mail between the territories of Puerto Rico and the U.S. Virgin Islands.

(2) The service standard for intra-Network Distribution Center (NDC) Package Services mail accepted at origin before the day zero Critical Entry Time is 3 days, for each remaining (non-intra-SCF) 3-digit ZIP Code origin-destination pair within a Network Distribution Center service area, where the origin and destination is within the contiguous 48 states and is not served by an Auxiliary Service Facility; and for mail between the territories of Puerto Rico and the U.S. Virgin Islands.

(3) The service standard for intra-Network Distribution Center (NDC) Package Services mail accepted at origin before the day zero Critical Entry Time is 4 days for each remaining 3-digit ZIP Code origin-destination pair within a Network Distribution Center service area, where the destination delivery address is served by an Auxiliary Service Facility; the same standard applies to all remaining intra-Alaska mail and mail between the state of Hawaii and the territory of Guam.

(4) For each remaining 3-digit ZIP Code origin-destination pair within the contiguous 48 states, the service standard for Package Services mail accepted at origin before the day zero Critical Entry Time is between 5 and 8 days. For each such 3-digit ZIP Code origin-destination pair, this is the sum of 4 days, plus the number of additional days (from 1 to 4) required for surface transportation between each 3-digit ZIP Code origin-destination pair, plus an additional day if the destination delivery address is served by an Auxiliary Service Facility.

(5) For each remaining 3-digit ZIP Code origin-destination pair for which either the origin or the destination is outside of the contiguous 48 states, the service standard for Package Services mail accepted at origin before the day zero Critical Entry Time is between 10 and 26 days. For each such 3-digit ZIP Code origin-destination pair, this represents the sum of 3 to 4 days, plus the number of days (ranging from 7 to 22) required for intermodal (highway, boat, air-taxi) transportation between each 3-digit ZIP Code origin-destination pair.

(6) The service standard for Inbound Surface Parcel Post® pieces (subject to Universal Postal Union rates) is the same as the service standard for domestic Package Services mail from the 3-digit ZIP Code area in which the International Network Distribution Center is located to the 3-digit ZIP Code in which the delivery address is located.

(b) *Destination Entry.* (1) Package Services mail that qualifies for a Destination Delivery Unit (DDU) rate, and that is accepted before the day zero Critical Entry Time at the proper DDU, has a 1-day (overnight) service standard.

(2) Package Services mail that qualifies for a Destination Sectional Center Facility (DSCF) rate, and that is accepted before the day zero Critical Entry Time at the proper DSCF, has a 2-day service standard, except for mail dropped at the SCF in the territory of Puerto Rico and destined for the territory of the U.S. Virgin Islands.

(3) Package Services mail that qualifies for a Destination Network Distribution Center (DNDC) rate, which is accepted before the day zero Critical Entry Time at the proper DNDC or Destination Auxiliary Service Facility, and that originates and destinates in the contiguous 48 states, has a 3-day service standard. Mail that qualifies for a Destination Sectional Center Facility (DSCF) discount, and that is accepted before the day zero Critical Entry Time

at the SCF in the territory of Puerto Rico, has a 3-day service standard if it is destined for the territory of the U.S. Virgin Islands.

(4) Package Services mail that qualifies for a Destination Network Distribution Center (DNDC) rate, and that is accepted before the day zero Critical Entry Time at the proper DNDC in the contiguous 48 states for delivery to addresses in the states of Alaska or Hawaii, or the territories of Guam, Puerto Rico, or the U.S. Virgin Islands has a service standard of either 11 or 12 days, depending on the 3-digit ZIP Code origin-destination pair. For each such pair, the applicable day within the range is based on the number of days required for transportation outside of the contiguous 48 states.

Appendix A to Part 121—Tables Depicting Service Standard Day Ranges

The following tables reflect the service standard day ranges resulting from the application of the business rules applicable to the market-dominant mail products referenced in §§ 121.1 through 121.4:

TABLE 1—END-TO-END SERVICE STANDARD DAY RANGES FOR MAIL ORIGINATING AND DESTINATING WITHIN THE CONTIGUOUS 48 STATES AND THE DISTRICT OF COLUMBIA

Contiguous United States	
Mail class	End-to-end range (days)
First-Class Mail	1–3
Periodicals	1–9
Standard Mail	3–10
Package Services	2–8

TABLE 2—END-TO-END SERVICE STANDARD DAY RANGES FOR MAIL ORIGINATING AND/OR DESTINATING WITHIN THE STATES OF ALASKA AND HAWAII, AND THE TERRITORIES OF GUAM, PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Alaska, Hawaii & Guam, Puerto Rico & USVI									
Mail class	End-to-end								
	Intra state/territory			To/from contiguous 48 states			To/from states of Alaska and Hawaii, and the territories of Guam, Puerto Rico and the U.S. Virgin Islands		
	Alaska	Hawaii & Guam	Puerto Rico & USVI	Alaska	Hawaii & Guam	Puerto Rico & USVI	Alaska	Hawaii & Guam	Puerto Rico & USVI
First-Class Mail	1–3	1–3	1–2	3–4	3–5	3–4	4–5	4–5	4–5
Periodicals	1–4	1–4	1–3	13–19	12–22	11–16	21–25	21–26	23–26
Standard Mail	*3–5	3–5	3–4	14–20	13–23	12–17	23–26	23–27	24–27
Package Services	2–4	2–4	2–3	12–18	11–21	10–15	21–26	20–26	20–24

* Excluding bypass mail.

TABLE 3—DESTINATION ENTRY SERVICE STANDARD DAY RANGES FOR MAIL TO THE CONTIGUOUS 48 STATES AND THE DISTRICT OF COLUMBIA

Contiguous United States				
Mail class	Destination entry (at appropriate facility)			
	DDU (days)	SCF (days)	ADC (days)	NDC (days)
Periodicals	1	1	1–2	1–2
Standard Mail	2	3	.....	5
Package Services	1	2	.....	3

TABLE 4—DESTINATION ENTRY SERVICE STANDARD DAY RANGES FOR MAIL TO THE STATES OF ALASKA AND HAWAII, AND THE TERRITORIES OF GUAM, PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Alaska, Hawaii & Guam, Puerto Rico & USVI										
Mail class	Destination entry (at appropriate facility)									
	DDU (days)	SCF (days)			ADC (days)			NDC (days)		
		Alaska	Hawaii & Guam	Puerto Rico & USVIA	Alaska	Hawaii & Guam	Puerto Rico & USVIA	Alaska	Hawaii & Guam	Puerto Rico & USVIA
Periodicals	1	1–2	1	1–2	1–3 (AK) 11 (JNU) 11 (KTN)	1 (HI) 2 (GU)	1–2	10–11	10	8–10
Standard Mail	2	3	3	3–4	.....	.....	.....	14	13	12

TABLE 4—DESTINATION ENTRY SERVICE STANDARD DAY RANGES FOR MAIL TO THE STATES OF ALASKA AND HAWAII, AND THE TERRITORIES OF GUAM, PUERTO RICO AND THE U.S. VIRGIN ISLANDS—Continued

Alaska, Hawaii & Guam, Puerto Rico & USVI										
Mail class	Destination entry (at appropriate facility)									
	DDU (days)	SCF (days)			ADC (days)			NDC (days)		
		Alaska	Hawaii & Guam	Puerto Rico & USVIA	Alaska	Hawaii & Guam	Puerto Rico & USVIA	Alaska	Hawaii & Guam	Puerto Rico & USVIA
Package Services	1	2	2	2–3	.....	.....	.....	12	11	11

AK = Alaska 3-digit ZIP Codes 995–997; JNU = Juneau AK 3-digit ZIP Code 998; KTN = Ketchikan AK 3-digit ZIP Code 999; HI = Hawaii 3-digit ZIP Codes 967 and 968; GU = Guam 3-digit ZIP Code 969.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2011–32009 Filed 12–14–11; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–1036–201161; FRL–9507–1]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia; Atlanta; Determination of Attainment by Applicable Attainment Date for the 1997 8-Hour Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine pursuant to the Clean Air Act (CAA), that the Atlanta, Georgia, ozone nonattainment area (hereafter referred to as ''the Atlanta Area'' or ''the Area'') has attained the 1997 8-hour ozone national ambient air quality standards (NAAQS) *by its applicable attainment date of June 15, 2011.* A determination of attainment was made by EPA on June 23, 2011, based on quality-assured and certified monitoring data for the 2008–2010 monitoring period. EPA is now proposing to find that the Atlanta Area attained the 1997 8-hour ozone NAAQS *by its applicable attainment date.* EPA is proposing this action because it is consistent with the CAA and its implementing regulations.

DATES: Comments must be received on or before January 17, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2010–1036, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2010–1036, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. ''EPA–R04–OAR–2010–1036.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding this attainment determination, contact Mr. Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection

Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. *Telephone number:* (404) 562–9043; *email address: lakeman.sean@epa.gov.* For information regarding 8-hour ozone NAAQS, contact Ms. Jane Spann, Regulatory Development Section, at the same address above. *Telephone number:* (404) 562–9029; *email address: spann.jane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?
II. What is the background for this action?
III. What is the air quality in the Atlanta area for the 1997 8-hour ozone NAAQS for the 2008–2010 monitoring period?
IV. What is the proposed action and what is the effect of this action?
V. Statutory and Executive Order Reviews

I. What action is EPA taking?

Based on EPA's review of the quality-assured and certified monitoring data for 2008–2010, and in accordance with section 179(c)(1) of the CAA and EPA's regulations, EPA proposes to determine that the Atlanta Area has attained the 1997 8-hour ozone NAAQS *by the applicable attainment date of June 15, 2011.*[1] The Atlanta Area is comprised of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton Counties in Georgia. On June 23, 2011, EPA published a final rulemaking making a determination of attainment to suspend the requirements for the Atlanta Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 1997 8-hour ozone NAAQS so long as the Area continues to attain the 1997 8-hour ozone NAAQS. *See* 76 FR 36873. Today's proposed action merely makes a determination that the Atlanta Area has attained the 1997 8-hour ozone NAAQS by its applicable attainment date. This action is not a re-proposal of the attainment determination to suspend the requirements for the Atlanta Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard. More information regarding the 1997 8-hour ozone NAAQS and the Area's attainment of that NAAQS is available at 76 FR 36873 (June 23, 2011).

II. What is the background for this action?

As a nonattainment area for the 1997 8-hour ozone NAAQS, the Atlanta Area had an applicable attainment date of June 15, 2011 (based on 2008–2010 monitoring data). Pursuant to section 179(c) of the CAA, EPA is required to make a determination on whether the Area attained the standard by its applicable attainment date. Specifically, section 179(c)(1) of the CAA reads as follows: ''As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.''

III. What is the air quality in the Atlanta area for the 1997 8-hour ozone NAAQS for the 2008–2010 monitoring period?

Under EPA's regulations at 40 CFR 50.10, the 1997 8-hour ozone NAAQS is met when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations, as determined in accordance with 40 CFR part 50, Appendix I, is less than or equal to 0.08 parts per million (ppm) (*i.e.,* 0.084 ppm when rounding is considered) in the subject area.

EPA reviewed the ambient air monitoring data for the Atlanta Area in accordance with the provisions of 40 CFR part 50, Appendix I. All data considered have been quality-assured, certified, and recorded in EPA's Air Quality System database. This review addresses air quality data collected in the 3-year period from 2008–2010. The 3-year period from 2008–2010 is the period EPA must consider for areas that had an applicable attainment date of June 15, 2011.

TABLE 1—DESIGN VALUES FOR COUNTIES IN THE ATLANTA, GEORGIA NONATTAINMENT AREA FOR THE 1997 8-HOUR OZONE NAAQS

Location	AQS site ID	2008 (ppm)	2009 (ppm)	2010 (ppm)	2008–2010 Design value (ppm)
Cobb County	GA NATIONAL GUARD, MCCOLLUM PARKWAY (13–067–0003).	0.075	0.076	0.079	0.076
Coweta County	UNIVERSITY OF W. GA AT NEWNAN (13–077–0002).	0.075	0.065	0.065	0.068
Dawson County	DAWSONVILLE, GA, FORESTRY COMMISSION (13–085–0001).	0.075	0.067	0.073	0.071
Dekalb County	2390–B Wildcat Road, Decatur, GA (13–089–0002).	0.087	0.077	0.075	0.079
Douglas County	DOUGLASVILLE, W. STRICKLAND ST. (13–097–0004).	0.080	0.072	0.074	0.075
Fulton County	CONFEDERATE AVE. (13–121–0055)	0.084	0.077	0.080	0.080
Gwinnett County	GWINNETT TECH, 1250 ATKINSON RD (13–135–0002).	0.079	0.073	0.072	0.074
Henry County	HENRY COUNTY EXTENSION OFFICE (13–151–0002).	0.086	0.074	0.078	0.079
Paulding County	YORKVILLE (13–223–0003)	0.072	0.067	0.071	0.070
Rockdale County	CONYERS MONASTERY, 3780 GA HWY 212 (13–247–0001).	0.089	0.070	0.076	0.078

[1] Effective June 15, 2004, EPA designated the Atlanta Area as a marginal area under the 1997 8-hour ozone NAAQS. Subsequently, EPA took action to reclassify the area to moderate for the 1997 8-hour ozone NAAQS. Moderate areas for the 1997 8-hour ozone NAAQS had an applicable attainment date of June 15, 2010, unless the Area qualified for an extension. On November 30, 2010, EPA took final action to extend the applicable attainment date for the Atlanta Area to June 15, 2011. *See* 75 FR 73969 for more information.

As shown above in Table 1, during the 2008–2010 design period, the Atlanta Area met the 1997 8-hour ozone NAAQS. The official annual design value for the Atlanta Area for the 2008–2010 period is 0.080 ppm. More detailed information on the monitoring data for the Atlanta Area during the 2008–2010 design period is provided in EPA's June 23, 2011, final rulemaking to approve the clean data determination for the Atlanta Area for the 1997 8-hour ozone NAAQS. *See* 76 FR 36873.

IV. What is the proposed action and what is the effect of this action?

This action is a proposed determination that the Atlanta Area has attained the 1997 8-hour ozone NAAQS *by its applicable attainment date of June 15, 2011,* consistent with the CAA section 179(c)(1). Finalizing this proposed action would not constitute a redesignation of the Atlanta Area to attainment of 1997 8-hour ozone NAAQS under section 107(d)(3) of the CAA. Further, finalizing this proposed action does not involve approving a maintenance plan for the Atlanta Area as required under section 175A of the CAA, nor would it find that the Atlanta Area has met all other requirements for redesignation. Even if EPA finalizes today's proposed action, the designation status of the Atlanta Area would remain nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment and takes action to redesignate the Area.

V. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality, and would not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 proposed determination that the Atlanta Area attained the 1997 8-hour ozone NAAQS by its applicable attainment date does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIPs are not approved to apply in Indian country located in the states, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: December 8, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2011–32178 Filed 12–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0352–201120; FRL–9507–4]

Approval and Promulgation of Implementation Plans; North Carolina; 110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve in part, and to conditionally approve or disapprove in part, the State Implementation Plan (SIP), submitted by the State of North Carolina, through the Department of Environment and Natural Resources (NC DENR), Division of Air Quality (DAQ), to demonstrate that the State meets the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for the 1997 8-hour ozone national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA, which is commonly referred to as an ''infrastructure'' SIP. DAQ certified that the North Carolina SIP contains provisions that ensure the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in North Carolina (hereafter referred to as ''infrastructure submission''). With the exception of sub-element 110(a)(2)(E)(ii), EPA is proposing to determine that North Carolina's infrastructure submission, provided to EPA on December 12, 2007, and clarified in a subsequent submission submitted on June 20, 2008, addressed the required infrastructure elements for the 1997 8-hour ozone NAAQS.

DATES: Written comments must be received on or before January 17, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0352, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9140.
4. *Mail:* ''EPA–R04–OAR–2011–0352,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2011–0352. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov.*

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V. Proposed Action
VI. Statutory and Executive Order Reviews

I. Background

On July 18, 1997, EPA promulgated a new NAAQS for ozone based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. *See* 62 FR 38856. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS. Sections 110(a)(2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 1997 8-hour ozone NAAQS to EPA no later than June 2000. However, intervening litigation over the 1997 8-hour ozone NAAQS created uncertainty about how to proceed and many states did not provide the required ''infrastructure'' SIP submission for these newly promulgated NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the ''infrastructure'' requirements for the 1997 8-hour ozone NAAQS. EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS by December 15, 2007. Subsequently, EPA received an extension of the date to complete this **Federal Register** notice until March 17, 2008, based upon agreement to make the findings with respect to submissions made by January 7, 2008. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency received from each state as of January 7, 2008.

On March 27, 2008, EPA published a final rulemaking entitled, ''Completeness Findings for Section 110(a) State Implementation Plans; 8-Hour Ozone NAAQS,'' making a finding that each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS. *See* 73 FR 16205. For those states that did receive findings, such as North Carolina, the findings of failure to submit for all or a portion of a state's implementation plan established a 24-month deadline for EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding SIP elements unless, prior to that time, the affected states submitted, and EPA approved, the required SIPs. However, the findings of failure to submit did not impose sanctions or set deadlines for imposing sanctions as described in section 179 of the CAA, because these findings do not pertain to the elements contained in the Title I part D plan for nonattainment areas as required under section 110(a)(2)(I). Additionally, the findings of failure to submit for the infrastructure submittals are not a SIP call pursuant to section 110(k)(5).

The finding that all or portions of a state's submission are complete established a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k). North Carolina's infrastructure submission was received by EPA on December 12, 2007, and was determined to be complete on March 27, 2008, for all elements with the exception of 110(a)(2)(C) and (J). Specifically, 110(a)(2)(C) and (J) relate to a SIP addressing changes to its part C prevention of significant deterioration (PSD) permit program required by the November 29, 2005, final rule (*See* 70 FR 71612, 71699) that made nitrogen oxides (NO_X) a precursor for ozone in 40 CFR 51.166 and 40 CFR 52.21. North Carolina was among other states that received a finding of failure to submit because its infrastructure submission was not complete for elements (C) and (J) for the 1997 8-hour ozone NAAQS by March 1, 2008. The finding of failure to submit action triggered a 24-month

clock for EPA to either issue a FIP or take final action on a SIP revision which corrects the deficiency for which the finding of failure to submit was received.

On June 20, 2008, DAQ submitted a SIP revision to EPA for federal approval which includes revisions to rules North Carolina's Air Pollution Control Requirements (NCAC) 02D.0530 and .0531 that address the infrastructure requirements (C) and (J). On August 10, 2011, EPA finalized approval of North Carolina's June 20, 2008, SIP revision. *See* 76 FR 49313. With the exception of element 110(a)(2)(E)(ii), today's action is proposing to approve North Carolina's infrastructure submission for which EPA made the completeness determination and finding of failure to submit on March 27, 2008. This action is not approving any specific rule, but rather proposing that North Carolina's already approved SIP meets certain CAA requirements.

II. What elements are required under Sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are listed below [1] and in EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards.''

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.[2]
- 110(a)(2)(D): Interstate transport.[3]
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[4]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

[1] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA; and, (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[2] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[3] Today's proposed rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 8-hour ozone NAAQS. Interstate transport requirements were formerly addressed by North Carolina consistent with the Clean Air Interstate Rule (CAIR). On December 23, 2008, CAIR was remanded by the DC Circuit Court of Appeals, without vacatur, back to EPA. *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008). Prior to this remand, EPA took final action to approve North Carolina's SIP revision, which was submitted to comply with CAIR. *See* 72 FR 56914 (October 5, 2007). In so doing, North Carolina's CAIR SIP revision addressed the interstate transport provisions in section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS. In response to the remand of CAIR, EPA has promulgated a new rule to address the interstate transport. *See* 76 FR 48208 (August 8, 2011). EPA's action on element 110(a)(2)(D)(i) will be addressed in a separate action.

[4] This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' but as mentioned above is not relevant to today's proposed rulemaking.

III. Scope of Infrastructure SIPs

EPA is currently acting upon SIPs that address the infrastructure requirements of CAA section 110(a)(1) and (2) for ozone and $PM_{2.5}$ NAAQS for various states across the country. Commenters on EPA's recent proposals for some states raised concerns about EPA statements that it was not addressing certain substantive issues in the context of acting on those infrastructure SIP submissions.[5] Those Commenters specifically raised concerns involving provisions in existing SIPs and with EPA's statements in other proposals that it would address two issues separately and not as part of actions on the infrastructure SIP submissions: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources, that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); and (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (''director's discretion''). EPA notes that there are two other substantive issues for which EPA likewise stated in other proposals that it would address the issues separately: (i) Existing provisions for minor source new source review programs that may be inconsistent with the requirements of the CAA and EPA's regulations that pertain to such programs (''minor source NSR [New Source Review]''); and (ii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). In light of the comments, EPA believes that its statements in various proposed actions on infrastructure SIPs with respect to these four individual issues should be explained in greater depth. It is important to emphasize that EPA is taking the same position with respect to these four substantive issues in this action on the infrastructure SIPs for the 1997 8-hour ozone NAAQS from North Carolina.

[5] *See* Comments of Midwest Environmental Defense Center, dated May 31, 2011. Docket # EPA–R05–OAR–2007–1179 (adverse comments on proposals for three states in Region 5). EPA notes that these public comments on another proposal are not relevant to this rulemaking and do not have to be directly addressed in this rulemaking. EPA will respond to these comments in the appropriate rulemaking action to which they apply.

EPA intended the statements in the other proposals concerning these four issues merely to be informational, and to provide general notice of the potential existence of provisions within the existing SIPs of some states that might require future corrective action. EPA did not want states, regulated entities, or members of the public to be under the misconception that the Agency's approval of the infrastructure SIP submission of a given state should be interpreted as a re-approval of certain types of provisions that might exist buried in the larger existing SIP for such state. Thus, for example, EPA explicitly noted that the Agency believes that some states may have existing SIP approved SSM provisions that are contrary to the CAA and EPA policy, but that ''in this rulemaking, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during SSM of operations at facilities.'' EPA further explained, for informational purposes, that ''EPA plans to address such State regulations in the future.'' EPA made similar statements, for similar reasons, with respect to the director's discretion, minor source NSR, and NSR Reform issues. EPA's objective was to make clear that approval of an infrastructure SIP for these ozone and $PM_{2.5}$ NAAQS should not be construed as explicit or implicit re-approval of any existing provisions that relate to these four substantive issues. EPA is reiterating that position in this action on the infrastructure SIP for North Carolina.

Unfortunately, the Commenters and others evidently interpreted these statements to mean that EPA considered action upon the SSM provisions and the other three substantive issues to be integral parts of acting on an infrastructure SIP submission, and therefore that EPA was merely postponing taking final action on the issues in the context of the infrastructure SIPs. This was not EPA's intention. To the contrary, EPA only meant to convey its awareness of the potential for certain types of deficiencies in existing SIPs, and to prevent any misunderstanding that it was reapproving any such existing provisions. EPA's intention was to convey its position that the statute does not require that infrastructure SIPs address these specific substantive issues in existing SIPs and that these issues may be dealt with separately, outside the context of acting on the infrastructure SIP submission of a state. To be clear, EPA did not mean to imply that it was not taking a full final agency action on the infrastructure SIP submission with respect to any substantive issue that EPA considers to be a required part of acting on such submissions under section 110(k) or under section 110(c). Given the confusion evidently resulting from EPA's statements in those other proposals, however, we want to explain more fully the Agency's reasons for concluding that these four potential substantive issues in existing SIPs may be addressed separately from actions on infrastructure SIP submissions.

The requirement for the SIP submissions at issue arises out of CAA section 110(a)(1). That provision requires that states must make a SIP submission ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)'' and that these SIPs are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must meet. EPA has historically referred to these particular submissions that states must make after the promulgation of a new or revised NAAQS as ''infrastructure SIPs.'' This specific term does not appear in the statute, but EPA uses the term to distinguish this particular type of SIP submission designed to address basic structural requirements of a SIP from other types of SIP submissions designed to address other different requirements, such as ''nonattainment SIP'' submissions required to address the nonattainment planning requirements of part D, ''regional haze SIP'' submissions required to address the visibility protection requirements of CAA section 169A, new source review permitting program submissions required to address the requirements of part D, and a host of other specific types of SIP submissions that address other specific matters.

Although section 110(a)(1) addresses the timing and general requirements for these infrastructure SIPs, and section 110(a)(2) provides more details concerning the required contents of these infrastructure SIPs, EPA believes that many of the specific statutory provisions are facially ambiguous. In particular, the list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive provisions, and some of which pertain to requirements for both authority and substantive provisions.[6] Some of the elements of section 110(a)(2) are relatively straightforward, but others clearly require interpretation by EPA through rulemaking, or recommendations through guidance, in order to give specific meaning for a particular NAAQS.[7]

Notwithstanding that section 110(a)(2) provides that ''each'' SIP submission must meet the list of requirements therein, EPA has long noted that this literal reading of the statute is internally inconsistent, insofar as section 110(a)(2)(I) pertains to nonattainment SIP requirements that could not be met on the schedule provided for these SIP submissions in section 110(a)(1).[8] This illustrates that EPA must determine which provisions of section 110(a)(2) may be applicable for a given infrastructure SIP submission. Similarly, EPA has previously decided that it could take action on different parts of the larger, general ''infrastructure SIP'' for a given NAAQS without concurrent action on all subsections, such as section 110(a)(2)(D)(i), because the Agency bifurcated the action on these latter ''interstate transport'' provisions within section 110(a)(2) and worked with states to address each of the four prongs of section 110(a)(2)(D)(i) with substantive administrative actions proceeding on different tracks with different schedules.[9] This illustrates that EPA

[6] For example, section 110(a)(2)(E) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a substantive program to address certain sources as required by part C of the CAA; section 110(a)(2)(G) provides that states must have both legal authority to address emergencies and substantive contingency plans in the event of such an emergency.

[7] For example, section 110(a)(2)(D)(i) requires EPA to be sure that each state's SIP contains adequate provisions to prevent significant contribution to nonattainment of the NAAQS in other states. This provision contains numerous terms that require substantial rulemaking by EPA in order to determine such basic points as what constitutes significant contribution. *See* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162 (May 12, 2005) (defining, among other things, the phrase ''contribute significantly to nonattainment'').

[8] *See Id.,* 70 FR 25162, at 63–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[9] EPA issued separate guidance to states with respect to SIP submissions to meet section 110(a)(2)(D)(i) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS. *See* ''Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' from William T. Harnett, Director Air Quality Policy

Continued

may conclude that subdividing the applicable requirements of section 110(a)(2) into separate SIP actions may sometimes be appropriate for a given NAAQS where a specific substantive action is necessitated, beyond a mere submission addressing basic structural aspects of the state's implementation plans. Finally, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS and the attendant infrastructure SIP submission for that NAAQS. For example, the monitoring requirements that might be necessary for purposes of section 110(a)(2)(B) for one NAAQS could be very different than what might be necessary for a different pollutant. Thus, the content of an infrastructure SIP submission to meet this element from a state might be very different for an entirely new NAAQS, versus a minor revision to an existing NAAQS.[10]

Similarly, EPA notes that other types of SIP submissions required under the statute also must meet the requirements of section 110(a)(2), and this also demonstrates the need to identify the applicable elements for other SIP submissions. For example, nonattainment SIPs required by part D likewise have to meet the relevant subsections of section 110(a)(2) such as section 110(a)(2)(A) or (E). By contrast, it is clear that nonattainment SIPs would not need to meet the portion of section 110(a)(2)(C) that pertains to part C, *i.e.,* the PSD requirements applicable in attainment areas. Nonattainment SIPs required by part D also would not need to address the requirements of section 110(a)(2)(G) with respect to emergency episodes, as such requirements would not be limited to nonattainment areas. As this example illustrates, each type of SIP submission may implicate some subsections of section 110(a)(2) and not others.

Given the potential for ambiguity of the statutory language of section 110(a)(1) and (2), EPA believes that it is appropriate for EPA to interpret that language in the context of acting on the infrastructure SIPs for a given NAAQS. Because of the inherent ambiguity of the list of requirements in section 110(a)(2), EPA has adopted an approach in which it reviews infrastructure SIPs against this list of elements ''as applicable.'' In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the purpose of the submission or the NAAQS in question, would meet each of the requirements, or meet each of them in the same way. EPA elected to use guidance to make recommendations for infrastructure SIPs for these ozone and $PM_{2.5}$ NAAQS.

On October 2, 2007, EPA issued guidance making recommendations for the infrastructure SIP submissions for both the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS.[11] Within this guidance document, EPA described the duty of states to make these submissions to meet what the Agency characterized as the ''infrastructure'' elements for SIPs, which it further described as the ''basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the standards.'' [12] As further identification of these basic structural SIP requirements, ''attachment A'' to the guidance document included a short description of the various elements of section 110(a)(2) and additional information about the types of issues that EPA considered germane in the context of such infrastructure SIPs. EPA emphasized that the description of the basic requirements listed on attachment A was not intended ''to constitute an interpretation of'' the requirements, and was merely a ''brief description of the required elements.'' [13] EPA also stated its belief that with one exception, these requirements were ''relatively self explanatory, and past experience with SIPs for other NAAQS should enable States to meet these requirements with assistance from EPA Regions.'' [14] However, for the one exception to that general assumption (*i.e.,* how states should proceed with respect to the requirements of section 110(a)(2)(G) for the 1997 $PM_{2.5}$ NAAQS), EPA gave much more specific recommendations. But for other infrastructure SIP submittals, and for certain elements of the submittals for the 1997 $PM_{2.5}$ NAAQS, EPA assumed that each State would work with its corresponding EPA regional office to refine the scope of a State's submittal based on an assessment of how the requirements of section 110(a)(2) should reasonably apply to the basic structure of the State's implementation plans for the NAAQS in question.

On September 25, 2009, EPA issued guidance to make recommendations to states with respect to the infrastructure SIPs for the 2006 $PM_{2.5}$ NAAQS.[15] In the 2009 Guidance, EPA addressed a number of additional issues that were not germane to the infrastructure SIPs for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS, but were germane to these SIP submissions for the 2006 $PM_{2.5}$ NAAQS (*e.g.,* the requirements of section 110(a)(2)(D)(i) that EPA had bifurcated from the other infrastructure elements for those specific 1997 ozone and $PM_{2.5}$ NAAQS). Significantly, neither the 2007 Guidance nor the 2009 Guidance explicitly referred to the SSM, director's discretion, minor source NSR, or NSR Reform issues as among specific substantive issues EPA expected states to address in the context of the infrastructure SIPs, nor did EPA give any more specific recommendations with respect to how states might address such issues even if they elected to do so. The SSM and director's discretion issues implicate section 110(a)(2)(A), and the minor source NSR and NSR Reform issues implicate section 110(a)(2)(C). In the 2007 Guidance and the 2009 Guidance, however, EPA did not indicate to states that it intended to interpret these provisions as requiring a substantive submission to address these specific issues in existing SIP provisions in the context of the infrastructure SIPs for these NAAQS. Instead, EPA's 2007 Guidance merely indicated its belief that the states should make submissions in which they established that they have the basic SIP structure necessary to implement, maintain, and enforce the NAAQS. EPA believes that states can establish that they have the basic SIP structure, notwithstanding that there may be potential deficiencies within the existing SIP. Thus, EPA's proposals for other states mentioned these issues not because the Agency considers them issues that must be addressed in the context of an infrastructure SIP as required by section 110(a)(1) and (2), but rather because EPA wanted to be clear that it considers these potential existing SIP problems as separate from

Division OAQPS, to Regional Air Division Director, Regions I–X, dated August 15, 2006.

[10] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[11] *See* ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-hour Ozone and PM2.5 National Ambient Air Quality Standards,'' from William T. Harnett, Director Air Quality Policy Division, to Air Division Directors, Regions I—X, dated October 2, 2007 (the ''2007 Guidance'').

[12] *Id.,* at page 2.

[13] *Id.,* at attachment A, page 1.

[14] *Id.,* at page 4. In retrospect, the concerns raised by commenters with respect to EPA's approach to some substantive issues indicates that the statute is not so ''self explanatory,'' and indeed is sufficiently ambiguous that EPA needs to interpret it in order to explain why these substantive issues do not need to be addressed in the context of infrastructure SIPs and may be addressed at other times and by other means.

[15] *See* ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS),'' from William T, Harnett, Director Air Quality Policy Division, to Regional Air Division Directors, Regions I—X, dated September 25, 2009 (the ''2009 Guidance'').

the pending infrastructure SIP actions. The same holds true for this action on the infrastructure SIPs for North Carolina.

EPA believes that this approach to the infrastructure SIP requirement is reasonable because it would not be feasible to read section 110(a)(1) and (2) to require a top to bottom, stem to stern, review of each and every provision of an existing SIP merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts that, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA considers the overall effectiveness of the SIP. To the contrary, EPA believes that a better approach is for EPA to determine which specific SIP elements from section 110(a)(2) are applicable to an infrastructure SIP for a given NAAQS, and to focus attention on those elements that are most likely to need a specific SIP revision in light of the new or revised NAAQS. Thus, for example, EPA's 2007 Guidance specifically directed states to focus on the requirements of section 110(a)(2)(G) for the 1997 $p.m._{2.5}$ NAAQS because of the absence of underlying EPA regulations for emergency episodes for this NAAQS and an anticipated absence of relevant provisions in existing SIPs.

Finally, EPA believes that its approach is a reasonable reading of section 110(a)(1) and (2) because the statute provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow the Agency to take appropriate tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or otherwise to comply with the CAA.[16] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[17] Significantly, EPA's determination that an action on the infrastructure SIP is not the appropriate time and place to address all potential existing SIP problems does not preclude the Agency's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on the infrastructure SIP, EPA believes that section 110(a)(2)(A) may be among the statutory bases that the Agency cites in the course of addressing the issue in a subsequent action.[18]

IV. What is EPA's analysis of how North Carolina addressed the elements of sections 110(a)(1) and (2) ''infrastructure'' provisions?

The North Carolina infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): *Emission limits and other control measures:* North Carolina's SIP provides an overview of the provisions of the North Carolina Air Pollution Control Regulations relevant to air quality control regulations. The regulations described below have been federally approved in the North Carolina SIP and include enforceable emission limitations and other control measures. NCAC 2D.0400, *Ambient Air Quality Standards,* and 2D.0500, *Emissions Control Standards,* establish emission limits for ozone and address the required control measures, means and techniques for compliance with the ozone NAAQS. EPA has made the preliminary determination that the provisions contained in these chapters and North Carolina's practices are adequate to protect the 1997 8-hour ozone NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing State provisions with regard to excess emissions during SSM of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and the Agency plans to address such state regulations in the future. In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing State rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109, November 24, 1987), and the Agency plans to take action in the future to address such State regulations. In the meantime, EPA encourages any State having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) *Ambient air quality monitoring/data system:* NCAC 2D.0600, *Monitoring,* and 2D.0806, *Ambient Monitoring and Modeling Analysis,* along with the North Carolina Network Description and Ambient Air Monitoring Network Plan, provide for an ambient air quality monitoring system in the State. Annually, EPA approves the ambient air monitoring network plan for the State agencies. On July 1, 2011, North Carolina submitted its plan to EPA, and on October 20, 2011, EPA approved this plan. North Carolina's approved monitoring network plan can be accessed at *http://* www.regulations.gov using Docket ID No. EPA–R04–OAR–2011–0352. EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 1997 8-hour ozone NAAQS.

3. 110(a)(2)(C) *Program for enforcement of control measures including review of proposed new sources:* Regulation NCAC 2D.0530, *Prevention of Significant Deterioration,* and 2D.0531, *Sources in a Nonattainment Area,* pertain to the construction or modification of any major stationary source in areas designated as attainment, nonattainment or unclassifiable. On December 20, 2005, May 16, 2007, and June 20, 2008,

[16] EPA has recently issued a SIP call to rectify a specific SIP deficiency related to the SSM issue. See, ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revision,'' 74 FR 21639 (April 18, 2011).

[17] EPA has recently utilized this authority to correct errors in past actions on SIP submissions related to PSD programs. *See* ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. *See* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[18] EPA has recently disapproved a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). *See* 75 FR 42342, 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

DAQ submitted revisions to its PSD/NSR regulations for EPA approval. In North Carolina's December 12, 2007, infrastructure submission, the State certified that it has treated NO_X as a precursor to ozone since 1995 and that it has addressed the 110(a)(2)(J) requirement (relating to prevention of significant deterioration of air quality and visibility protection) with rule amendments that include reference to definitions in 40 CFR 51.166—*Prevention of significant deterioration of air quality.* These rule amendments became state-effective in March 2008. In the June 20, 2008, SIP revision, North Carolina included revisions to NCAC 02D.0530 and .0531 that address the infrastructure requirements of sections 110(a)(2)(C) and (J). On August 10, 2011, EPA finalized approval of the December 20, 2005, May 16, 2007, and June 20, 2008, SIP revisions. The June 20, 2008, SIP revision addresses the Ozone Implementation NSR Update requirements to include NO_X as an ozone precursor for permitting purposes. Specifically, the Ozone Implementation NSR Update requirements include changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors.

EPA finalized approval of North Carolina's greenhouse gas (GHG) regulations on October 18, 2011 (76 FR 64240). The proposed revisions establish appropriate emission thresholds for determining which new stationary sources and modification projects become subject to North Carolina's PSD permitting requirements for their GHG emissions. The October 18, 2011, rulemaking finalizes approval of the North Carolina rules which address the thresholds for GHG permitting applicability in North Carolina.

On December 30, 2010, EPA published a final rulemaking, ''Action To Ensure Authority To Implement Title V Permitting Programs Under the Greenhouse Gas Tailoring Rule'' (75 FR 82254) to narrow EPA's previous approval of State title V operating permit programs that apply (or may apply) to GHG-emitting sources; this rule hereafter is referred to as the ''Narrowing Rule.'' EPA narrowed its previous approval of certain State permitting thresholds, for GHG emissions so that only sources that equal or exceed the GHG thresholds, as established in the final Tailoring Rule, would be covered as major sources by the Federally-approved programs in the affected States. North Carolina was included in this rulemaking.

In this action, EPA is proposing to approve North Carolina's infrastructure SIP for the 1997 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. EPA is not proposing to approve or disapprove the State's existing minor NSR program to the extent that it is inconsistent with EPA's regulations governing this program. EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with States to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program to give the States an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 1997 8-hour ozone NAAQS.

4. 110(a)(2)(D)(ii) *Interstate and International transport provisions:* NCAC 2D.0530, *Prevention of Significant Deterioration,* 2D.0531, *Sources in a Nonattainment Area,* and 2D.0532*, Sources Contributing to an Ambient Violation,* outline how the State will notify neighboring States of potential impacts from new or modified sources. Additionally, North Carolina has federally-approved regulations in its SIP that satisfy the requirements for the NO_X SIP Call. *See* 67 FR 78987 (December 27, 2002). EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 1997 8-hour ozone NAAQS.

5. 110(a)(2)(E) *Adequate resources:* EPA is proposing two separate actions with respect to the sub-elements required pursuant to section 110(a)(2)(E). Section 110(a)(2)(E) requires that each implementation plan provide (i) Necessary assurances that the State will have adequate personnel, funding, and authority under State law to carry out its implementation plan, (ii) that the State comply with the requirements respecting State Boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provisions. As with the remainder of the infrastructure elements addressed by this notice, EPA is proposing to approve North Carolina's SIP as meeting the requirements of sub-elements 110(a)(2)(E)(i) and (iii). With respect to 110(a)(2)(E)(ii) (regarding State Boards), EPA is proposing to either conditionally approve, or in the alternative, proposing to disapprove this sub-element. EPA's rationale for today's proposals respecting each sub-element is described in turn below.

In support of EPA's proposal to approve sub-elements 110(a)(2)(E)(i) and (iii), EPA notes that DAQ is responsible for adopting air quality rules, revising SIPs, developing and tracking the budget, establishing the title V fees, and other planning needs. DAQ also coordinates agreements with local air pollution control programs. Additionally, the SIP submittal cover letter provided by North Carolina certifies the sufficiency of the State program with 110(a)(2)(E)(i) and (iii) requirements. As evidence of the adequacy of DAQ's resources with respect to sub-elements (i) and (iii), EPA submitted a letter to North Carolina on March 17, 2011, outlining 105 grant commitments and the current status of these commitments for fiscal year 2010. The letter EPA submitted to North Carolina can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2011–0352. Annually, States update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. There were no outstanding issues for fiscal year 2010, therefore, North Carolina's grants were finalized and closed out. EPA has made a preliminary determination that, for purposes of 110(a)(2)(E)(i) and (iii), North Carolina has adequate resources for implementation of the 1997 8-hour ozone NAAQS.

As discussed above, with respect to sub-element 110(a)(2)(E)(ii), EPA is proposing to conditionally approve, and in the alternative, to disapprove North Carolina's infrastructure SIP as to this requirement. North Carolina's March 27, 2008, infrastructure certification letter did not certify the adequacy of the State's implementation plan to meet the requirements of section 110(a)(2)(E)(ii) (requiring state compliance with section 128 of the CAA), and presently North Carolina's SIP does not include provisions to meet section 128 requirements.

As a result, EPA is proposing to conditionally approve North Carolina's infrastructure SIP with respect to element 110(a)(2)(E)(ii) based upon assurances by the State that DAQ will submit to EPA a formal commitment to adopt specific enforceable measures into its SIP within one year to address the applicable portions of section 128. In order for EPA to take final action conditionally approving the State's infrastructure SIP with respect to element 110(a)(2)(E)(ii), DAQ must formally commit to taking the actions described in this notice prior to EPA's final action on North Carolina's infrastructure SIP. As described further below, in the event DAQ should fail to provide an adequate commitment to address the applicable 110(a)(2)(E)(ii) infrastructure requirements, EPA is hereby proposing, in the alternative, to disapprove the State's infrastructure SIP with respect to this sub-element.

The section 128 State Board requirements—as applicable to the infrastructure SIP pursuant to section 110(a)(2)(E)(ii)—provide at subsection (a)(1) that each SIP shall contain requirements that any board or body which approves permits or enforcement orders be subject to the described public interest and income restrictions. It further requires at subsection (a)(2) that any board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall also be subject to conflict of interest disclosure requirements. EPA's proposed conditional approval of North Carolina's 110(a)(2)(E)(ii) infrastructure SIP requires the State to commit to adopting specific enforceable measures related to both 128(a)(1) and 128(a)(2) to address current deficiencies in the North Carolina SIP.

For purposes of section 128(a)(1), a recent North Carolina law, which becomes effective no later than June 15, 2012, rescinds the authority of the State's Environmental Management Commission to issue final decisions on contested cases involving permits and enforcement orders. *See* North Carolina Session Law 2011–398, Section 18. Instead, Session Law 2011–398 shifts this authority to individual State Administrative Law Judges in the North Carolina Office of Administrative Hearings. Once corresponding revisions have been made to the federally-approved SIP to effectuate this change, a ''board or body'' will no longer be responsible for approving permits or enforcement orders in North Carolina.[19] As such, EPA is proposing to conditionally approve element 110(a)(2)(E)(ii) with respect to 128(a)(1) based upon a commitment by the State to timely submit any SIP revisions necessary to remove the Environmental Management Commission's authority to approve permits or enforcement orders under the State's Air Pollution Act.[20]

Regarding section 128(a)(2) (also made applicable to the infrastructure SIP pursuant to section 110(a)(2)(E)(ii)), North Carolina has indicated that it intends to commit to EPA to submit for incorporation into the SIP relevant provisions of N.C.G.S. § 138A, Article 3: *Public Disclosure of Economic Interests,* sufficient to satisfy the conflict of interest provisions applicable to the head of NC DENR and those officials within the Department delegated his authority.

Both commitments described above must be received by EPA prior to final action on this proposed conditional approval with respect to element 110(a)(2)(E)(ii). Furthermore, these commitments must provide that the State will adopt the specified enforceable provisions by a date certain within one year from EPA's final action in this matter. *See* section 110(k)(4) of the CAA, 42 U.S.C. 7410(k)(4). Failure to adopt these provisions into the North Carolina SIP within one year would result in the conditional approval becoming a disapproval.

EPA is also proposing, in the alternative, to disapprove North Carolina's 110(a)(2)(E)(ii) infrastructure SIP because North Carolina has yet to submit to EPA a formal commitment to make the changes described in this notice. In the event that North Carolina fails to provide such commitment, or commits to addressing the section 128 requirements in a manner materially different from that which is described herein, EPA is proposing to disapprove North Carolina's infrastructure SIP with respect to section 110(a)(2)(E)(ii). Should North Carolina provide the requisite timely commitment, EPA intends to move forward with finalizing the conditional approval consistent with section 110(k)(4) of the Act.

6. 110(a)(2)(F) *Stationary source monitoring system:* North Carolina's infrastructure submission describes how the State establishes requirements for emissions compliance testing and utilizes emissions sampling and analysis. It further describes how the State ensures the quality of its data through observing emissions and monitoring operations. North Carolina DAQ uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. These requirements are provided in NCAC 2D.0605, *General Recordkeeping and Reporting Requirements,* 2D.0613, *Quality Assurance Program,* and 2D.0614, *Compliance Assurance Monitoring.*

Additionally, North Carolina is required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (*see* 73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and the precursors that form them—NO_X, sulfur dioxide, ammonia,

[19] Initial permit approvals and enforcement orders are issued by delegated officials within NC DENR. Pursuant to N.C.G.S. § 143–215.114A, the Secretary NC DENR is authorized to assess civil penalties for violations of the State's Air Pollution Control laws. NC DENR is also authorized pursuant to N.C.G.S. § 143–215.114C to request the Attorney General of the State to institute a civil action seeking injunctive relief to restrain the violation or threatened violation of the State's Air Pollution Control laws. The North Carolina Environmental Management Commission is authorized pursuant to N.C.G.S. § 143–215.108, to approve Air Pollution Control permits in the State, however, the Commission has delegated by regulation this authority to the Secretary of the Department of Environment, Health, and Natural Resources. *See* 15A N.C. Admin. Code 02A.0105(a)(2).

[20] Pursuant to section 55.2 of N.C. Session Law 2011–398, the North Carolina Office of Administrative Hearings is required to seek U.S. EPA approval to become an agency responsible for administering programs under the Clean Air Act. This ongoing separate process may result in additional SIP revisions implicating section 110(a)(2)(E)(ii). Any such actions are distinct from today's proposed actions and would be address in a separate rulemaking.

lead, carbon monoxide, particulate matter, and volatile organic compounds (VOCs). Many states also voluntarily report emissions of hazardous air pollutants. North Carolina made its latest update to the NEI on March 25, 2011. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for the stationary source monitoring systems related to the 1997 8-hour ozone NAAQS.

7. 110(a)(2)(G) *Emergency power:* NCAC 2D.0300 *Air Pollution Emergencies,* authorizes the North Carolina DAQ Director to determine the existence of an air pollution emergency and it describes the preplanned abatement strategies triggered by the occurrence of such an emergency. These criteria have previously been approved by EPA. EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for emergency powers related to the 1997 8-hour ozone NAAQS.

8. 110(a)(2)(H) *Future SIP revisions:* DAQ is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in North Carolina. DAQ has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS. Specific to the 1997 8-hour ozone NAAQS, North Carolina has provided a number of submissions, including the following:

- June 19, 2006, SIP Revision—(EPA approval, 71 FR 64891, November 6, 2006) Redesignation of the Rocky Mount, North Carolina Area;
- June 15, 2007, SIP Revision, Charlotte, North Carolina (North Carolina portion)—8-hr Ozone Reasonably Available Control Technology and Reasonable Further Progress;
- February 4, 2008, SIP Revision (EPA approval, 73 FR 18963, April 8, 2008) Raleigh/Durham and Greensboro 1-hour Maintenance Plan Update;
- July 24, 2009, SIP Revision (EPA approval, 74 FR 63995, December 7, 2009) Great Smoky Mountains National Park Redesignation;
- November 30, 2009, SIP Revision—Charlotte, North Carolina (North Carolina portion)—8-hr Ozone Reasonable Further Progress Update;
- April 5, 2010, SIP Revision—Supplement and Resubmission of the 1997 8-hour Ozone Charlotte Attainment Demonstration (North Carolina portion); and
- November 2, 2011, SIP Revision—Charlotte, North Carolina (North Carolina portion) 1997 8-hour Ozone Redesignation/Maintenance Plan.

EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 1997 8-hour ozone NAAQS when necessary. EPA notes, however, that North Carolina's one remaining 1997 8-hour ozone NAAQS nonattainment area—the Charlotte-Gastonia-Rock Hill, NC-SC Area (hereafter referred to as the ''Charlotte Area'')—is currently attaining 1997 8-hour ozone NAAQS. In a November 15, 2011, final rulemaking, EPA determined that the Charlotte Area has attained the 1997 8-hour ozone NAAQS. *See* 76 FR 70656. That final action, in accordance with 40 CFR 51.918, suspended the requirements for the Charlotte Area to submit attainment demonstrations, associated RACM, RFP plans, contingency measures, and other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS so long as the Charlotte Area continues to meet the 1997 8-hour ozone NAAQS.

9. 110(a)(2)(J) (121 consultation) *Consultation with government officials:* NCAC 2D.0530, *Prevention of Significant Deterioration,* and 2D.0531, *Sources in a Nonattainment Area,* as well as North Carolina's Regional Haze Implementation Plan (which allows for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding Federal Land Managers), provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. North Carolina adopted state-wide consultation procedures for the implementation of transportation conformity. These consultation procedures include considerations associated with the development of mobile inventories for SIPs. Implementation of transportation conformity as outlined in the consultation procedures requires DAQ to consult with federal, state and local transportation and air quality agency officials on the development of motor vehicle emissions budgets. EPA approved North Carolina's consultation procedures on December 27, 2002 (*See* 67 FR 78983). EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate consultation with government officials related to the 1997 8-hour ozone NAAQS when necessary.

10. 110(a)(2)(J) (127 public notification) *Public notification:* DAQ has public notice mechanisms in place to notify the public of ozone and other pollutant forecasting, including an air quality monitoring Web site providing ground level ozone alerts, *http://xapps.enr.state.nc.us/aq/ForecastCenter.* North Carolina also has an outreach program to educate the public and promote voluntary emissions reduction measures including the ''Turn Off Your Engine'' idling reduction program. NCAC 2D.0300, *Air Pollution Emergencies,* requires that DAQ notify the public of any air pollution episode or NAAQS violation. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 1997 8-hour ozone NAAQS when necessary.

11. 110(a)(2)(J) (PSD) *PSD and visibility protection:* North Carolina demonstrates its authority to regulate new and modified sources of ozone precursors, VOCs and NOx to assist in the protection of air quality in NCAC 2D.0530, *Prevention of Significant Deterioration,* and 2D.0531, *Sources in a Nonattainment Area.* On December 20, 2005, May 16, 2007, and June 20, 2008, DAQ submitted revisions to its PSD/NSR regulations for EPA approval. In North Carolina's December 12, 2007, infrastructure submission, the State certified that it has treated NO_X as a precursor to ozone since 1995 and has addressed the requirement for 110(a)(2)(J) with rule amendments that include reference to definitions in 40 CFR 51.166—Prevention of significant deterioration of air quality. These revisions addressing section 110(a)(2)(J) requirements became state-effective in March 2008.

As described above, the June 20, 2008, SIP revision, includes revisions to rules NCAC 02D.0530 and .0531 that address the infrastructure requirements of sections 110(a)(2)(C) and (J). SIP revision addressed the Ozone Implementation NSR Update requirements to include NOx as an ozone precursor for permitting purposes. This involved changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NOx emissions are ozone precursors. In a August 10, 2011, final rulemaking action, EPA approved the December 20, 2005, May 16, 2007, and

June 20, 2008, SIP revisions. *See* 76 FR 49313.

With regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the Act (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, EPA finds that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. This would be the case even in the event a secondary $PM_{2.5}$ NAAQS for visibility is established, because this NAAQS would not affect visibility requirements under part C. North Carolina has submitted SIP revisions for approval to satisfy the requirements of the CAA Section 169A and 169B, and the regional haze and best available retrofit technology rules contained in 40 CFR 51.308. These revisions are currently under review and will be acted on in a separate action. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate the State's ability to implement PSD programs and to provide for visibility protection related to the 1997 8-hour ozone NAAQS when necessary.[21]

12. 110(a)(2)(K) *Air quality and modeling/data:* NCAC 2D.0300, *Air Pollution Emergencies,* and NCAC 2D.0806, *Ambient Monitoring and Modeling Analysis,* require that air modeling be conducted to determine permit applicability. These regulations demonstrate that North Carolina has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 8-hour ozone NAAQS. Additionally, North Carolina supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 1997 8-hour ozone NAAQS, for the Southeastern states. Taken as a whole, North Carolina's air quality regulations demonstrate that DAQ has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 8-hour ozone NAAQS. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 1997 8-hour ozone NAAQS when necessary.

13. 110(a)(2)(L) *Permitting fees:* North Carolina addresses the review of construction permits as previously discussed in 110(a)(2)(C). Permitting fees in North Carolina are collected through the State's federally-approved title V fees program, according to State's federally-approved title V fees program according to State Regulation NCAC 2Q.0200, *Permit Fees.* EPA has made the preliminary determination that North Carolina's SIP and practices adequately provide for permitting fees related to the 1997 8-hour ozone NAAQS when necessary.

14. 110(a)(2)(M) *Consultation/participation by affected local entities:* NCAC 2Q.0307, *Public Participation Procedures* requires that DAQ notify the public of an application, preliminary determination, the activity or activities involved in a permit action, any emissions associated with a permit modification, and the opportunity for comment prior to making a final permitting decision. Furthermore, DAQ has demonstrated consultation with, and participation by, affected local entities through its work with local political subdivisions during the developing of its Transportation Conformity SIP, Regional Haze Implementation Plan, Early Action Compacts, and the 8-Hour Ozone Attainment Demonstration for the North Carolina portion of the Charlotte-Gastonia-Rock Hill NC-SC nonattainment area. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate consultation with affected local entities related to the 1997 8-hour ozone NAAQS when necessary.

V. Proposed Action

As described above, with the exception of sub-element 110(a)(2)(E)(ii), EPA is proposing to determine that North Carolina's infrastructure submission, provided to EPA on December 12, 2007, and clarified in a subsequent submission submitted on June 20, 2008, addressed the required infrastructure elements for the 1997 8-hour ozone NAAQS. EPA is proposing to approve in part, and to conditionally approve or disapprove in part consistent with section 110 of the CAA.

With respect to 110(a)(2)(E)(ii) (referencing section 128 of the CAA), EPA is proposing to conditionally approve North Carolina's infrastructure SIP with respect to element 110(a)(2)(E)(ii) based upon assurances by the State that DAQ will submit to EPA a formal commitment to adopt specific enforceable measures into its SIP within one year to address the applicable portions of section 128. In order for EPA to take final action conditionally approving the State's infrastructure SIP with respect to element 110(a)(2)(E)(ii), DAQ must formally commit to taking the actions described in this notice prior to EPA's final action on North Carolina's infrastructure SIP. In the event DAQ fails to provide an adequate commitment to address the applicable 110(a)(2)(E)(ii) infrastructure requirements, EPA is hereby proposing, in the alternative, to disapprove the State's infrastructure SIP with respect to this sub-element. EPA is also proposing to approve North Carolina's infrastructure submission for the 1997 8-hour ozone NAAQS, with the exception of sub-element 110(a)(2)(E)(ii) because its December 12, 2007, and June 20, 2008, submissions are consistent with section 110 of the CAA.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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 proposed 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 proposed 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);

[21] Notably, EPA is currently engaged in discussions with North Carolina and Federal Land Managers regarding an aspect of visibility analysis for Class I areas under the State's PSD Program.

- 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 proposed 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 7, 2011.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

[FR Doc. 2011–32183 Filed 12–14–11; 8:45 am]

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Notices

Federal Register

Vol. 76, No. 241

Thursday, December 15, 2011

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

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Oglethorpe Power Corporation; Proposed Biomass Power Plant

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Availability of a Final Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), has prepared a Final Environmental Impact Statement (EIS) to meet its responsibilities under the National Environmental Policy Act (NEPA) and 7 CFR part 1794 related to possible financial assistance to Oglethorpe Power Corporation's (Oglethorpe) for the construction of a 100 megawatt (MW) biomass plant and related facilities (Proposal) in Warren County, Georgia.

The purpose of the Proposal is to provide a reliable, long-term supply of renewable and sustainable energy at a reasonable cost to meet part of the electric energy needs of Oglethorpe's members. Oglethorpe may request financial assistance from the RUS for the Proposal.

DATES: Written comments on this Final EIS will be accepted 30 days following the publication of the U.S. Environmental Protection Agency's notice of receipt of the Final EIS in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the Final EIS or for further information, contact: Stephanie Strength, Environmental Protection Specialist, USDA, Rural Utilities Service, 1400 Independence Avenue SW., Room 2244, Stop 1571, Washington, DC 20250–1571, or email *stephanie.strength@wdc.usda.gov.*

ADDRESSES: A copy of the Draft EIS may be viewed online at the following Web site: *http://www.rurdev.usda.gov/UWP-OglethorpePower.html* and at the: Warren County Public Library, 10 Warren Street Warrenton, Georgia 30828, Phone (706) 465–2656.

SUPPLEMENTARY INFORMATION: Oglethorpe proposes to own, operate, and maintain the Proposal in Warren County, Georgia. The purpose of the Proposal is to provide a reliable, long-term supply of renewable and sustainable energy at a reasonable cost to meet part of the electric energy needs of Oglethorpe's members.

Three alternatives are evaluated in detail in the Final EIS; the no action alternative, and the proposed action at two different locations: Warren County (the Proposal) and Appling County (the Alternate). Alternatives were evaluated in terms of cost-effectiveness, technical feasibility, and environmental impacts. The Final EIS evaluated and eliminated from detailed consideration eight alternatives for renewable generation, non-renewable generation alternatives, demand side management, three alternative sites, two alternatives for cooling, and two alternatives for water supply.

The Proposal would be constructed on an approximately 343-acre site located three-fourths mile east of the city limit of Warrenton, Georgia. The tallest structure would be the stack, with a maximum estimated height of approximately 220 feet. The construction schedule of the Proposal is currently unknown.

A Notice of Availability of the Draft EIS was published in the **Federal Register** at 76 FR 20624, on April 13, 2011, and in local newspapers. Public hearings on the Draft EIS were held in the project area on May 5, 2011, and public comments were accepted through May 31, 2011.

In accordance with Section 106 of the National Historic Preservation Act and its implementing regulation, ''Protection of Historic Properties'' (36 CFR part 800) and as part of its broad environmental review process, RUS must take into account the effect of the proposal on historic properties Pursuant to 36 CFR 800.2(d)(3), RUS is using its procedures for public involvement under NEPA to meet its' responsibilities to solicit and consider the views of the public during Section 106 review. Any party wishing to participate more directly with RUS as a ''consulting party'' in Section 106 review may submit a written request to the RUS contact provided in this notice.

Questions and comments should be sent to RUS at the mailing or email addresses provided in this Notice. RUS will accept comments on the Final EIS 30 days following the publication of the U.S. Environmental Protection Agency's notice of receipt of the Final EIS in the **Federal Register**. Once completed, a public notice announcing the availability of the Record of Decision will be published in the **Federal Register** and local newspapers. Because the Proposal may involve impacts to wetlands, this Notice of Availability also serves as a notice of potential impacts to wetlands. In accordance with Executive Order 11990, the Final EIS includes a wetland assessment and statement of no practicable alternatives to proposed impacts to wetlands.

Any final action by RUS related to the proposal will be subject to, and contingent upon, compliance with all relevant Federal, state and local environmental laws and regulations, and completion of the environmental review requirements as promulgated in RUS' Environmental Policies and Procedures (7 CFR part 1794).

Nivin Elgohary,

Assistant Administrator, Electric Programs, Rural Utilities Service.

[FR Doc. 2011–32005 Filed 12–14–11; 8:45 am]

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DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: National Coral Reef Monitoring Program Survey.

OMB Control Number: None.

Form Number(s): NA.

Type of Request: Regular submission (new information collection).

Number of Respondents: 3,600.

Average Hours per Response: 30 minutes for full survey, 1 minute for initial conversation only, with survey not agreed to.

Burden Hours: 1,191.

Needs and Uses: This request is for a new information collection.

The purpose of this information collection is to obtain information from individuals in the seven United States (U.S.) jurisdictions containing coral reefs. Specifically, NOAA is seeking information on the knowledge, attitudes and reef use patterns, as well as information on knowledge and attitudes related to specific reef protection activities. In addition, this survey will provide for the ongoing collection of social and economic data related to the communities affected by coral reef conservation programs.

The Coral Reef Conservation Program (CRCP), developed under the authority of the Coral Reef Conservation Act of 2000, is responsible for programs intended to enhance the conservation of coral reefs. NOAA intend to use the information collected through this survey for research purposes as well as measuring and improving the results of our reef protection programs. Because many of our efforts to protect reefs rely on education and changing attitudes toward reef protection, the information collected will allow CRCP staff to ensure programs are designed appropriately at the start, future program evaluation efforts are as successful as possible, and outreach efforts are targeting the intended recipients with useful information.

Affected Public: Individuals or households.

Frequency: Once every three-four years.

Respondent's Obligation: Voluntary.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: December 9, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–32144 Filed 12–14–11; 8:45 am]

BILLING CODE 3510–JS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–977]

High Pressure Steel Cylinders From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value

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

DATES: *Effective Date:* December 15, 2011.

SUMMARY: The Department of Commerce (''Department'') preliminarily determines that high pressure steel cylinders (''steel cylinders'') from the People's Republic of China (''PRC'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Tariff Act of 1930, as amended (''Act''). The estimated margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Emeka Chukwudebe or Alan Ray, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0219 or (202) 482–5403, respectively.

SUPPLEMENTARY INFORMATION:

Initiation

On May 11, 2011, the Department received a petition concerning imports of steel cylinders from the PRC filed in proper form by Norris Cylinder Company (''Petitioner'').[1]

On June 8, 2011, the Department initiated an antidumping duty (''AD'') investigation on steel cylinders from the PRC.[2] Additionally, in the *Initiation Notice,* the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in non-market economy (''NME'') investigations such as this investigation.[3]

On June 27, 2011, the United States International Trade Commission (''ITC'') issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the PRC of steel cylinders. The ITC's preliminary determination was published in the **Federal Register** on July 1, 2011.[4]

Period of Investigation

The period of investigation (''POI'') is October 1, 2010, through March 31, 2011.[5]

Scope of the Investigation

The merchandise covered by the scope of the investigation is seamless steel cylinders designed for storage or transport of compressed or liquefied gas (''high pressure steel cylinders''). High pressure steel cylinders are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (''DOT'') approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT–E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. High pressure steel cylinders covered by the investigation have a water capacity up to 450 liters, and a gas capacity ranging from 8 to 702 cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings.

Excluded from the scope of the investigation are high pressure steel cylinders manufactured to UN–ISO–9809–1 and 2 specifications and permanently impressed with ISO or UN symbols. Also excluded from the investigation are acetylene cylinders, with or without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.

Merchandise covered by the investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under subheading 7311.00.00.30. Subject merchandise may also enter under HTSUS subheadings 7311.00.00.60 or 7311.00.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

[1] *See* Petitions for the Imposition of Antidumping and Countervailing Duties: High Pressure Steel Cylinders From the People's Republic of China filed on May 11, 2011 (''Petition'').

[2] *See High Pressure Steel Cylinders From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 76 FR 33213 (June 8, 2011) (''*Initiation Notice*'').

[3] *See id.,* 76 FR at 33216–33217.

[4] *See* Investigation Nos. 701–TA–480 and 731–TA–1188; Preliminary, *High Pressure Steel Cylinders From China,* 76 FR 38697 (July 1, 2011).

[5] *See* 19 CFR 351.204(b)(1).

Scope Comments

In accordance with the preamble to the Department's regulations, the Department sets aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice.*[6] No interested party submitted scope comments.

Respondent Selection

In the *Initiation Notice,* the Department stated its intent to limit the number of quantity and value (''Q&V'') questionnaires sent to exporters or producers to those companies identified in the Petition.[7] On June 1, 2011, the Department sent Q&V questionnaires to the ten companies identified in the Petition as exporters or producers of steel cylinders from the PRC.[8] The Department also posted the Q&V questionnaire for this investigation on its Web site at *http://ia.ita.doc.gov/ia-highligHTSUS-and-news.html.* Of the ten companies to which the Department sent Q&V questionnaires, the Department received two Q&V responses.[9] In addition, the Department also received two unsolicited Q&V responses.[10]

Based on the responses submitted to the Department, on August 25, 2011, the Department selected BTIC (''Respondent'') as the only mandatory respondent for individual examination in this investigation. BTIC accounts for the largest volume of subject merchandise sold to the United States during the POI that can be reasonably examined.[11]

On August 29, 2011, Zhejiang Jindun submitted a letter requesting treatment as a voluntary respondent. On August 30, 2011, Petitioner submitted a letter opposing Zhejiang Jindun's request for voluntary treatment. On September 2, 2011, the Department issued a letter providing a schedule for voluntary responses to the Department's initial NME Questionnaire.[12] However, the letter also stated that the schedule does not indicate that the Department will accept a voluntary respondent in this investigation.[13] Given the Department's current resource constraints, we are not selecting a voluntary respondent at this time because to do so would be unduly burdensome and would inhibit the timely completion of this investigation.[14] As stated in the Respondent Selection Memo, the Department is conducting numerous, concurrent, antidumping proceedings which limits the number of analysts that can be assigned to this investigation.

Questionnaire

On July 29, 2011, the Department issued to BTIC the NME AD questionnaire with product characteristics used in the designation of CONNUMs and assigned to the merchandise under consideration. Between August 26, 2011, and November 10, 2011, BTIC submitted responses to the Department's original and supplemental sections A, C, and D questionnaires. In addition, between September 14, 2011 and October 5, 2011, Zhejiang Jindun also submitted responses to the Department's original section A, C and D questionnaires.

Surrogate Country Comments

On August 29, 2011, the Department determined that Colombia, Indonesia, the Philippines, South Africa, Thailand, and Ukraine are countries whose per capita gross national income is comparable to the PRC in terms of economic development.[15] On September 7, 2011, the Department requested comments from the interested parties regarding the selection of a surrogate country. On September 20, the Department extended the deadline for the submission of surrogate country and factor valuation comments to September 26, 2011, and October 7, 2011, respectively. For a detailed discussion of the selection of the surrogate country, *see* ''Surrogate Country'' section below.

Surrogate Value Comments

On September 29, 2011, and October 17, 2011, the Department extended the deadline for the submission of surrogate value (''SV'') comments to October 18, 2011 and October 24, 2011, respectively. On October 24, 2011, Petitioner and BTIC submitted surrogate factor valuation comments and data. On November 2, 2011, November 14, 2011, and November 22, 2011, Petitioner and BTIC submitted rebuttal surrogate factor valuation comments.

Separate Rate Applications

Between August, 4, 2011, and August 26, 2011, the Department received separate rate applications from four companies.[16] *See* the ''Separate Rates'' section below for the full discussion of the treatment of the separate rate applicants.

Postponement of Preliminary Determination

On September 8, 2011, Petitioner filed a timely request to postpone the issuance of the preliminary determination by 60 days. On September 27, 2011, the Department published in the **Federal Register** a notice postponing the preliminary antidumping duty determination for this investigation of steel cylinders from the PRC.[17]

Non-Market-Economy Country

For purposes of initiation, Petitioners submitted LTFV analyses of the PRC as an NME country.[18] The Department considers the PRC to be an NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the Department.[19] No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to

[6] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997); *see also Initiation Notice,* 76 FR at 33213–33214.

[7] *See Initiation Notice,* 76 FR at 33216.

[8] *See* Letter from the Department to All Interested Parties, dated June 1, 2011.

[9] The Department received responses from Beijing Tianhai Industry Co., Ltd. (''BTIC'') and Zhejiang Jindun Pressure Vessel Co., Ltd. (''Zhejiang Jindun'').

[10] The Department received unsolicited Q&V responses from Shanghai J.S.X. International Trading Corporation and Shijiazhuang Enric Gas Equipment Co., Ltd.

[11] *See* ''Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from James C. Doyle, Director, Office 9; Antidumping Duty Investigation of High Pressure Steel Cylinders from the People's Republic of China: Respondent Selection,'' (''Respondent Selection Memo'') dated August 25, 2011.

[12] *See* Letter from the Department Re: ''Antidumping Duty Investigation of High Pressure Steel Cylinders from the People's Republic of China (''PRC''): Schedule for Voluntary Responses to the Department's Initial Questionnaire,'' dated September 2, 2011.

[13] *See id.*

[14] *See* section 782(a)(2) of the Act.

[15] *See* ''Memorandum from Carole Showers, Director, Office of Policy, to Matthew Renkey, Acting Program Manager, Office 9: Antidumping Investigation of High Pressure Steel Cylinders from the People's Republic of China (PRC): Request for a List of Surrogate Countries for an Antidumping Duty Investigation of High Pressure Steel Cylinders from the People's Republic of China ('China'),'' dated August 29, 2011 (''Surrogate Country List'').

[16] The following companies filed separate-rate applications: BTIC; Shanghai J.S.X. International Trading Corporation; Zhejiang Jindun; and Shijiazhuang Enric Gas Equipment Co., Ltd. (these companies, exclusive of BTIC, are collectively referred to as, ''Separate Rate Respondents'').

[17] *See High Pressure Steel Cylinders From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation,* 76 FR 59658 (September 27, 2011).

[18] *See also Initiation Notice,* 76 FR at 33215.

[19] *See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007).

treat the PRC as an NME country for purposes of this preliminary determination.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (''NV''), in most circumstances, on the NME producer's factors of production (''FOP''), valued in a surrogate market economy (''ME'') country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[20] Once the Department has identified the countries that are economically comparable to the PRC, it identifies those countries which are significant producers of comparable merchandise. From the list of countries which are both economically comparable and significant producers and the Department will then select a primary surrogate country based upon whether the data for valuing FOPs are both available and reliable.

Economic Comparability

As explained in our Surrogate Country List, the Department considers Colombia, Indonesia, the Philippines, South Africa, Thailand, and Ukraine all comparable to the PRC in terms of economic development.[21] Therefore, we consider all six countries as having satisfied this prong of the surrogate country selection criteria.[22] Petitioner argued that India should also be considered economically comparable to the PRC and considered a potential surrogate country.[23] While we recognize Petitioner has challenged the Department's reliance on absolute GNI to establish the list of economically comparable countries, our practice is to rely on absolute GNI because, as explained in *Magnesium from China.*[24]

> The Department finds that the selection of the range of economically comparable countries based on absolute GNIs is reasonable and consistent with the Act. The Department has a long-standing and predictable practice of selecting economically comparable countries on the basis of absolute GNI. Moreover, Petitioner has failed to provide sufficient reasoning to demonstrate why the Department should use relative GNI as a basis for defining economic comparability * * *

Therefore, the Department does not find persuasive Petitioner's argument regarding the relative similarity in difference in GNI between South Africa and India. Furthermore, we note that in *Steel Wheels*[25] the Department stated:

> [U]nless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data or are unsuitable for use for other reasons, we will rely on data from one of these countries.

Because the Department finds that one of these countries meets the selection criteria, as explained below, the Department is not considering India as the primary surrogate country.

Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise.[26] The Policy Bulletin states that ''the terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute.'' The Policy Bulletin further states that ''in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.'' Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[27] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[28] ''In cases where identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced. How the team does this depends on the subject merchandise.'' [29] In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

> In other cases, however, where there are major inputs, *i.e.,* inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.,* processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[30]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[31] Moreover, while the legislative history provides that the term ''significant producer'' includes any country that is a significant ''net exporter,'' [32] it does not preclude reliance on additional or alternative metrics. To evaluate this factor we obtained export data using the GTA for HTSUS 7311.00: Containers for Compressed or Liquefied Gas of Iron or Steel, which is comparable to the merchandise under consideration because high pressure steel cylinders fall within this HTSUS category and this merchandise has a similar end-use to scope merchandise. The GTA data demonstrate that all six of the countries identified in the Surrogate Country List were exporters of comparable merchandise during the POI.[33] The

[20] *See* Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (''Policy Bulletin'') available on the Department's Web site at *http://ia.ita.doc.gov/policy/index.html.*

[21] *See* Surrogate Country List.

[22] *See* section 773(c)(4)(A) of the Act.

[23] *See* Petitioner's Supplemental Section A Response for Beijing Tianhai Industry Co., Ltd.: Antidumping Duty Investigation on High Pressure Steel Cylinders from the People's Republic of China, dated October 14, 2011.

[24] *See Magnesium Metal From the People's Republic of China: Final Results of the 2008–2009 Antidumping Duty Administrative Review of the Antidumping Duty Order,* 75 FR 65450 (October 25, 2010) and accompanying Issues and Decision Memorandum at Comment 4.

[25] *See Certain Steel Wheels From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination,* 76 FR 677703 (November 2, 2011) (''*Steel Wheels*'').

[26] *See* Policy Bulletin.

[27] The Policy Bulletin also states that ''if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise,'' at note 6.

[28] *See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 62 FR 65674 (December 15, 1997) and accompanying Issues and Decision Memorandum at Comment 1 (to impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute).

[29] *See* Policy Bulletin, at 2.

[30] *See id.,* at 3.

[31] *See* section 773(c) of the Act; *Nation Ford Chem. Co.* v. *United States,* 166 F.3d 1373, 1377 (Fed. Cir. 1999).

[32] *See* Conference Report accompanying H.R. 3, the 1988 Omnibus Trade & Competitiveness Act, H. Rep. No. 100–576, at 590 (1988) (''Conference Report'').

[33] *See* Petitioner's High Pressure Steel Cylinders from the People's Republic of China; Petitioner's Comments on Selection of Surrogate Country for

Department notes that India is also an exporter of comparable merchandise as demonstrated by GTA data, and India is also a producer of identical and comparable merchandise as evidenced by the financial statements which Petitioner has placed on the record.

Significant Producers of Identical or Comparable Merchandise

With respect to the criterion of being a significant producer of comparable merchandise, Petitioner submits that, for purposes of the Department's selection of an appropriate surrogate country, India is a producer of identical merchandise; that Indonesia, South Africa, Ukraine, the Philippines, Colombia, and Thailand also are producers of comparable merchandise; that only India, Thailand, and Indonesia are significant producers of comparable merchandise based on global exports.[34]

Respondent proposed that the Department select Ukraine as the primary surrogate country and India as a secondary surrogate country in this investigation. Respondent notes that as the Department included Ukraine in the Surrogate Country List, the Department has already found Ukraine comparable in terms of economic development. Further, Respondent contends that Ukraine is a significant producer of comparable merchandise.[35]

Respondent also suggests that, consistent with its established practice, the Department should define ''significant producer'' in this proceeding as a country that has produced comparable merchandise during the relevant period. Consequently, Respondent states that the Department should find that Ukraine is a significant producer of comparable merchandise, based on the data submitted in its comments.

As noted above, Colombia, Indonesia, South Africa, the Philippines, Thailand, and Ukraine were exporters of comparable merchandise (Containers for Compressed or Liquefied Gas of Iron or Steel) during the POI. Further, we note that Respondent provided production data from Ukraine of comparable merchandise, at the six-digit HTSUS level under which scope merchandise would be classified, demonstrating significant production.[36] Because Thailand, Colombia, the Philippines, Indonesia, Ukraine, and South Africa constitute countries that are both economically-comparable to the PRC and significant producers of comparable merchandise, the Department looks to the availability of SV data from these countries to determine whether any of the countries is an appropriate surrogate country.

Data Availability

Petitioner contends that India is the best choice for the surrogate country because publicly available information from Indian sources is readily available to value the FOPs used to produce identical merchandise.[37] Both Petitioner and Respondent provided publicly available and contemporaneous financial statements for Indian producers of identical and comparable merchandise for which the Department is able to calculate overhead, selling, general, and administrative expenses (''SG&A''), and profit.

Respondent suggests that Ukraine is the best choice for the surrogate country because publicly available information from Ukraine sources is readily available to value the FOPs used to produce steel cylinders.[38] Respondent also contends that there is substantial Ukrainian data for valuing FOPs that are publicly available from the Global Trade Atlas (''GTA''). Respondent also notes that contemporaneous information is available from the International Labor Organization (''ILO'') that will allow the Department to use Ukrainian data to value labor costs. As stated above, both Petitioner and Respondent provided publicly available and contemporaneous financial statements for Indian producers of identical and comparable merchandise for which the Department is able to calculate overhead, SG&A, and profit. Respondent posits that, for all the above reasons, the Department should select Ukraine as the primary surrogate country and India as a secondary surrogate country because Ukraine best satisfies the requirements pursuant to the statute, the regulations, and the *Policy Bulletin.*

When evaluating SV data, the Department considers several factors including whether the SV data are publicly available, contemporaneous with the POI, represent a broad-market average, from an approved surrogate country, tax- and duty-exclusive, and specific to the input. There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[39]

In this case, the record does not contain quality data for Thailand, Colombia, the Philippines, South Africa, or Indonesia. Accordingly, these countries will not be considered for primary surrogate country selection purposes at this time.

The record does contain data from Ukraine.

Surrogate Country Selection

For this preliminary determination, the Department has selected Ukraine as the primary surrogate country for valuing BTIC's FOPs. We recognize that Petitioner has challenged the validity of the Ukrainian data for the valuation of blooms and seamless pipes, particularly with respect to its carbon level. We acknowledge that the Ukrainian SV for steel contains a carbon level that is outside the range for the production of *identical* merchandise; however, it is within the range for the production of *comparable* merchandise. Furthermore, we note that the Indian HTS categories which Petitioner suggests for valuing blooms and tubes are for basket categories that cover a wide range of alloys with numerous elements. The only difference between the Ukrainian HTS and the Respondent's input is a certain amount of carbon, which we have no reason to expect to have a significant effect on value. Therefore, we find that Ukraine satisfies the Department's selection criteria: (1) It is economically comparable with the PRC; (2) it is a significant producer of comparable merchandise; and (3) the data required to value BTIC's FOPs are both available on the record and reliable.

The Department has not selected India as the primary surrogate country as argued by Petitioner. As we have stated in a recent preliminary determination, ''unless we find that all of the countries determined to be equally economically comparable, are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data or are unsuitable for use for other reasons, we will rely on data from one of these countries.''[40] In this instance,

Antidumping Investigation, dated September 26, 2011.

[34] *See id.*

[35] *See* Respondent's First Surrogate Value Submission for Beijing Tianhai Industry Co., Ltd.: Antidumping Duty Investigation on High Pressure Steel Cylinders from the People's Republic of China, dated October 24, 2011, at Exhibits 2A and 2B and November 14, 2011, at page 3.

[36] *See id.*

[37] *See* Petitioner's High Pressure Steel Cylinders from the People's Republic of China; Petitioner's Comments on Selection of Surrogate Country for Antidumping Investigation, dated September 26, 2011.

[38] *See* Respondent's First Surrogate Value Submission for Beijing Tianhai Industry Co., Ltd.:

Antidumping Duty Investigation on High Pressure Steel Cylinders from the People's Republic of China, dated October 24, 2011.

[39] *See* Policy Bulletin.

[40] *See Steel Wheels.*

we find that Ukraine does satisfy the Department's criteria for the selection of a primary surrogate country, and as such, resort to an alternative surrogate country which is not as economically comparable to the PRC as the countries on the Surrogate Country List, is not warranted.

The Department normally uses SV data which are from a country that is economically comparable to the NME and a significant producer of identical or comparable merchandise, and which are on the record and are not otherwise unsuitable for use. However, in exceptional circumstances, the Department may be required to include surrogate value information from a country which is not as economically comparable as those countries on the Surrogate Country List when the only data available on the record of the proceeding is from such a country. The record of this investigation contains no financial statements for producers of identical or comparable merchandise from Ukraine or any of the other countries found to be economically comparable to the PRC and a significant producer of identical or comparable merchandise. Therefore, the Department has preliminarily determined to use the financial statement from Everest Kanto Cylinders Ltd., an Indian producer of identical and comparable merchandise, for calculating the surrogate financial and SG&A ratios, as this is the only contemporaneous financial statement on the record of this investigation. A detailed explanation of the SVs is provided below in the ''Normal Value'' section of this notice.

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping duty investigation, interested parties may submit publicly available information to value the FOPs within 40 days after the date of publication of the preliminary determination.[41]

Targeted Dumping

Targeted Dumping Allegations

The statute allows the Department to employ an alternative dumping margin calculation methodology in an AD investigation under the following circumstances: (1) There is a pattern of export prices (''EP'') or constructed export prices (''CEP'') for comparable merchandise that differ significantly among purchasers, regions, or periods of time; and (2) the Department explains why such differences cannot be taken into account using the standard average-to-average or transaction-to-transaction methodology.[42]

On October 14, 2011, the Department received Petitioner's allegations of targeted dumping by BTIC using the Department's targeted dumping test as established in *Steel Nails*.[43] In its allegations, Petitioner asserted that there are patterns of U.S. sales prices for comparable merchandise that differ significantly during a certain time period. On November 22, 2011, Petitioner amended its targeted dumping allegation in response to the revised U.S. sales data submitted by BTIC.

Targeted Dumping Test

We conducted a time-period targeted dumping analysis for BTIC using the methodology we adopted in *Steel Nails* and most recently articulated in *Wood Flooring*.[44] The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement.[45] In this test, we made all price comparisons on the basis of identical merchandise (*i.e.,* by control number or CONNUM). We based all of our targeted dumping calculations on the U.S. net price, which we determined for U.S. sales by BTIC in our standard margin calculations.

Price Comparison Method

The Department preliminarily has found a pattern of prices for comparable merchandise that differs significantly by time period (*i.e.,* targeted dumping). In doing so, the Department finds that the pattern of price differences identified cannot be taken into account using the standard average-to-average (''A–T–A'') methodology because the A–T–A methodology conceals differences in price patterns between the targeted and non-targeted groups by averaging low-priced sales to the targeted group with high-priced sales to the non-targeted group.[46] Thus, the Department finds, pursuant to section 777A(d)(1)(B) of the Act, that application of the standard A–T–A comparison methodology would result in the masking of dumping that is unmasked by application of the alternative average-to-transaction (''A–T–T'') comparison method to all of BTIC's U.S. sales. Accordingly, for this preliminary determination we have applied the alternative A–T–T methodology to all U.S. sales that BTIC reported.[47]

Affiliations and Single Entity Determinations

Section 771(33) of the Act provides that:

The following persons shall be considered to be ''affiliated'' or ''affiliated persons'':

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(B) Any officer of director of an organization and such organization.

(C) Partners.

(D) Employer and employee.

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(G) Any person who controls any other person and such other person.

[41] In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by any other interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information. *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum (''*Glycine Final*'') at Comment 2.

[42] *See* section 777A(d)(1)(B) of the Act.

[43] *See Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value,* 73 FR 33985 (June 16, 2008) (''*Steel Nails*'') and accompanying Issues and Decision Memorandum at Comments 1–9; *see also Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations; Request for Comment,* 73 FR 26371 (May 9, 2008).

[44] *See Steel Nails; see also Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (October 18, 2011) (''*Wood Flooring*'') and accompanying Issues and Decision Memorandum at Comment 4.

[45] *See Steel Nails,* and accompanying Issues and Decision Memorandum at Comments 3 and 6; and *Wood Flooring,* and accompanying Issues and Decision Memorandum at Comment 4.

[46] *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 59217 (September 27, 2010) and accompanying Issues and Decision Memorandum at Comment 3; *see also Wood Flooring,* and accompanying Issues and Decision Memorandum at Comment 4.

[47] *See Wood Flooring,* and accompanying Issues and Decision Memorandum at Comment 4, and Memorandum to the File, through Matthew Renkey, Acting Program Manager, Office 9, from Alan Ray, Analysis of the Preliminary Determination of the Antidumping Duty Investigation of High Pressure Steel Cylinders from the People's Republic of China (''PRC''): Beijing Tianhai Industry Co., Ltd. (''BTIC''), dated December 7, 2011 (''BTIC's Prelim Analysis Memo'').

Additionally, section 771(33) of the Act stipulates that: ''For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restrain or direction over the other person.''

Finally, according to 19 CFR 351.401(f)(1) and (2), two or more companies may be treated as a single entity for antidumping duty purposes if: (1) The producers are affiliated, (2) the producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (3) there is a significant potential for manipulation of price or production.[48]

BTIC

The record of this investigation demonstrates that BTIC, a producer and exporter of steel cylinders is affiliated with American Fortune Company (''American Fortune''), Langfang Tianhai High Pressure Container Co., Ltd. (''Langfang Tianhai'') and Tianjin Tianhai High Pressure Container Co., Ltd. (''Tianjin Tianhai''), pursuant to sections 771(33)(A) and (F) of the Act, based on ownership and common control. American Fortune is a U.S. company involved in the sale and distribution of the subject merchandise, and Langfang Tianhai and Tianjin Tianhai are both PRC producers of steel cylinders. Evidence of this affiliation was provided by BTIC in its questionnaire responses, as well as ownership/affiliation charts, organization charts, and business licenses/certificates of approval submitted by all four companies, which are business proprietary data.[49] Additionally, BTIC has claimed throughout its numerous questionnaire responses that it is affiliated with American Fortune, Langfang Tianhai and Tianjin Tianhai, pursuant to the Department's regulations and the statute. Finally, the companies share common board members or managers.[50] As such, there is significant potential for manipulation of price or production. Therefore, we preliminarily determine that BTIC, American Fortune, Langfang Tianhai, and Tianjin Tianhai are affiliated within the meaning of sections 771(33)(A) and (F) of the Act.

Furthermore, we find that BTIC, Langfang Tianhai, and Tianjin Tianhai should be considered as a single entity for purposes of this investigation.[51] In addition to being affiliated, they all have production facilities for similar or identical products that would not require substantial retooling and there is a significant potential for manipulation of production based on the level of common ownership and control, shared management, and an intertwining of business operations.[52]

Because the Department finds that BTIC, Langfang Tianhai, and Tianjin Tianhai are a single entity, the Department is utilizing the aggregate FOP database BTIC provided for purposes of the preliminary determination, which includes the FOPs used by BTIC, Langfang Tianhai and Tianjin Tianhai.

Separate Rates

In proceedings involving NME countries, there is a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single AD rate.[53] It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[54] However, if the Department determines that a company is wholly foreign-owned or located in a ME country, then a separate rate analysis is not necessary to determine whether that company is independent from government control.[55]

In the *Initiation Notice,* the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME investigations.[56] The process requires exporters and producers to submit a separate rate status application.[57]

We have considered whether each PRC company that submitted a complete separate rate application, or a complete section A questionnaire response as a mandatory respondent, is eligible for a separate rate. Because the Separate Rate Respondents and BTIC have all stated that they are either joint ventures between Chinese and foreign companies, or are wholly Chinese-owned companies, the Department must analyze whether these companies can demonstrate that they are sufficiently independent through the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The evidence provided by Respondent and the Separate Rate Respondents supports a preliminary finding of *de jure* absence of governmental control based on the following factors articulated in *Sparklers:* (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) applicable legislative enactments decentralizing control of the companies; and (3) other formal measures by the government decentralizing control of companies, *i.e.,* each Separate Rate Respondents' and mandatory respondent's response, dated August 4, 2011, through August 26, 2011, where each individually-reviewed or separate-rate respondent stated that it had no relationship with any level of the PRC government with respect to ownership, internal management, and business operations.

[48] *See* 19 CFR 351.401(f)(1) and (2).

[49] *See* BTIC's Section A Response for Beijing Tianhai Industry Co., Ltd. Antidumping Duty Investigation on High Pressure Steel Cylinders from the People's Republic of China exhibits 11 and 13, dated August 26, 2011; *see also* BTIC's Supplemental Section A Response for Beijing Tianhai Industry Co., Ltd.: Antidumping Duty Investigation on High Pressure Steel Cylinders from the People's Republic of China, dated October 13, 2011 (''BTIC's supplemental section A response''), at 3 through 5.

[50] *See id.*

[51] *See* 19 CFR 351.401(f).

[52] *See* 19 CFR 351.401(f)(1) and (2); *see* BTIC's supplemental section A response, at 3 through 5.

[53] *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039, 55040 (September 24, 2008) (''*PET Film*'').

[54] *See, e.g., Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991) (''*Sparklers*'') as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''), and 19 CFR 351.107(d).

[55] *See, e.g., PET Film.*

[56] *See Initiation Notice.*

[57] *See* Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) (''Policy Bulletin 05.1'') available at *http://ia.ita.doc.gov.* Policy Bulletin 05.1 states, at 6: ''{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise *both* exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.'' (emphasis added).

2. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[58] The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We determine that, for BTIC and the Separate Rate Respondents, the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management.[59]

The evidence placed on the record of this investigation by the mandatory respondent and the Separate Rate Respondents demonstrates an absence of *de jure* and *de facto* government control with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide.* As a result, we have preliminarily determined that it is appropriate to grant the Separate Rate Respondents a margin based on the experience of the Respondent.

The separate rate is normally determined based on the weighted-average of the estimated dumping margins established for exporters and producers individually investigated, excluding zero and *de minimis* margins or margins based entirely on adverse facts available (''AFA'').[60] In this investigation BTIC has an estimated weighted-average dumping margin which is above *de minimis* and which is not based on total AFA. Therefore, because there is only one relevant weighted-average dumping margin for this final determination, we will use the weighted-average of BTIC's calculated AD margin using the alternative methodology, which is 5.08 percent.

Application of Adverse Facts Available, the PRC-Wide Entity and PRC-Wide Rate

Information on the record of this investigation indicates that there were more exporters of steel cylinders from the PRC than those indicated in the response to our request for Q&V information during the POI.[61] As stated above, we issued our request for Q&V information to ten potential PRC producers/exporters of steel cylinders. While information on the record of this investigation indicates that there are other producers/exporters of steel cylinders in the PRC, we received only two timely-filed solicited Q&V responses. In addition, as noted above, we also received two timely-filed, unsolicited Q&V responses, which we considered for respondent selection purposes. Although all producers/exporters were given an opportunity to provide Q&V information, not all producers/exporters provided a response to the Department's Q&V letter.[62] Therefore, the Department has preliminarily determined that there were PRC producers/exporters of steel cylinders during the POI that did not respond to the Department's request for information. We have treated these PRC producers/exporters, as part of the PRC-wide entity because they did not qualify for a separate rate.[63] For a detailed discussion, *see* the ''Separate Rate'' section above.

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Information on the record of this investigation indicates that the PRC-wide entity was unresponsive to the Department's requests for information. Specifically, certain companies did not respond to our questionnaires requesting Q&V information. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of FA is appropriate to determine the PRC-wide rate.[64]

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information.[65] We find that, because the PRC-wide entity did not respond to our requests for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the FA, an adverse inference is appropriate.

When employing an adverse inference, section 776(b) of the Act indicates that the Department may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. The

[58] *See Silicon Carbide,* 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995).

[59] *See, e.g.,* each Separate Rate Respondent's applications submitted between August 4, 2011, and August 26, 2011.

[60] *See* section 735(c)(5)(A) of the Act.

[61] *See* Respondent Selection Memo.

[62] The following eight companies were not responsive to the Department's request for Q&V information: Shanghai High Pressure Container Co., Ltd.; Heibei Baigong Industrial Co., Ltd.; Nanjing Ocean High-Pressure Vessel Co., Ltd.; Qingdao Baigong Industrial and Trading Co., Ltd.; Shandong Huachen High Pressure Vessel Co., Ltd.; Shandong Province Building High Pressure Vessel Limited Company; Sichuan Mingchuan Chengyu Co., Ltd.; and Zhuolu High Pressure Vessel Co., Ltd.

[63] *See, e.g., Prestressed Concrete Steel Wire Strand From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 74 FR 68232, 68236 (December 23, 2009) (''*PC Strand Prelim*'') unchanged in *Prestressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 28560 (May 21, 2010); *see also Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China,* 70 FR 77121, 77128 (December 29, 2005), unchanged in *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 29303 (May 22, 2006).

[64] *See PC Strand Prelim,* 74 FR at 68236.

[65] *See also* Statement of Administrative Action accompanying the Uruguay Round Agreements Act (''URAA''), H.R. Doc. 103–316, 870 (1994) (''SAA''); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation,* 65 FR 5510, 5518 (February 4, 2000).

Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse ''as to effectuate the statutory purposes of the AFA rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' [66] As guided by the SAA, the information used as AFA should ensure an uncooperative party does not benefit by failing to cooperate than if it had cooperated fully.[67] It is the Department's practice to select, as AFA, the higher of the: (a) Highest margin alleged in the petition; or (b) the highest calculated rate of any respondent in the investigation.[68] As AFA, we have preliminarily assigned a rate of 26.23 percent to the PRC-wide entity, the highest transaction-specific rate calculated for BTIC.[69] In this instance, for the reasons discussed below, we believe that it is a reasonable exercise of the Department's discretion to select an AFA rate based on data in the investigation, instead of relying on secondary information.

In selecting this particular transaction-specific margin to use as the AFA rate, the Department analyzed the underlying transaction resulting in the 26.23 percent dumping margin and affirmed that this rate is neither unusual in terms of transaction quantities nor otherwise aberrational.[70] Some of this analysis includes business proprietary information and, as a result, is contained in BTIC's Prelim Analysis Memo, at Attachment 4. In summary, our review of BTIC's individual transaction margins affirms that this rate is not unusual in terms of transaction quantities—there are significant numbers of sales with quantities similar to that in the underlying transaction.[71] The fact that BTIC has a number of other transaction-specific margins very close to its highest transaction-specific margin of 26.23 percent further demonstrates that this margin is not aberrational.[72] The rate is otherwise reasonable because it represents an actual rate at which a cooperating respondent sold the subject merchandise during the POI. When the AFA rate is based upon sales from the POI, it is supported by substantial evidence.[73] If during the POI, the cooperating respondent sold the subject merchandise at the rate the Department selected, the Department may reasonably determine that an uncooperative respondent could have made all of its sales at the same rate. Therefore, we have determined that BTIC's transaction-specific margin of 26.23 percent, based on data in the current investigation, is not aberrational and is a reasonable AFA rate for the PRC-wide entity for this preliminary determination. The PRC-wide entity rate applies to all entries of steel cylinders except for entries from BTIC and the three other producers/exporters receiving a separate rate.

Date of Sale

19 CFR 351.401(i) states that, ''{i}n identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business.'' Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.[74] The Court of International Trade (''CIT'') has stated, ''a party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to '''satisfy' the Department that 'a different date better reflects the date on which the exporter or producer establishes the material terms of sale.' '' [75] The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms.[76]

A. EP

BTIC reported its date of sale based on the date BTIC issued an invoice to the unaffiliated United States customer. No information on the record demonstrated that some other date better reflected the date on which the material terms of sale were established. Therefore, consistent with 19 CFR 351.401(i), the Department has preliminary determined that the invoice date should be used as the date of sale for EP sales.[77] For the final results, the Department intends to seek additional information concerning the date of sale of BTIC's EP sales.

B. CEP

BTIC reported that the date of sale was determined by the contract signed between its affiliated importer [78] and its unaffiliated U.S. customer and provided evidence confirming that the contract date was in fact the date of sale for CEP sales, as the material terms of sale were set at that time. Therefore, the Department has preliminarily determined that BTIC met its burden to establish that contract date, rather than invoice date, should be used as the date of sale for CEP sales.

Fair Value Comparisons

To determine whether sales of steel cylinders to the United States by BTIC were made at LTFV, we compared EPs and/or CEPs to NV, as described in the ''U.S. Price,'' and ''Normal Value'' sections of this notice. Specifically, we compared NV to weighted-average EPs and/or CEPs in accordance with section 777A (d)(1) of the Act.

U.S. Price

A. EP

In accordance with section 772(a) of the Act, we based the U.S. price for certain BTIC sales on EP because the first sale to an unaffiliated purchaser was made prior to importation, and the use of CEP was not otherwise warranted. We calculated EP based on the packed prices to unaffiliated

[66] *See Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 55792, 55796 (August 30, 2002); *see also Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (February 23, 1998).

[67] *See* SAA at 870.

[68] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China,* 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China,* 72 FR 19690 (April 19, 2007).

[69] *See Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results and Final Rescission in Part of Antidumping Duty Administrative Review,* 74 FR 66620 (December 16, 2009), and accompanying Issues and Decision Memorandum at Comment 1.

[70] *See, e.g., Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review,* 75 FR 7563 (February 22, 2010) and the accompanying Issues and Decision Memorandum; *Hyundai Elec. Indus. Co., Ltd.* v *United States,* 395 F. Supp. 2d 1231, 1235–36 (Ct. Int'l Trade 2005); *F.lii Di Cecco Di Filippo Fara S. Martino S.p.A* v. *United States,* 216 F.3d 1027, 1032 (Fed. Cir 2000).

[71] *See id.*

[72] *See id* at 81–82.

[73] *See Shanghai Taoen Int'l Trading Co.* v. *United States,* 360 F. Supp. 2d 1339, 1348 (Ct. Int'l Trade 2005).

[74] *See* 19 CFR 351.401(i); *see also Allied Tube & Conduit Corp.* v. *United States,* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (''*Allied Tube*'').

[75] *See Allied Tube,* 132 F. Supp. 2d at 1090–1092.

[76] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey,* 65 FR 15123 (March 21, 2000) and accompanying Issues and Decision Memorandum at Date of Sale, Comment 1.

[77] *See* BTIC's Section A Response for Beijing Tianhai Industry Co., Ltd. Antidumping Duty Investigation on High Pressure Steel Cylinders from the People's Republic of China at page 21, dated August 26, 2011.

[78] American Fortune.

purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for any movement expenses (*e.g.,* foreign inland freight from the plant to the port of exportation, domestic brokerage, *etc.*) in accordance with section 772(c)(2)(A) of the Act. We based these movement expenses on SVs where a PRC company provided the service and was paid in Renminbi (''RMB'') (*see* ''Factor Valuation Methodology'' section below for further discussion).[79]

B. CEP

In accordance with section 772(b) of the Act, we based the U.S. price for some of BTIC's sales on CEP because certain sales to an unaffiliated customer were made by this respondent's respective U.S. affiliate.[80] In accordance with section 772(a) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d) of section 772 of the Act. In accordance with section 772(a) of the Act, we used CEP for a portion of BTIC's U.S. sales because the first sale to an unaffiliated customer was made by BTIC's U.S. affiliate.

We calculated CEP for BTIC based on delivered prices to unaffiliated purchasers in the United States. We made deductions from the U.S. sales price, where applicable, for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included such expenses as foreign inland freight from the plant to the port of exportation, international freight, marine insurance, other U.S. transportation, U.S. customs duty, U.S. inland freight from port to the warehouse, and U.S. inland freight from the warehouse to the customer. In accordance with section 772(d)(1) of the Act, the Department deducted credit expenses, inventory carrying costs and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. We based movement expenses on either SVs if the expense was paid to an NME company in RMB, actual expenses, or an average of the two.[81]

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOP because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.[82]

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by BTIC for the POI. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). In selecting the SVs, among other criteria, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Ukrainian SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–08 (Fed. Cir. 1997).[83]

For this preliminary determination, we used Ukrainian import statistics to calculate SVs for the mandatory respondent's FOPs (direct materials, including steel tubes, steel billets, and certain energy FOPs, and packing materials). In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive.[84]

Furthermore, with regard to the Ukrainian import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, India, Thailand and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.[85] Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.[86] Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.[87]

[79] For details regarding our EP calculations, *see* BTIC's Prelim Analysis Memo.

[80] Respondent reported that its respective affiliate in the United States performed sales functions such as: sales negotiation, issuance of invoices and receipt of payment from the ultimate U.S. customer during the POI, citing *Glycine From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Rescission, in Part,* 72 FR 18457 (April 12, 2007) unchanged in *Glycine Final* (where the Department stated that ''we based U.S. price for certain sales on CEP in accordance with section 772(b) of the Act, because sales were made by Nantong Donchang's U.S. affiliate, Wavort, Inc. {''Wavort''} to unaffiliated purchasers.'').

[81] For details regarding our CEP calculations, *see* BTIC's Prelim Analysis Memo. *See also* Memorandum to the File, through Matthew Renkey, Acting Program Manager, Office 9, through Emeka Chukwudebe, Antidumping Duty Investigation of High Pressure Steel Cylinders from the People's Republic of China (''PRC''): Surrogate Values (''SVs'') for the Preliminary Determination (''Prelim SV Memo'').

[82] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products From the People's Republic of China,* 71 FR 19695 (April 17, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, in Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079 (September 8, 2006).

[83] A detailed description of all SVs used can be found in the Prelim SV Memo.

[84] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672, 42683 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004).

[85] *See, e.g., Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review,* 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Carbazole Violet Pigment 23 From India; Expedited Five-year (Sunset) Review of the Countervailing Duty Order,* 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4–5; *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19–20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand,* 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

[86] *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China,* 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7.

[87] *See* Conference Report, at 590; *see also Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper From the People's Republic of China,* 72 FR 30758 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper*

Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an ''unspecified'' country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.[88] Therefore, we have not used prices from these countries either in calculating the Ukrainian import-based SVs or in calculating ME input values.[89]

Previously, the Department used regression-based wages that captured the worldwide relationship between per capita GNI and hourly manufacturing wages, pursuant to 19 CFR 351.408(c)(3), to value the respondent's cost of labor. However, on May 14, 2010, the Court of Appeals for the Federal Circuit (''CAFC''), in *Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372 (Fed. Cir. 2010) (''*Dorbest*''), invalidated 19 CFR 351.408(c)(3). As a consequence of the CAFC's ruling in *Dorbest,* the Department no longer relies on the regression-based wage rate methodology described in its regulations.

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME antidumping proceedings.[90] In *Labor Methodologies,* the Department explained that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.[91] Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook).[92] There are no Chapter 6A labor data available for Ukraine, pertaining to the industry specific to subject merchandise. In *Labor Methodologies,* the Department explained that, ''if there is no industry-specific data available for the surrogate country within the primary data source, *i.e.,* ILO Chapter 6A data, the Department will then look to national data for the surrogate country for calculating the wage rate.'' [93] The latest year for which ILO Chapter 6A reports national data for Ukraine is 2006. The most current and publicly available national data for industrial wages in Ukraine is reported, however, by the State Statistics Service of Ukraine, a government entity, at *http://www.ukrstat.gov.ua/.* We find that this information constitutes the best available information on the record because it is contemporaneous with the POR and, thus, more accurately reflective of actual wages in Ukraine.

Therefore, for the preliminary determination, we calculated the labor inputs using the data for average monthly industrial wages prevailing during the POI in Ukraine, corresponding to ''Manufacturing'' economic sector. For the preliminary determination, the calculated industry-specific wage rate is 13.09 UAH/hour. Because these data do not reflect the indirect costs reflected in Chapter 6A data, we find that the facts and information on the record do not warrant or permit an adjustment to the surrogate financial statements.[94] A more detailed description of the wage rate calculation methodology is provided in the Prelim SV Memo.

To value factory overhead, selling, general, and administrative expenses, and profit, we relied on the unconsolidated financial statement from Everest Kanto Cylinders Ltd., a producer of identical merchandise located in India. While India is not the primary surrogate country, this financial statement is the only one from a producer of comparable or identical merchandise on the record, and is contemporaneous with the POI. For further details regarding the calculation of the surrogate financial rations, *see* the Prelim SV Memo.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

Combination Rates

In the *Initiation Notice,* the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation.[95]

Preliminary Determination

The weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-average margin (percent)
Beijing Tianhai Industry Co., Ltd	Langfang Tianhai High Pressure Container Co., Ltd	5.08
Beijing Tianhai Industry Co., Ltd	Tianjin Tianhai High Pressure Container Co., Ltd	5.08
Beijing Tianhai Industry Co., Ltd	Beijing Tianhai Industry Co., Ltd	5.08
Shanghai J.S.X. International Trading Corporation	Shanghai High Pressure Special Gas Cylinder Co., Ltd	5.08
Zhejiang Jindun Pressure Vessel Co., Ltd	Zhejiang Jindun Pressure Vessel Co., Ltd	5.08
Shijiazhuang Enric Gas Equipment Co., Ltd	Shijiazhuang Enric Gas Equipment Co., Ltd	5.08
PRC–Wide Rate [96]		26.23

from the People's Republic of China, 72 FR 60632 (October 25, 2007).

[88] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China,* 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China,* 70 FR 24502 (May 10, 2005).

[89] *See id.*

[90] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor,* 76 FR 36092 (June 21, 2011) (''*Labor Methodologies*'').

[91] *See Labor Methodologies,* 76 FR at 36093.

[92] *See Labor Methodologies,* 76 FR at 36093–36094.

[93] *See id.* at 36094 n. 11.

[94] *See id.* at 36094.

[95] *See Initiation Notice;* Policy Bulletin 05.1.

[96] The PRC–Wide entity includes: Shanghai High Pressure Container Co., Ltd.; Heibei Baigong Industrial Co., Ltd.; Nanjing Ocean High-Pressure Vessel Co., Ltd.; Qingdao Baigong Industrial and Trading Co., Ltd.; Shandong Huachen High Pressure Vessel Co., Ltd.; Shandong Province Building High Pressure Vessel Limited Company; Sichuan Mingchuan Chengyu Co., Ltd. and; Zhuolu High Pressure Vessel Co., Ltd.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of steel cylinders from the PRC as described in the ''Scope of Investigation'' section, entered, or withdrawn from warehouse, for consumption from BTIC, the Separate-Rate Respondents, and the PRC-wide entity on or after the date of publication of this notice in the **Federal Register**. Additionally, we will instruct CBP to require an antidumping cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated above.[97]

We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this preliminary determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the PRC-wide rate; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of steel cylinders, or sales (or the likelihood of sales) for importation, of the steel cylinders within 45 days of our final determination.

[97] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India,* 69 FR 67306, 67307 (November 17, 2007).

Public Comments

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs. See 19 CFR 351.309. A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time (ET) within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing.

We will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: December 7, 2011.

Christian Marsh,

Acting Assistant Secretary for Import Administration.

[FR Doc. 2011–32195 Filed 12–14–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Automotive Parts and Components Business Development Mission to Russia

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The U.S. Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service (CS), is organizing an Automotive Parts and Components Business Development Mission to Russia on April 23–28, 2012. Led by a senior Department of Commerce official, this mission is designed to provide an opportunity to explore Russia's rapidly expanding car and truck assembly market to a diverse cross section of companies selling goods and services into the automotive sector, including but not limited to: components for vehicle manufacture, replacement parts, aftermarket products, repair equipment, capital equipment used for vehicle manufacture, testing equipment, and software and engineering services.

Mission participants will benefit from expert briefings on the Russian market as well as on current developments in Russia's emerging auto sector. The mission program will include opportunities to meet key Russian Government officials and decisionmakers, one-on-one meetings with potential business partners and site visits to automotive assembly plants and component manufacturers. The U.S. and Foreign Commercial Service is targeting a minimum of 15 and a maximum of 20 U.S. companies.

Commercial Setting

During Soviet times, average citizens spent years on waiting lists for the 4 or 5 models of available cars, most based on 1960s technology. Quality control was minimal.

In 2010, automobile ownership in Russia—a country of 140 million consumers—grew to more than 244 vehicles per 1,000 inhabitants, 70% higher than the 2001 rate of 140 vehicles per 1,000 inhabitants. This compares to

around 850 cars for every 1,000 Americans. Sales of cars and trucks in Russia are currently growing at an annual rate of 30 percent. Approximately 34 million cars are on Russian roads today, of which 14 million are foreign brands.

While sales of Russian automobiles declined in 2008, due to the world-wide financial crisis and recession, car sales have picked up again as the Russian economy recovers. In 2010, Russian customers purchased 1.9 million cars. This figure includes 646,000 new Russian cars and 1.25 million foreign cars, both imported and produced in Russia. Importers forecast continued rapid growth of approximately 20 percent in 2011. If these trends continue, most experts project Russia will be the largest automotive market in Europe in the next few years.

Prior to the global financial crisis that started in 2008, Russia's economy was growing at a healthy pace. Annual GDP growth averaged 7.5 percent from 2001–2007. In 2008 and 2009, Russia experienced negative GDP growth. However, Russia's economy began to grow again in late 2010, experiencing GDP growth of 3.8% in the last two quarters of 2010. Economists now forecast Russia's economy, supported by higher prices for oil, gas and raw materials, to continue growing at around 4% annually in the near term.

Russia's giant auto plants remained largely unaffected by the economic turmoil that followed the collapse of the Soviet Union. During the inflationary 1990s, auto parts became a valuable barter commodity. As the Russian market opened to imports, the few wealthy Russians able to afford imported vehicles opted for new foreign cars. At the same time, imported used cars began to compete with new Russian cars in the rapidly expanding mass market. The financial crisis of 1998 and the significant devaluation of the Russian ruble made imports more expensive and thus provided a stimulus to Russian manufacturers.

Russia's auto industry has largely been centered in the city of Togliatti in the Samara region and in Nizhny Novgorod. The giant AvtoVaz factory, one of Russia's largest industrial enterprises, is located in the city of Togliatti. The plant reported output of 517,000 cars in 2010 and accounted for 30 percent of Russia's automotive output. AvtoVaz produces cars in the $5,000 to $15,000 range for the Russian market and exports about 8% of its output to the former Soviet republics.

The GAZ plant in Nizhny Novgorod has ceased production of passenger vehicles. The last Volga Sibir—a modified version of the Chrysler Sebring sedan—rolled off the assembly line October 31, 2010. The factory continues to produce the popular Gazelle line of light trucks and minivans, and the company also produces general purpose heavy trucks that are used in a variety of industries.

UAZ in Ulyanovsk produces light utility and military vehicles. The UAZ–469 all terrain vehicle was the standard off-road vehicle for the Soviet armed forces and was used by armies around the world due to its reputation for reliability and ease of maintenance. Today, the company's UAZ Hunter is a successor vehicle to the 469 made for the consumer market, and it has also introduced the UAZ Patriot—a mid-size SUV with an economical price. UAZ produced 49,000 vehicles in 2010.

Russia's largest automotive corporation KAMAZ is ranked 13th among the world's heavy truck producers and is number 8 in the production of diesel engines. Its trucks have won the Dakar Rally a record 10 times. It is the largest manufacturer of heavy trucks in the former Soviet Union. Its massive factory in Naberezhny Chelny, Tatarstan has production capacity for over 100,000 vehicles. The company's diesel engine plants include wholly-owned subsidiary Kamaz-Diesel and Cummins-Kama, a joint venture with the U.S. company Cummins.

Foreign automakers have taken notice of the Russian automotive market's potential for significant growth and are building assembly plants to meet the increasing Russian demand for high quality automobiles. General Motors has a $335 million plant in Togliatti, a joint venture with Russian auto giant AvtoVaz that produces an inexpensive SUV, under the Chevrolet—Niva brand, which is based on an AvtoVaz-designed platform. The GM/AvtoVaz joint venture manufactures 60,000 vehicles for the Russian market and for export through AvtoVaz's dealerships throughout the former Soviet Union and GM's distribution network. GM's newest plant was built in St. Petersburg in 2008. It has a production capacity of 50,000 cars, and currently produces four models: two SUVs—Chevrolet Captiva and Opel Antara—and two sedans—Chevrolet Cruze and Opel Astra.

Both GM and AvtoVaz have an interest in working with the more than 200 automotive component manufacturer suppliers in the Samara region to improve the quality of their products and upgrade their technology.

Ford opened its first assembly plant in Russia in 2002 near St. Petersburg. The plant has a capacity of 125,000 vehicles and currently produces two models—Ford Focus and Ford Mondeo. In 2010, the Ford Focus was Russia's most popular foreign car, and its 5th top seller overall. Assembled in Russia from foreign-made parts and with a sticker price of $16,000–$25,000, the Russian-made Ford Focus is significantly less expensive than the price of similar imports. Consequently, Ford is working with local components manufacturers to develop their capabilities as suppliers, and is encouraging Western manufacturers to consider establishing facilities in Russia. In February 2011, Ford announced its intention to form a joint venture with Sollers OJSC to produce cars in Russia under the Ford nameplate. This proposed joint venture will produce cars under the Ford brand at the Ford plant outside St. Petersburg and at Sollers's plant in Tartarstan. It will also produce engines; operate a stamping facility that will provide a higher level of local parts content for Ford vehicles built in Russia; and establish research and development activities.

In addition to Ford and GM, major international OEMs have made significant investments in St. Petersburg and surrounding Leningrad Oblast, turning it into a new automotive assembly ''cluster.'' Nissan, Toyota and Hyundai opened new plants in St. Petersburg or in Leningrad oblast between 2007 and 2009. Toyota's facility, located near the GM plant in Shushary, was built in 2009, and has a capacity of 50,000 vehicles. It currently produces the Toyota Camry. Nissan opened its 50,000 vehicle plant to produce the Nissan X-Trail and the Nissan Teanna in St. Petersburg's Kamenka district in 2009. Hyundai is the latest arrival. It opened its 100,000 car plant also in the Kamenka district in 2010 to produce the Solaris, a sub-compact car designed specifically for the Russian market. Significantly, Hyundai has also brought with it a number of Korean automotive suppliers that will help it to meet Russian government demands for increased localization of foreign automotive assembly in Russia.

Investments by European manufacturers have also created another automotive ''cluster'' in Kaluga. Volkswagen Group has invested more than 500 million Euro in its 150,000 capacity plant where it produces the Volkswagen Passat and the Skoda Octavia. Volvo's truck assembly plant, which opened in 2009, has an annual capacity of 10,000 Volvo and 5,000 Renault trucks. PSA Peugeot Citroen opened its plant in March 2010 to build Peugeot 308s for the Russian market, as

well as Citroen and Mitsubishi brand cars.

There are also a number of smaller international automotive ventures in Russia. In the Russian ''exclave'' of Kaliningrad, the Autotor joint venture with KIA and BMW assembled 170,211 cars in 2010 and plans to assemble 240,000 in 2011. In Taganrog, Tagas is assembling several Hyundai models: The Accent and Sonata sedans, the Porter LCV and Aerotown and County buses. Tagas produced 31,000 vehicles in 2010, and plans to double production to 60,000 in 2011. Scania's plant in St. Petersburg has capacity to produce 1,500 trucks per year.

Western tire makers are also operating in Russia. The French Michelin built a plant outside Moscow in 2004 that makes 2 million tires per year. Finland's Nokian Tyres is expanding its plant near St. Petersburg to produce 10 million tires per year by the end of 2011. Goodyear has a joint venture with a Russian tire maker in Yaroslavl and has explored building a tire factory there. Michelin's plant was built with the help of a $20 million investment from the EBRD, which has targeted the Russian automotive sector for strategic investment.

Bosch, with its Russian joint venture partner, supplies 82 percent of the Russian ignition plug market from its 30 million—unit capacity plant in Saratov. Lear manufactures car seats in a facility within GAZ's plant in Nizhny Novgorod. Outside of that town, Ingersoll Rand makes power tools and steering columns. Delphi produces wire harnesses at its plant in Samara, while in St. Petersburg Johnson Controls and Tenneco make, respectively, car seats and exhaust systems.

Given the current dynamics in this automotive sector, the U.S. Commercial Service strongly believes that significant opportunities for growth and expansion exist in Russia for U.S. manufacturers of automotive parts and components. Russians are prepared to pay for quality vehicles, while at the same time the Russian automotive manufacturers and the Russian government are seeking technology and business partnerships to meet this demand.

Industry experts have indicated that there are especially good prospects for manufacturers of engines, electric and electronic components, trim, exhaust systems, plastic parts and instrumentation. In addition, there are increasing opportunities for export of air conditioners, ABSs, airbags, power steering and automatic transmissions, that are currently not manufactured in Russia.

Mission Goals

The U.S. Automotive Parts and Components Business Development Mission to Russia will provide U.S. original equipment parts manufacturers a timely, efficient and cost effective opportunity to explore current business prospects in Russia.

Mission Scenario

The Mission program will begin in Moscow and include site visits and consultations in St. Petersburg and in Samara and Togliatti. In addition to market briefings by industry experts, mission members will have the opportunity to meet key Russian Government officials responsible for formulating and implementing the government's automotive industry policies and plans and for one-on-one meetings with potential business partners that match their market interests.

Timetable

Sunday, April 22, Moscow, Russia
Arrive Moscow, evening: Welcome event.

Monday, April 23, Moscow, Russia
Briefings/Presentations/Meetings with key Russian and American automotive industry executives, consultants and officials followed by an evening VIP Reception.

Tuesday, April 24, Moscow, Russia
Presentations by major automotive companies, followed by one-on-one meetings. Depart for St. Petersburg.

Wednesday, April 25, St. Petersburg, Russia
Meetings with auto industry representatives and regional government officials and plant visits in St. Petersburg and Leningrad Oblast. Evening networking event and/or cultural program.

Thursday, April 26, Samara, Russia
Depart for Samara/Togliatti. Meetings with auto industry representatives and regional government officials and plant visits in Samara followed by evening networking event.

Friday, April 27, Moscow, Russia
Meetings with auto industry representatives and regional government officials and plant visits in Togliatti, followed by return to Moscow.

Saturday, April 28
Depart Moscow for U.S.

Participation Requirements

All parties interested in participating in this mission to Russia must complete and timely submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 companies and a maximum of 20 companies will be selected to participate in the mission from the applicant pool.

Fees and Expenses

After a company has been selected to participate in the mission, a participation fee paid to the U.S. Department of Commerce is required. The participation fee for one company representative will be $4,952 for small or medium-sized enterprises (SME) [1] and $5,701 for large companies, which will cover one representative.[2] The fee for each additional firm representative (large firm or SME) is $1,220. The participation fee covers all in-country travel—airport transfers and bus transportation to/from group meetings and site visits, train fare from Moscow to St. Petersburg, airfare from St. Petersburg to Samara and from Samara back to Moscow, as well as one-on-one meetings with potential Russian business partners. The Commercial Service will assist in booking hotels at favorable rates, but lodging costs, meals and incidental expenses will be the responsibility of each mission participant.

Conditions for Participation

An applicant must submit a completed and signed mission Application and a completed Market Interest Questionnaire, which must include adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services to be promoted through the mission are either produced in the United States or marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Selection Criteria for Participation

Selection will be based on the following criteria:

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations.

[2] Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008.

• Suitability of the company's products or services to the market;

• Applicant's potential for business in Russia and in the region, including likelihood of exports resulting from the mission; or investments that will lead to exports.

• Consistency of the applicant's goals and objectives with the stated scope of the mission.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and will not be considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.trade.gov/trade-missions*) and other internet Web sites, press releases to general and trade media, email, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. CS St. Petersburg will conduct a webinar on automotive opportunities in the Russian market in November 2011; the mission will be promoted during the webinar as well.

Recruitment for the mission will begin immediately and will close on January 6, 2012. The U.S. Department of Commerce will review all applications immediately after the deadline. We will inform applicants of selection decisions as soon as possible. Applications received after the deadline will be considered only if space and scheduling constraints permit.

CS is amending this notice to allow for vetting and selection decisions on a rolling basis beginning November 15, 2011, until the maximum of 20 participants is selected. Although applications will be accepted through January 6, 2012 (and after that date if space remains and scheduling constraints permit), interested U.S. firms and trade organizations which have not already submitted an application are encouraged to do so as soon as possible. We will inform applicants of selection decisions as soon as possible after they are internally reviewed. Applications received after January 6, 2012 will be considered only if space and scheduling contracts permit.

CS is amending this notice to extend the date applications will be accepted to January 20, 2012.

Contacts

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Elnora Moye,

Trade Program Assistant.

[FR Doc. 2011–32130 Filed 12–14–11; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Clean Energy and Energy Efficiency Trade Mission to Saudi Arabia Riyadh and Dhahran, Saudi Arabia April 14–18, 2012

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce (DOC) International Trade Administration's (ITA) U.S. and Foreign Commercial Service (CS) and Manufacturing and Services (MAS) units are organizing an Executive-Led Clean Energy and Energy Efficiency Trade Mission to Saudi Arabia from April 14–18, 2012.

Saudi Arabia offers abundant opportunities to U.S. companies that can contribute to its ambitious plans to improve energy efficiency and reduce reliance on hydrocarbons for power generation. The trade mission will target products, technologies and services in the clean energy sector, with an emphasis on solar power; electricity transmission and smart grid; and green building in residential, commercial and industrial settings. This mission will contribute to the National Export Initiative (NEI, *www.export.gov/nei*) and the Renewable Energy and Energy Efficiency Export Initiative (RE4I, *www.export.gov/reee/re4i*), and it supports ITA's mission of assisting U.S. businesses in entering or expanding in international markets, and enhancing U.S. exports. Saudi Arabia was selected as a Next Tier market for the NEI because it is the largest economy in the Middle East and is a political and economic leader in the region.

The mission will help participating firms gain market insight, make industry contacts, solidify business strategies, and identify or advance specific projects with the goal of increasing U.S. exports to Saudi Arabia. The schedule will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; meetings with national and regional government officials; and networking events. Participating in an official U.S. Government delegation, rather than traveling to Saudi Arabia individually, enhances each company's ability to secure desired meetings.

Commercial Setting

Saudi Arabia has identified an urgent need to reduce its reliance on petroleum-generated power; as a result it is both developing alternative energy sources, principally nuclear and solar power, and promoting more efficient generation and use of energy. While Saudi Arabia possesses one-fifth of global oil reserves, it meets almost 60% of its domestic power needs from petroleum. The growth of domestic electricity demand—and thus domestic petroleum consumption—is cutting deeply into exports. Domestic consumption is growing at an estimated 8–9% annually, and is projected to almost triple in the next two decades, from 3.4 million barrels per day oil equivalent in 2009, to 8.3 million barrels per day in 2028. Peak power demand is expected to increase from 43 gigawatts in the summer of 2010 to more than 120 gigawatts by 2030. Oil used domestically is heavily subsidized by the Government resulting in not only reduced export income, but enormous opportunity costs as there is less feedstock for development of downstream petrochemical industries and the jobs that go with them. Saudi Arabia hopes to reduce by half the crude and natural gas it burns now to generate electricity, in part by developing solar power generation capacity, an area where it has clear climatological advantages. As Saudi Arabia expands its energy supply and integrates renewable energy, further investment will be required in grid modernization and smart grid technologies that enable

utility management of variable energy sources.

On the demand side, residential air conditioning consumes as much as 50% of total power during Saudi Arabia's long, hot summers. Saudi Arabia plans to construct 1.65 million new homes over the next six years and will be looking closely at products, materials and technologies that reduce energy use and loss. Saudi Arabia also relies on desalination plants to produce 70% of its potable water, using as much as 1.5 million barrels per day of oil equivalent to do so; Saudi Arabia hopes to start up its first solar-powered desalination plant in 2013.

Renewable Energy: The Saudi Arabian Government has made a commitment to invest $100 billion dollars over the next ten years to develop clean, non-hydrocarbon energy sources focused primarily on nuclear and solar technologies. Its plans call for the creation of Saudi Arabia's first 5 gigawatts of solar power by 2020. Demand for power in Saudi Arabia has been continuously increasing due to rapid industrialization, economic development and population growth. Importantly, Saudi Arabia's abundant solar resources, combined with an energy intensive industrial base that uses electricity at a steep economic cost, strengthens the economic case for solar generation.

Electricity Transmission and Smart Grid: High incomes and rising electricity demand have driven both electricity consumption and investment in transmission infrastructure in Saudi Arabia. In 2010, Saudi Arabia was the 15th largest market for U.S. transmission and distribution technology exporters and the market saw a 13% compound annual growth rate over the previous decade, with U.S. grid equipment exporters sustaining a relatively high market share throughout. As Saudi Arabia expands its energy supply and integrates renewable energy, further investment will be required in grid modernization and smart grid technologies that enable utility management of variable energy sources. As the country's transmission and distribution infrastructure is modernized, commercial and industrial-scale consumers will also seek to capitalize on potential energy efficiency gains through investments in smart grid and smart building technologies and services.

Greenbuilding/Energy Efficiency: Saudi Arabia is among the highest per capita energy users in the world. To reach its goal of reducing the amount of crude and natural gas it burns to generate electricity, all consumers—residential, commercial, industrial, government—must become more efficient users of electricity. The market potential for residential and industrial energy efficiency products and services is projected to grow rapidly and open up a wide range of opportunities for U.S. companies in the green building and energy efficiency subsectors.

Companies will have the opportunity to meet major buyers and end-users, prospective partners and government officials at the following stops:

Riyadh, the seat of government and many non-governmental organizations and educational institutions devoted to the development of alternative energies and green technologies, including the King Abdullah City of Atomic and Renewable Energy (KA–CARE). It is also Saudi Arabia's largest city, with a population of 5 million; and Dhahran-Dammam-Khobar, with a population of over 1 million is the home of Saudi Aramco, which will likely be a primary customer for renewable energy technology providers.

Mission Goals

The goal of the Clean Energy and Energy Efficiency Trade Mission to Saudi Arabia is to promote the export of U.S. goods and services by: (1) Introducing U.S. companies to industry representatives and potential clients and partners; (2) advocating to Saudi officials regarding policies that would limit U.S. export opportunities and inhibit the development of renewable resources and energy efficiency projects; and (3) introducing U.S. companies to Saudi Arabian government officials to learn about policy initiatives that will impact the implementation of renewable energy projects, improving energy efficiency, and developing a domestic manufacturing base for renewable energy products using U.S. goods and services.

The Clean Energy and Energy Efficiency Trade Mission to Saudi Arabia will advance the priorities of the Renewable Energy and Energy Efficiency Export Initiative (*www.export.gov/reee/re4i*).

Mission Scenario

In Riyadh, mission members will participate in an Embassy briefing, meet with Saudi Government officials and take part in one-on-one business appointments with private-sector organizations. In addition, they will enjoy a networking reception with Saudi private sector managers, government officials and representatives of key multipliers. In Dhahran, mission members will attend a networking event, have customized one-on-one business appointments, meet and receive a briefing from senior managers of Saudi Aramco, and visit the industrial city of Jubail.

Matchmaking efforts will involve trade organizations and associations such as the Riyadh and Eastern Province Chambers of Commerce, the Council of Saudi Chambers of Commerce and Industry, and the U.S.-Saudi Arabian Business Council. U.S. participants will be counseled before and after the mission by CS Saudi Arabia staff and other federal agencies actively involved in clean technology trade promotion activities in Saudi Arabia.

A representative of the Export-Import Bank of the United States will be invited to participate to discuss opportunities for export finance.

PROPOSED TIMETABLE

Date	Location	Activity
Saturday, April 14—*Day 1*	Riyadh	Arrive Riyadh. Check in at hotel. Ice-breaker with FCS Staff/Q&A.
Sunday, April 15—*Day 2*	Riyadh	U.S. Embassy Briefing. Sectoral briefings/discussion hosted by Council of Saudi Chambers of Commerce. One-on-one matchmaking meetings. Evening: Networking reception hosted by Amb. Smith.

PROPOSED TIMETABLE—Continued

Date	Location	Activity
Monday, April 16—*Day 3*	Riyadh-Dhahran	KA–CARE visit and policy roundtable. Call on Minister of Water and Electricity. Discussion panels on: (1) Legal Aspects of Doing Business in Saudi Arabia; (2) Financing Projects/Sales. Evening: Fly to Dhahran.
Tuesday, April 17—*Day 4*	Dhahran	Morning: Visit to Saudi Aramco, with briefing on renewable energy projects. One-on-one matchmaking meetings. Evening: Networking reception.
Wednesday, April 18—*Day 5*	Dhahran-USA	Optional morning site visit to Jubail Industrial City. Departure for the U.S.

(NB: The precise schedule will depend on the availability of local government officials and business managers, and the specific goals of mission participants.)

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the DOC. All applicants will be evaluated, on a rolling basis, on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 25 companies will be selected to participate in the mission from the applicant pool. U.S. companies already doing business with Saudi Arabia as well as U.S. companies seeking to enter to the Saudi Arabian market for the first time may apply.

Fees and Expenses

After a company or organization has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Trade Mission will be *$3,020.00* for a small or medium-sized firm (SME),[1] and *$3,502.00* for large firms. The fee for each additional firm representative (large firm or SME/trade organization) is $500. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

Conditions for Participation

An applicant must submit a completed mission application signed by a company officer, together with supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products or services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Selection Criteria for Participation

Selection will be based on the following criteria:

- Suitability of the company's products or services to the market
- Applicant's potential for business in Saudi Arabia and in the region, including likelihood of exports resulting from the mission
- Consistency of the applicant's goals and objectives with the stated scope of the mission

Diversity of company size and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites (including the Renewable Energy & Energy Efficiency Exporters Portal at *www.export.gov/reee*), press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than March 1, 2012. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning February 1, 2012. Applications received after March 1, 2012 will be considered only if space and scheduling constraints permit.

Contacts

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Elnora Moye,

Trade Program Assistant.

[FR Doc. 2011–32131 Filed 12–14–11; 8:45 am]

BILLING CODE 3510–FP–P

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2011–0078]

Sunset of the Patent Application Backlog Reduction Stimulus Plan and a Limited Extension of the Green Technology Pilot Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (Office) has provided two procedures under which an applicant may have an application accorded special status for examination. The Patent Application Backlog Reduction Stimulus Plan is available if the applicant expressly abandons another copending unexamined

application. The Green Technology Pilot Program is available to patent applications pertaining to environmental quality, energy conservation, development of renewable energy resources, and greenhouse gas emission reduction. In view of the trend in filings under the Patent Application Backlog Reduction Stimulus Plan, this plan has fulfilled its purpose and will not be extended. In view of the success of the Green Technology Pilot Program, this plan will be extended until 500 additional applications have been accorded special status under this program or until March 30, 2012, whichever occurs earlier. Following the expiration of this extension, the program will be eliminated, and applicants may instead use the newly enacted Prioritized Examination (Track I) program. The Track I program not only provides advancement of examination, but sets a target of reaching final disposition within 12 months from the time advancement is initiated. Furthermore, the advancement in the Track I program is available to all technologies and is not restricted to certain categories of invention as in the Pilot Program.

DATES: *Effective Date:* December 15, 2011. The Patent Application Backlog Reduction Stimulus Plan became effective on November 27, 2009, was modified on June 24, 2010, and was extended on November 22, 2010. The Green Technology Pilot Program became effective on December 8, 2009, was modified to eliminate the classification requirement on May 21, 2010, and was extended on November 10, 2010.

FOR FURTHER INFORMATION CONTACT: Pinchus M. Laufer or Michael Cygan, Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy, by telephone at (571) 272–7726 or (571) 272–7700; or by mail addressed to: Mail Stop Comments Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

SUPPLEMENTARY INFORMATION: On November 27, 2009, the USPTO published a notice in the **Federal Register** providing an additional temporary basis (the Patent Application Backlog Reduction Stimulus Plan) under which a small entity applicant may have an application accorded special status for examination if the applicant expressly abandons another copending unexamined application. *See Patent Application Backlog Reduction Stimulus Plan,* 74 FR 62285 (Nov. 27, 2009), 1349 *Off. Gaz. Pat. Office* 304 (Dec. 22, 2009) (notice). The USPTO indicated that the plan would last for the period ending on February 28, 2010, but may be extended for an additional time period thereafter. *See Patent Application Backlog Reduction Stimulus Plan,* 74 FR at 62287, 1349 *Off. Gaz. Pat. Office* at 306. The USPTO extended the plan for an additional four months to June 30, 2010. *See Extension of the Patent Application Backlog Reduction Stimulus Plan,* 75 FR 5041 (Feb. 1, 2010), 1351 *Off. Gaz. Pat. Office* 202 (Feb. 23, 2010). Subsequently, the USPTO expanded the plan to eliminate the small entity requirement and further extended its duration to expire at the earlier of the December 31, 2010 date, or the date that 10,000 applications have been accorded special status under this plan. *See Expansion and Extension of the Patent Application Backlog Reduction Stimulus Plan,* 75 FR 36063 (June 24, 2010), 1356 *Off. Gaz. Pat. Office* 173 (July 20, 2010). The USPTO further extended the plan to expire at the earlier of December 31, 2011, or the date that 10,000 applications have been accorded special status under this plan. *See Extension of the Patent Application Backlog Reduction Stimulus Plan,* 75 FR 71072 (Nov. 22, 2010), 1361 *Off. Gaz. Pat. Office* 230 (Dec. 28, 2010). Filings under this plan reached a peak in late 2010 and have since steadily decreased. Accordingly, as those desiring the benefits of this plan have taken advantage of its provisions, the Patent Application Backlog Reduction Stimulus Plan has run its course and will not be further extended beyond December 31, 2011.

On December 8, 2009, the USPTO published a notice for the implementation of the Green Technology Pilot Program. *See Pilot Program for Green Technologies Including Greenhouse Gas Reduction,* 74 FR 64666 (December 8, 2009), 1349 *Off. Gaz. Pat. Office* 362 (December 29, 2009) (*Green Technology* Notice). The *Green Technology* Notice indicated that an applicant may have an application advanced out of turn (accorded special status) for examination, if the application pertained to green technologies and met other requirements specified in the *Green Technology* Notice. The USPTO published a notice eliminating the classification requirement of the Green Technology Pilot Program on May 21, 2010. *See Elimination of the Classification Requirement in the Green Technology Pilot Program,* 75 FR 28554 (May 10, 2010), 1355 *Off. Gaz. Pat. Office* 188 (June 15, 2010). The USPTO further extended the program to expire at the earlier of December 31, 2011, or the date that 3,000 applications have been accorded special status under this program. *See Expansion and Extension of the Green Technology Pilot Program,* 75 FR 69049 (Nov. 10, 2010), 1361 *Off. Gaz. Pat. Office 50* (Dec. 7, 2010). In view of the success of the Green Technology Pilot Program in the designated technology areas, the Green Technology Pilot Program will be extended until an additional 500 applications have been accorded special status under this program (for a total of 3,500 applications) or March 30, 2012, whichever occurs earlier. Following the expiration of this extension, the program will be eliminated, and applicants may instead seek to use the newly enacted Prioritized Examination (Track I) program.

The Prioritized Examination (Track I) program permits an applicant to have an application advanced out of turn (accorded special status) for examination under 37 CFR 1.102(e), if the application contains, upon filing, a request for prioritized (Track I) examination accompanied by the appropriate fees. *See Changes to Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures Under the Leahy-Smith America Invents Act,* 76 FR 59050 (September 23, 2011), 1371 *Off. Gaz. Pat. Office* 151 (October 18, 2011) (Track I Notice).

The Track I Program provides prioritized examination having a more aggressive time frame for examination than the Green Technology Pilot Program, with an aggregate goal of reaching final disposition within 12 months and maintains an enhanced special status of the application throughout prosecution until final disposition. Additionally, the Track I Program does not have the restrictions of the Green Technology Pilot Program on the types of inventions for which special status may be sought, as the Track I Program does not require a connection to any particular technology.

In view of the ability of any applicant to request prioritized examination with the filing of an application under the procedure set forth in the Track I Notice, the Green Technology Pilot Program will not be extended past the earlier of March 30, 2012, or the date that 3,500 applications have been accorded special status under this program.

Dated: December 7, 2011.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2011–32115 Filed 12–14–11; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 12–C0004]

Build-A-Bear Workshop, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Build-A-Bear Workshop, Inc., containing a civil penalty of $600,000.00.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by December 30, 2011.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 12–C0004, Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Room 820, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Belinda V. Bell, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7592.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: December 9, 2011.

Todd A. Stevenson,

Secretary.

Settlement Agreement

1. In accordance with 16 CFR 1118.20, Build-A-Bear Workshop, Inc. (''Build-A-Bear'') and staff of the United States Consumer Product Safety Commission (''Commission'') hereby enter into this Settlement Agreement (''Agreement'') under the Consumer Product Safety Act (''CPSA''). The Agreement and the incorporated attached Order resolve staff's allegations set forth below.

The Parties

2. Staff is the staff of the Commission, an independent federal regulatory agency established pursuant to, and responsible for, the enforcement of the CPSA, 15 U.S.C. 2051–2089.

3. Build-A-Bear is a corporation, organized and existing under the laws of the State of Delaware, with its principal corporate office located at 1954 Innerbelt Business Center Drive, St. Louis, Missouri 63114.

Staff Allegations

4. Between March 2001 and October 2008, Build-A-Bear imported and sold to consumers approximately 260,000 folding wooden frame toy beach chairs (''Chairs''). The Chairs were sold through the Build-A-Bear Web site and at Build-A-Bear stores in the United States, the United Kingdom, and Canada for approximately $8.00 each.

5. The Chairs are ''consumer products'' and, at all relevant times, Build-A-Bear was an ''importer'' of these consumer products, which were ''distributed in commerce,'' as those terms are defined or used in sections 3(a)(5), (8), and (11) of the CPSA, 15 U.S.C. 2052(a)(5), (8), and (11).

6. The Chairs are defective because the sharp edges of the Chair's folding wooden frame can pinch, lacerate, or amputate a child's fingertip if the finger is caught between the frame as the Chair is folded.

7. In July 2007, Build-A-Bear received its first complaint of injury involving the Chairs' folding wooden frame.

8. In October 2008, Build-A-Bear stopped sale of the Chairs and issued a notice to its stores to return all Chairs in inventory to the Build-A-Bear storage warehouse.

9. Between July 2007 and January 2009, Build-A-Bear became aware of 10 injury complaints caused by the Chairs.

10. Despite knowledge of the information set forth in Paragraphs 6 through 9, Build-A-Bear did not report to the Commission until March 10, 2009. Build-A-Bear recalled the Chairs on May 14, 2009.

11. Build-A-Bear had obtained sufficient information to reasonably support the conclusion that the Chairs contained a defect which could create a substantial product hazard, or that the Chairs created an unreasonable risk of serious injury or death, but Build-A-Bear failed to inform the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. 2064(b)(3) and (4). In failing to inform the Commission about the Chairs immediately, Build-A-Bear knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d).

12. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, Build-A-Bear is subject to civil penalties for its knowing failure to report, as required under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

Response of Build-A-Bear Workshop, Inc.

13. Build-A-Bear denies the aforementioned staff allegations.

14. On March 10, 2009 Build-A-Bear filed a Section 15 Report under the Commission's Fast Track Program initiating a voluntary recall. Prior to that time, Build-A-Bear denies that it had sufficient information regarding injuries associated with the product to conclude that the Chairs contained a defect which could create a substantial product hazard or create an unreasonable risk of serious injury or death. Therefore, Build-A-Bear denies that it violated the reporting requirements of Section 15(b) of the CPSA, 15 U.S.C. 2064(b).

Agreement of the Parties

15. Under the CPSA, the Commission has jurisdiction over this matter and over Build-A-Bear.

16. In settlement of staff's allegations, Build-A-Bear shall pay a civil penalty in the amount of $600,000.00 within 20 calendar days of receiving service of the Commission's final Order accepting the Agreement. The payment shall be made electronically to the CPSC via *http://www.pay.gov.*

17. Build-A-Bear agrees that it will not seek or accept, directly or indirectly, indemnification, reimbursement, insurance, or any other form of compensation or payment, including, but not limited to, cash, account credit, or setoff, from any manufacturer, importer, or retail store, or from any other firm or person, for the civil penalty that Build-A-Bear agrees to pay pursuant to this Agreement and Order.

18. The parties enter into this Agreement for settlement purposes only. The Agreement does not constitute an admission by Build-A-Bear, nor does it constitute a determination by the Commission, that Build-A-Bear violated the CPSA's reporting requirements.

19. Upon provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within 15 calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

20. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Build-A-

Bear knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (a) An administrative or judicial hearing; (b) judicial review or other challenge or contest of the Commission's actions; (c) a determination by the Commission of whether Build-A-Bear failed to comply with the CPSA and the underlying regulations; (d) a statement of findings of fact and conclusions of law; and (e) any claims under the Equal Access to Justice Act.

21. The Commission may publicize the terms of the Agreement and the Order.

22. The Agreement and the Order shall apply to, and be binding upon, Build-A-Bear and each of its successors and/or assigns.

23. The Commission issues the Order under the provisions of the CPSA, and a violation of the Order may subject Build-A-Bear and each of its successors and/or assigns to appropriate legal action.

24. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict the terms or the Agreement and the Order. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto, executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

25. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Build-A-Bear agree that severing the provision materially affects the purpose of the Agreement and Order.

Build-A-Bear Workshop, Inc.

Dated: September 27, 2011.

By: _____

Eric R. Fencl,
General Counsel,
Build-A-Bear Workshop, Inc.
1954 Innerbelt Business Center Drive
St. Louis, MO 63114.

Dated: September 27, 2011.

By: _____

Stephen L. Hill,
Esquire,
Husch Blackwell LLP
4801 Main Street, Suite 1000
Kansas City, MO 64112
Counsel for Build-A-Bear Workshop, Inc.

U.S. Consumer Product Safety Commission Staff

Cheryl A. Falvey,
General Counsel.

Mary B. Murphy,
Assistant General Counsel.

Dated: December 2, 2011.

By: _____

Belinda V. Bell,
Trial Attorney,
Division of Compliance
Office of the General Counsel.

Order

Upon consideration of the Settlement Agreement entered into between Build-A-Bear Workshop, Inc. (''Build-A-Bear''), and the U.S. Consumer Product Safety Commission (''Commission'') staff, and the Commission having jurisdiction over the subject matter and over Build-A-Bear, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

Ordered that the Settlement Agreement be, and is, hereby, accepted; and it is

Further Ordered, that Build-A-Bear shall pay a civil penalty in the amount of $600,000.00 within 20 calendar days of receiving service of the Commission's final Order accepting the Settlement Agreement. The payment shall be made electronically to the CPSC via *http://www.pay.gov.* Upon the failure of Build-A-Bear to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Build-A-Bear at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 9th day of December, 2011.

By order of the Commission.

Todd A. Stevenson,
Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2011–32116 Filed 12–14–11; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Acquisition University Board of Visitors; Notice of Meeting

AGENCY: Defense Acquisition University, Department of Defense (DoD).

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal advisory committee meeting of the Defense Acquisition University Board of Visitors will take place.

DATES: Wednesday, January 25, 2012, from 8:30 a.m.–11:30 a.m.

ADDRESSES: Command Conference Center, Building 202, Defense Acquisition University, 9820 Belvoir Road, Fort Belvoir, VA 22060.

FOR FURTHER INFORMATION CONTACT: Christen Goulding, Protocol Director, DAU, Phone: (703) 805–5134, Fax: (703) 805–5940, Email: *christen.goulding@dau.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of this meeting is to report back to the Board of Visitors on continuing items of interest.

Agenda:

8:30 a.m. Welcome and approval of minutes.
8:40 a.m. Certification to Qualification.
9:30 a.m. Distinguished Faculty.
10:30 a.m. Mission Assistance.
11:15 a.m. Open forum discussion.
11:30 a.m. Adjourn.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. However, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Christen Goulding at (703) 805–5134.

Committee's Designated Federal Officer or Point of Contact:

Ms. Kelley Berta, (703) 805–5412.

Dated: December 9, 2011.

Aaron Siegel,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–32133 Filed 12–14–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for Eligibility Designation; Programs Under Parts A and F of Title III of the Higher Education Act of 1965, as Amended (HEA), and Programs Under Title V of the HEA

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Programs authorized under Part A, Title III of the HEA: Strengthening Institutions Program (Part A SIP), Predominantly Black Institutions (Part

A PBI), Native American-Serving Nontribal Institutions (Part A NASNTI), and Asian American and Native American Pacific Islander-Serving Institutions (Part A AANAPISI).

Programs authorized under Part F, Title III of the HEA: Hispanic-Serving Institutions Stem and Articulation (Part F, title III HSI STEM and Articulation), Predominantly Black Institutions (Part F PBI), and Asian American and Native American Pacific Islander-Serving Institutions (Part F AANAPISI).

Programs authorized under both parts A and F in title III of the HEA: American Indian Tribally Controlled Colleges and Universities (TCCU) (note that in Part F, the program is referred to as ''Tribal Colleges or Universities''); Alaska Native and Native Hawaiian-Serving Institutions (ANNH).

Programs authorized under Title V of the HEA: Developing Hispanic-Serving Institutions (Title V HSI) and Promoting Postbaccalaureate Opportunities for Hispanic Americans (PPOHA).

Notice inviting applications for designation as an eligible institution for Fiscal Year (FY) 2012.

Dates:

Application Available: December 15, 2011.

Deadline for Transmittal of Applications: February 10, 2012, for an institution that wishes to be designated as eligible to apply for a FY 2012 new grant under the Title III or Title V programs. March 9, 2012, for an institution that wishes to apply only for cost-sharing waivers under the Federal Supplemental Educational Opportunity Grant (FSEOG), the Federal Work Study (FWS), the Student Support Services (SSS), or the Undergraduate International Studies and Foreign Language (UISFL) programs.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Programs

The Part A SIP, TCCU, ANNH, Part A PBI, Part A NASNTI, and Part A AANAPISI programs are authorized under Title III, Part A, of the HEA. Part F, Title III HSI STEM and Articulation, Part F PBI, and Part F AANAPISI programs are authorized under Title III, Part F of the HEA. The Title V HSI and PPOHA programs are authorized under Title V of the HEA. Please note that certain programs in this notice have the same or a similar name to another program that falls under a different statutory authority. For this reason, we specify the statutory authority as part of the acronym for certain programs.

Under the programs for which we are inviting applications for an eligibility designation, institutions of higher education (''IHEs'' or ''institutions'') are eligible to apply for grants if they meet specific statutory and regulatory eligibility requirements. An IHE that is designated as an eligible institution may receive a waiver of certain non-Federal cost-share requirements under the FSEOG program in Part A, Title IV of the HEA; the FWS program in section 443 of Part C, Title IV of the HEA; the SSS program in section 402D of Part A, Title IV of the HEA; and the UISFL program in section 604 of Part A, Title VI of the HEA. Qualified institutions may receive these waivers even if they are not recipients of grant funds under the Title III or Title V Programs.

Special Note: To qualify as an eligible institution under the Parts A and F of Title III, HEA programs and Title V, HEA programs listed in this notice, your institution must satisfy several criteria. For most of these programs, this includes criteria that relate to needy student enrollment and to average educational and general (E&G) expenditures for a specified base year. The most recent data available for E&G expenditures are for base year 2009–2010. In order to award FY 2012 grants in a timely manner, we will use this data to evaluate eligibility. Therefore, in completing your eligibility application, please use E&G expenditure data from the base year 2009–2010.

If you are designated as an eligible institution and you do not receive a new award under the Title III or Title V Programs in FY 2012, your eligibility for the non-Federal cost-share waiver under the FSEOG, FWS, SSS, and UISFL programs is valid for five consecutive years. You will not need to reapply for eligibility until 2017, unless you wish to apply for a new Title III or Title V grant. All institutions interested in applying for a new FY 2012 Title III or Title V grant or requesting a waiver of the non-Federal cost share, must apply for eligibility designation in FY 2012. Under the HEA, any institution interested in applying for a grant under any of these programs must first be designated as an eligible institution. (34 CFR 606.5 and 607.5).

Eligible Applicants

The eligibility requirements for the Part A of Title III, HEA programs are in the statute and 34 CFR 607.2 through 607.5. The regulations may be accessed at the following Web site: *www.access.gpo.gov/nara/cfr/waisidx_02/34cfr607_02.html.*

The eligibility requirements for the Part F of Title III, HEA programs are in the statute. We are in the process of developing regulations for these programs; there are currently no specific program regulations.

The eligibility requirements for the Title V HSI Program are in Part A of Title V of the HEA and 34 CFR 606.2 through 34 CFR 606.5. The regulations may be accessed at the following Web site: *www.access.gpo.gov/nara/cfr/waisidx_01/34cfr606_01.html.*

The requirements for the PPOHA Program are in Part B of Title V of the HEA and the notice of final requirements published in the **Federal Register** on July 27, 2010 (75 FR 44055) (PPOHA NFP). Among the requirements established for the PPOHA Program in the PPOHA NFP are the use of the regulations in 34 CFR 606.2(a) and (b), and 606.3 through 606.5.

Enrollment of Needy Students: For Part A SIP; TCCU; ANNH; Part A NASNTI; Part A AANAPISI; Title III, Part F HSI STEM and Articulation; Part F AANAPISI; Title V HSI; and PPOHA programs, an institution is considered to have an enrollment of needy students if: (1) At least 50 percent of its degree students received financial assistance under one or more of the following programs: Federal Pell Grant, FSEOG, FWS, or the Federal Perkins Loan Programs; or (2) the percentage of its undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants exceeded the median percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants at comparable institutions that offer similar instruction.

To qualify under this latter criterion, an institution's Federal Pell Grant percentage for base year 2009–2010 must be more than the median for its category of comparable institutions provided in the 2009–2010 Median Pell Grant and Average E&G Expenditures per full-time equivalent (FTE) Student Table in this notice.

For the Part A PBI Program, see section 318(b)(2) of the HEA and for the Part F PBI program see section 371(c)(9) for the definition of ''Enrollment of Needy Students.''

Educational and General Expenditures Per FTE Student: Under the Part A SIP; TCCU; ANNH; Part A PBI; Part A NASNTI; Part A AANAPISI; Title III, Part F HSI STEM and Articulation; Part F PBI Part F AANAPISI; Title V HSI; and PPOHA programs, an institution should compare its 2009–2010 average E&G expenditures per FTE student to the average E&G expenditure per FTE student for its category of comparable institutions contained in the 2009–2010 Median Pell Grant and Average E&G Expenditures per FTE Student Table in this notice. The institution meets this

eligibility requirement under these programs if its average E&G expenditures for the 2009–2010 base years are less than the average for its category of comparable institutions.

An institution's average E&G expenditures are the total amount it expended during the base year for instruction, research, public service, academic support including library expenditures, student services, institutional support, operation and maintenance, scholarships and fellowships, and mandatory transfers that the institution is required to pay by law.

The following table identifies the relevant median Federal Pell Grant percentages for the base year 2009–2010 and the relevant average E&G expenditures per FTE student for the base year 2009–2010 for the four categories of comparable institutions:

Type of institution	2009–2010 Median Pell Grant percentage	2009–2010 Average E&G expenditures per FTE student
Two-year Public Institutions	32.3	$10,785
Two-year Non-profit Private Institutions	39.4	24,214
Four-year Public Institutions	30.1	28,831
Four-year Non-profit Private Institutions	31.0	45,760

Waiver Information: IHEs that are unable to meet the needy student enrollment requirement or the average E&G expenditures requirement may apply to the Secretary for waivers of these requirements, as described in sections 392 and 522 of the HEA, 34 CFR 606.3(b), 606.4(c) and (d), 607.3(b), and 607.4(c) and (d).

Institutions requesting a waiver of the needy student enrollment requirement or the average E&G expenditures requirement must include in their application detailed information supporting the waiver request, as described in the instructions for completing the application.

The regulations governing the Secretary's authority to waive the needy student requirement, 34 CFR 606.3(b)(2) and (3) and 607.3(b)(2) and (3), refer to ''low-income'' students or families. The regulations at 34 CFR 606.3(c) and 607.3(c) define ''low-income'' as an amount that does not exceed 150 percent of the amount equal to the poverty level, as established by the U.S. Bureau of the Census.

For the purposes of this waiver provision, the following table sets forth the low-income levels for the various sizes of families:

2009 ANNUAL LOW-INCOME LEVELS

Size of family unit	Family income for the 48 contiguous States, DC, and outlying jurisdictions	Family income for Alaska	Family income for Hawaii
1	$16,245	$20,295	$18,690
2	21,855	27,315	25,140
3	27,465	34,335	31,590
4	33,075	41,355	38,040
5	38,685	48,375	44,490
6	44,295	55,395	50,940
7	49,905	62,415	57,390
8	55,515	69,435	63,840

Note: The 2009 annual low-income levels are being used because those are the amounts that apply to the family income reported by students enrolled for the fall 2009 semester. For family units with more than eight members, add the following amount for each additional family member: $5,610 for the contiguous 48 States, the District of Columbia, and outlying jurisdictions; $7,020 for Alaska; and $6,450 for Hawaii.

The figures shown under family income represent amounts equal to 150 percent of the family income levels established by the U.S. Bureau of the Census for determining poverty status. The poverty guidelines were published by the U.S. Department of Health and Human Services in the **Federal Register** on January 23, 2009 (74 FR 4199).

The information about ''metropolitan statistical areas'' referenced in 34 CFR 606.3(b)(4) and 607.3(b)(4) may be obtained by requesting the Metropolitan Statistical Areas, 1999 Publication, Order Number PB99–501538, from the National Technical Information Service, Document Sales, 5301 Shawnee Road, Alexandria, VA 22312, telephone number: 1–800–553–6847. There is a charge for this publication.

Electronic Submission of Applications

Applications for designation of eligibility must be submitted electronically using the following Web site: *https://opeweb.ed.gov/title3and5/.*

To enter the Web site, you must use your institution's unique 8-digit identifier, *i.e.,* your Office of Postsecondary Education Identification Number (OPE ID Number). Your business office or student financial aid office should have the OPE ID Number. If not, contact the Department using the email addresses of the contact persons listed in this notice under **FOR APPLICATIONS AND FOR FURTHER INFORMATION CONTACT.** You will find detailed instructions for completing the application form electronically under the ''eligibility 2012'' link at either of the following Web sites: *http://www.ed.gov/programs/iduestitle3a/index.html* or *http://www.ed.gov/hsi.*

If your institution is unable to meet the needy student enrollment requirement or the average E&G expenditure requirement and wishes to request a waiver of one or both of these requirements, you must complete your designation application form electronically and transmit your waiver request narrative document from the

following Web site: *https://opeweb.ed.gov/title3and5/.*

Exception to the Electronic Submission Requirement: You may qualify for an exception to the electronic submission requirement and may submit your application in paper format if you are unable to submit an application electronically because—

- You do not have access to the Internet; or
- You do not have the capacity to upload documents to the Web site; *and*
- No later than two weeks before the application deadline date (14 calendar days; or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Darlene B. Collins, U.S. Department of Education, 1990 K Street NW., room 6033, Washington, DC 20006–8513. *Fax:* (202) 502–7861.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail (using the U.S. Postal Service or commercial carrier) the application, on or before the application deadline date, to the Department at the following address: Darlene B. Collins, U.S. Department of Education, 1990 K Street, NW., Room 6033, Washington, DC 20006–8513.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice, or receipt from a commercial carrier; or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark; or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the application, on or before the application deadline date, to the Department at the following address: Darlene B. Collins, U.S. Department of Education, 1990 K Street NW., Room 6033, Washington, DC 20006–8513.

Hand delivered applications will be accepted daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for the Title III Programs in 34 CFR part 607, and for the HSI Program in 34 CFR part 606. (c) The notice of final requirements for the PPOHA Program, published in the **Federal Register** on July 27, 2010 (75 FR 44055).

Note: There are no program-specific regulations for the Part A AANAPISI, Part A NASNTI, and Part A PBI programs or any of the Part F, title III programs. Also, there have been amendments to the HEA since we last issued regulations for the programs established under titles III and V of the statute. Accordingly, we encourage each potential applicant to read the applicable sections of the HEA in order to fully understand the eligibility requirements for the program for which they are applying. Please note we are in the process of amending the title III and title V regulations. These updated regulations will include regulations for Part A AANAPISI, Part A NASNTI, and Part A PBI programs, as well as the Part F, title III programs.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Kelley Harris or Carnisia Proctor, Institutional Service, U.S. Department of Education, 1990 K Street NW., room 6033, Request for Eligibility Designation, Washington, DC 20006–8513.

You can contact these individuals at the following email addresses or phone numbers: *Kelley.Harris@ed.gov,* (202) 219–7083, *Carnisia.Proctor@ed.gov,* (202) 502–7606.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audio tape, or compact disc) on request to one of the contact persons listed in this section.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register.** Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1057–1059g, 1067q, 1068a, and 1101–1103g.

Dated: December 9, 2011.

Eduardo M. Ochoa,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2011–32196 Filed 12–14–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Graduate Assistance in Areas of National Need

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information

Graduate Assistance in Areas of National Need (GAANN) Program.

Notice inviting applications for new awards for fiscal year (FY) 2012.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.200A.

DATES:

Applications Available: December 15, 2011.

Deadline for Transmittal of Applications: January 20, 2012.

Deadline for Intergovernmental Review: March 20, 2012.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The GAANN program provides grants to academic departments and programs of institutions of higher education (IHEs) to support graduate fellowships for students with excellent academic records who demonstrate financial need and plan to pursue the highest degree available in their course of study at the institution. Students are not eligible to apply for grants under this program.

Priority: In accordance with 34 CFR 75.105(b)(2)(ii), this priority is from the regulations for this program (34 CFR 648.33(a) and Appendix to part 648—Academic Areas).

Absolute Priority: For FY 2012, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Areas of National Need: A project must provide fellowships in one or more of the following areas of national need: Area Studies; Biological Sciences/Life Sciences; Chemistry; Computer and Information Sciences; Engineering; Foreign Languages and Literatures; Mathematics; Nursing; Physics; and Educational Evaluation, Research, and Statistics.

Program Authority: 20 U.S.C. 1135.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for this program in 34 CFR part 648.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants redistributed as graduate fellowships to individual fellows.

Estimated Available Funds: The Administration has requested $40,717,000 for this program for FY 2012, of which $30,998,224 is estimated to be available for new awards. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $131,925 to $263,850.

Estimated Average Size of Awards: $175,900.

Estimated Number of Awards: 175.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Stipend Level: The Secretary will determine the fellowship stipend for the GAANN program for the academic year 2012–2013 based on the level of support provided by the graduate fellowships of the National Science Foundation Graduate Research Fellowship Program, as of February 1, 2012. However, the Secretary will adjust the amount as necessary so as not to exceed the fellow's demonstrated level of financial need as calculated for purposes of the Federal Student Financial Aid Programs under title IV, part F, of the Higher Education Act of 1965, as amended.

Institutional Payment: The Secretary will determine the institutional payment for the academic year 2012–2013 by adjusting the previous academic year's institutional payment, which is $13,975 per fellow, by the U.S. Department of Labor's Consumer Price Index for the 2011 calendar year.

III. Eligibility Information

1. *Eligible Applicants:* Academic departments of IHEs that meet the requirements in 34 CFR 648.2.

2. a. *Cost Sharing or Matching:* An institution must provide, from non-Federal funds, an institutional matching contribution equal to at least 25 percent of the grant amount received. (See 34 CFR 648.7.)

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. (See 34 CFR 648.20.)

3. *Other:* For requirements relating to selecting fellows, see 34 CFR 648.40.

IV. Application and Submission Information

1. *Address to Request Application Package:* Rebecca Green, U.S. Department of Education, 1990 K Street NW., room 7105, Washington, DC 20006–8510. Telephone (202) 502–7779 or by *email: OPE_GAANN_Program@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–(800) 877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The project narrative, Part II of the application, is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the project narrative (Part II) to no more than 40 pages, using the standards listed below. A partial page will count as a full page toward the page limit. For purposes of determining compliance with the page limit, each page on which there are words will be counted as one full page, except as specifically discussed below:

- A project narrative in a single discipline must be limited to no more than 40 pages.
- An inter-disciplinary project narrative must be limited to no more than 40 pages. An inter-disciplinary application must request funding for a single proposed program of study that involves two or more academic disciplines.
- A multi-disciplinary project narrative must be limited to no more than 40 pages for each academic department included in the proposal. A multi-disciplinary application must request funding for two or more academic departments in areas of national need designated as priorities by the Secretary that are independent and unrelated to one another.
- A ''page'' is 8.5″ x 11″ , on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the project narrative, including titles, headings, footnotes, quotations, references, and captions. Charts, tables, figures, and graphs in the project narrative may be single spaced and will count toward the page limit.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch). However, you may use a 10 point font in charts, tables, figures, graphs, footnotes, and endnotes.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.
- Appendices are limited to the following: Curriculum Vitae—no more than two pages per faculty member; a course listing; letters of support; a bibliography; and one additional optional appendix relevant to the support of the proposal, not to exceed five pages.

The page limit does not apply to Part I, the Application for Federal Assistance

(SF 424) and the Department of Education Supplemental Information for the SF 424 Form; the one-page Abstract; the GAANN Statutory Assurances Form; the GAANN Budget Spreadsheet(s) Form; the Appendices; or Part III, the Assurances and Certifications. The page limit also does not apply to a two-page Table of Contents, if you include one. However, the page limit does apply to all of the project narrative section in Part II.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: December 15, 2011.

Deadline for Transmittal of Applications: January 20, 2012.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice. Deadline for Intergovernmental Review: March 20, 2012.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR 648.64. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and Central Contractor Registry:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

In addition, if you are submitting your application via Grants.gov, you must (1) Be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web Page: *www.grants.gov/applicants/get_registered.jsp.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the GAANN program, CFDA number 84.200A, must be submitted electronically using the Governmentwide Grants.gov Apply site at www.Grants.gov. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the GAANN program at www.Grants.gov. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.200, not 84.200A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to

Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for the SF 424, the GAANN Budget Spreadsheet(s) Form, and the GAANN Statutory Assurances, and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a .PDF (Portable Document) read-only, non-modifiable format. Specifically, do not upload an interactive or fillable .PDF file. If you upload a file type other than a read-only, non-modifiable .PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–(800) 518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Rebecca Green, Department of Education, 1990 K Street NW., room 7105, Washington, DC 20006–8510. Fax (202) 502–7857.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.200A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.200A), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are in 34 CFR 648.31.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are in 34 CFR 648.32.

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

With regard to those grantees with significant adverse risk assessment findings, the Secretary will attach special terms and conditions to their grant awards. These terms and conditions could include requiring special reporting or targeted monitoring such as on-site visits and monthly conference calls. It could also include placing the grantee on a cost reimbursement status if necessary.

For grantees with missing or late audits, program staff will contact the grantee to obtain a copy of the audit report. Audit reports will be reviewed upon receipt and applicable findings, if any, will be addressed through requiring corrective actions and special conditions if appropriate. Technical assistance will be provided to these grantees as needed.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118 and 34 CFR 648.66. If you wish to view the performance report currently required, visit the GAANN program Web site at: *http://www2.ed.gov/programs/gaann/performance.html.* Please be advised that the report is for informational purposes only, and does not reflect the actual reporting instrument that you will use, should you receive a GAANN grant. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Grantees will be required to submit a supplement to the Final Performance Report two years after the expiration of their GAANN grant. The purpose of this supplement is to identify and report the educational outcome of each GAANN fellow.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the following measures will be used by the Department in assessing the performance of the GAANN program:

(1) The percentage of GAANN fellows completing the terminal degree in the designated areas of national need.

(2) The percentage of GAANN fellows from traditionally underrepresented groups.

(3) The median time to completion of Master's and Doctorate degrees for GAANN students.

If funded, you will be required to collect and report data in your project's annual performance report (34 CFR 75.590) on these measures and on steps taken toward improving performance on these outcomes. Consequently, applicants are advised to include these outcomes in conceptualizing the design, implementation, and evaluation of their proposed projects. Their measurement should be a part of the project evaluation plan, along with measures of your progress on the goals and objectives specific to your project.

All grantees will be expected to submit an annual performance report documenting their success in addressing these performance measures.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Rebecca Green, U.S. Department of Education, Graduate Assistance in Areas of National Need Program, 1990 K Street NW., Room 7105, Washington, DC 20006–8510. Telephone (202) 502–7779 or by *email: OPE_GAANN_Program@ed.gov*.

If you use a TDD, call the FRS, toll free, at 1–(800) 877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: December 9, 2011.

Eduardo M. Ochoa,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2011–32197 Filed 12–14–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Unconventional Resources Technology Advisory Committee

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Unconventional Resources Technology Advisory Committee. 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: Wednesday, January 18, 2012; 8 a.m.–5 p.m. (CST).

ADDRESSES: Hilton Houston North, 12400 Greenspoint Drive, Houston, Texas 77060.

FOR FURTHER INFORMATION CONTACT: Elena Melchert, U.S. Department of Energy, Office of Oil and Natural Gas, Washington, DC 20585. Phone: (202) 586–5600.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the Unconventional Resources Technology Advisory Committee is to provide advice to the Secretary of Energy on development and implementation of programs related to unconventional natural gas and other petroleum resources; and to provide comments for the Department of Energy Annual Plan per requirements of the Energy Policy Act of 2005, Title IX, Subtitle J, Section 999D.

Tentative Agenda

January 18, 2012

7:30 a.m.–8 a.m.: Registration.

8 a.m.–noon: Call to Order, Welcome, Introductions, Opening Remarks, Overview of the Section 999 Research Portfolio (Unconventional Resources, Small Producers, and NETL Complementary Research).

1 p.m.–4:45 p.m.: Overview of *Draft 2012 Annual Pla.*

4:45 p.m.–5 p.m.: Public Comment.

5 p.m.: Adjourn.

Public Participation: The meeting is open to the public. The Designated Federal Officer and the Chairman of the Committee will lead the meeting for the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Elena Melchert at the telephone number listed above. You must make your request for an oral statement at least three business days prior to the meeting, and reasonable provisions will be made to include all who wish to speak. Public comment will follow the three minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 60 days at: *http://www.fossil.energy.gov/programs/oilgas/advisorycommittees/UnconventionalResources.html.*

Issued at Washington, DC, on December 7, 2011.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–32159 Filed 12–14–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Ultra-Deepwater Advisory Committee

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Ultra-Deepwater Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, January 19, 2012, 8 a.m.–5 p.m. (CST).

ADDRESSES: Hilton Houston North, 12400 Greenspoint Drive, Houston, Texas 77060.

FOR FURTHER INFORMATION CONTACT: Elena Melchert, U.S. Department of Energy, Office of Oil and Natural Gas, Washington, DC 20585. *Phone:* (202) 586–5600.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the Ultra-Deepwater Advisory Committee is to provide advice to the Secretary of Energy on development and implementation of programs related to ultra-deepwater natural gas and other petroleum resources; and to provide comments for the Department of Energy Annual Plan per requirements of the Energy Policy Act of 2005, Title IX, Subtitle J, Section 999D.

Tentative Agenda

January 19, 2012

7:30 a.m.–8 a.m.: Registration.

8 a.m.–noon: Call to Order, Welcome, Introductions, Opening Remarks, Overview of the Section 999 Research Portfolio (Ultra-Deepwater and NETL Complementary Research).

1 p.m.–4:45 p.m.: Overview of Draft 2012 *Annual Plan.*

4:45 p.m.–5 p.m.: Public Comments.

5 p.m.: Adjourn.

Public Participation: The meeting is open to the public. The Designated Federal Officer and the Chairman of the Committee will lead the meeting for the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you

would like to make oral statements regarding any of the items on the agenda, you should contact Elena Melchert at the telephone number listed above. You must make your request for an oral statement at least three business days prior to the meeting, and reasonable provisions will be made to include all who wish to speak. Public comment will follow the three minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 60 days at: *http://www.fossil.energy.gov/programs/oilgas/advisorycommittees/UltraDeepwater.html.*

Issued at Washington, DC, on December 7, 2011.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–32160 Filed 12–14–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–45–000.
Applicants: South Carolina Electric & Gas Company.
Description: Application for Authorization under Section 203 of the Federal Power Act for Acquisition of Jurisdictional Facilities of South Carolina Electric & Gas Company.
Filed Date: 12/7/11.
Accession Number: 20111207–5183.
Comments Due: 5 p.m. ET 12/28/11.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–348–000.
Applicants: Mercuria Energy America, Inc.
Description: Mercuria Energy America, Inc. Submits Clarification and Affirmation Regarding Erected barriers to entry.
Filed Date: 11/10/11.
Accession Number: 20111110–5143.
Comments Due: 5 p.m. ET 12/9/11.

Docket Numbers: ER12–569–000.
Applicants: Blackwell Wind, LLC.
Description: Blackwell Wind, LLC Market-Based Rate Tariff to be effective 2/5/2012.
Filed Date: 12/7/11.
Accession Number: 20111207–5116.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–570–000.
Applicants: Sandy Ridge Wind, LLC.
Description: Request for Category 1 Seller Status to be effective 12/8/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5134.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–571–000.
Applicants: Chestnut Flats Wind, LLC.
Description: Request for Category 1 Seller Status to be effective 12/8/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5140.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–572–000.
Applicants: Fowler Ridge III Wind Farm LLC.
Description: Certificate of Concurrence to be effective 8/18/2010.
Filed Date: 12/7/11.
Accession Number: 20111207–5152.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–573–000.
Applicants: Pacific Gas and Electric Company.
Description: Transmission Access Charge Balancing Account Adjustment (TACBAA) 2012 to be effective 3/1/2012.
Filed Date: 12/7/11.
Accession Number: 20111207–5153.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–574–000.
Applicants: ITC Midwest LLC.
Description: Filing of a Contribution in Aid of Construction Agreement to be effective 2/6/2012.
Filed Date: 12/7/11.
Accession Number: 20111207–5154.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–575–000.
Applicants: Alabama Power Company.
Description: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: SWE (Tombigbee) NITSA Filing to be effective 1/1/2012.
Filed Date: 12/7/11.
Accession Number: 20111207–5156.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–576–000.
Applicants: Northeast Utilities Service Company.
Description: Northeast Utilities Service Company; Notice of Cancellation of Service Agreements.
Filed Date: 12/7/11.
Accession Number: 20111207–5184.
Comments Due: 5 p.m. ET 12/28/11.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH12–4–000.
Applicants: Fidelity Management & Research Company.
Description: FERC–65A Exemption Notification of Fidelity Management & Research Company.
Filed Date: 12/7/11.
Accession Number: 20111207–5181.
Comments Due: 5 p.m. ET 12/28/11.

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: December 8, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–32146 Filed 12–14–11; 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: RP12–224–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 12/07/11 Negotiated Rates—Sequent Energy Management—RTS to be effective 12/8/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5122.
Comments Due: 5 p.m. ET 12/19/11.

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: RP12–217–001.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 12/07/11 Negotiated Rates—Freepoint Commodities—

Amendment Correction to be effective 12/1/2011.

Filed Date: 12/7/11.

Accession Number: 20111207–5125.

Comments Due: 5 p.m. ET 12/19/11.

Docket Numbers: RP11–2552–001.

Applicants: Central New York Oil And Gas, LLC.

Description: Notice of In-Service (Docket Nos. RP11–2530–000, RP11–2552–001, RP11–2570–000) to be effective N/A.

Filed Date: 12/7/11.

Accession Number: 20111207–5092.

Comments Due: 5 p.m. ET 12/19/11.

Docket Numbers: RP12–218–001.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 12/07/11 Negotiated Rates—Conoco Phillips—Amendment Correction to be effective 12/1/2011.

Filed Date: 12/7/11.

Accession Number: 20111207–5124.

Comments Due: 5 p.m. ET 12/19/11.

Docket Numbers: RP12–219–001.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 12/07/11 Negotiated Rates—Citigroup Energy—Amendment Correction to be effective 12/2/2011.

Filed Date: 12/7/11.

Accession Number: 20111207–5123.

Comments Due: 5 p.m. ET 12/19/11.

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: December 8, 2011.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2011–32152 Filed 12–14–11; 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 exempt wholesale generator filings:

Docket Numbers: EG12–19–000.

Applicants: Minco Wind Interconnection Services, LLC.

Description: Self-Certification of EG of Minco Wind Interconnection Services, LLC.

Filed Date: 12/8/11.

Accession Number: 20111208–5068.

Comments Due: 5 p.m. ET 12/29/11.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1484–001.

Applicants: Shell Energy North America (U.S.), L.P.

Description: Supplement to Updated Market Power Analysis for the Northeast Region of Shell Energy North America (US), L.P.

Filed Date: 12/2/11.

Accession Number: 20111202–5183.

Comments Due: 5 p.m. ET 12/23/11.

Docket Numbers: ER11–3953–002.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: ISO New England Inc. submits tariff filing per 35: Revisions to ISO–NE FAP Compliance Order—Part 1 of 2 to be effective 2/6/2012.

Filed Date: 12/8/11.

Accession Number: 20111208–5053.

Comments Due: 5 p.m. ET 12/29/11.

Docket Numbers: ER11–3953–003.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: ISO New England Inc. submits tariff filing per 35: Revisions to ISO–NE FAP Compliance Filing—Part 2 of 2 to be effective 5/1/2012.

Filed Date: 12/8/11.

Accession Number: 20111208–5066.

Comments Due: 5 p.m. ET 12/29/11.

Docket Numbers: ER12–275–001.

Applicants: Dynegy Oakland, LLC.

Description: Dynegy Oakland, LLC submits tariff filing per 35.17(b): Request for Deferral of Commission Action to be effective 1/1/2012.

Filed Date: 12/8/11.

Accession Number: 20111208–5085.

Comments Due: 5 p.m. ET 12/29/11.

Docket Numbers: ER12–577–000.

Applicants: Burley Butte Wind Park, LLC.

Description: Burley Butte Wind Park, LLC submits tariff filing per 35: Burley Butte Category 2 Compliance Filing to be effective 12/6/2011.

Filed Date: 12/7/11.

Accession Number: 20111207–5187.

Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–578–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 12–08–11 BREC Attachment O Deletion to be effective 1/1/2012.

Filed Date: 12/8/11.

Accession Number: 20111208–5086.

Comments Due: 5 p.m. ET 12/29/11.

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: December 8, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–32153 Filed 12–14–11; 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: ER10–1476–001.

Applicants: Tampa Electric Company.

Description: Supplemental Information of Tampa Electric Company.

Filed Date: 11/10/11.

Accession Number: 20111110–5170.

Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER10–2331–001; *ER10–2343–001; ER10–2320–001; ER10–2322–002; ER10–2326–001; ER10–2327–002; ER10–2330–001.*

Applicants: J.P. Morgan Ventures Energy Corporation.

Description: Supplement to Updated Market Power Analysis and Order Nos. 697 and 697–A Compliance Filing of the JPMorgan Sellers.

Filed Date: 12/7/11.

Accession Number: 20111207–5019.

Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–559–000.

Applicants: Golden Valley Wind Park, LLC.

Description: Golden Valley Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5066.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–560–000.
Applicants: Milner Dam Wind Park, LLC.
Description: Milner Dam Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5067.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–561–000.
Applicants: Oregon Trail Wind Park, LLC.
Description: Oregon Trail Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5070.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–562–000.
Applicants: Pilgrim Stage Station Wind Park, LLC.
Description: Pilgrim Stage Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5076.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–563–000.
Applicants: Thousand Springs Wind Park, LLC.
Description: Thousand Springs Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5077.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–564–000.
Applicants: Tuana Gulch Wind Park, LLC.
Description: Tuana Gulch Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5078.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–565–000.
Applicants: Camp Reed Wind Park, LLC.
Description: Camp Reed Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5083.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–566–000.
Applicants: Payne's Ferry Wind Park, LLC.
Description: Payne's Ferry Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5088.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–567–000.
Applicants: Salmon Falls Wind Park, LLC.
Description: Salmon Falls Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5101.
Comments Due: 5 p.m. ET 12/28/11.

Docket Numbers: ER12–568–000.
Applicants: Yahoo Creek Wind Park, LLC.
Description: Yahoo Creek Category 2 Compliance Filing to be effective 12/7/2011.
Filed Date: 12/7/11.
Accession Number: 20111207–5105.
Comments Due: 5 p.m. ET 12/28/11.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC12–5–000.
Applicants: Bangkok Cogeneration Co., Ltd.
Description: Self-Certification of FC of Bangkok Cogeneration Co., Ltd.
Filed Date: 12/7/11.
Accession Number: 20111207–5093.
Comments Due: 5 p.m. ET 12/28/11.

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: December 7, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–32150 Filed 12–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–44–000.
Applicants: ITC Midwest LLC.
Description: Section 203 Application of ITC Midwest LLC.
Filed Date: 12/6/11.
Accession Number: 20111206–5159.
Comments Due: 5 p.m. ET 12/27/11.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG12–18–000.
Applicants: CPV Cimarron Renewable Energy Company LL.
Description: Self-Certification as EWG of CPV Cimarron Renewable Energy Company LLC.
Filed Date: 12/6/11.
Accession Number: 20111206–5096.
Comments Due: 5 p.m. ET 12/27/11.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2835–001.
Applicants: Google Energy LLC.
Description: Notice of Change of Status of Google Energy LLC.
Filed Date: 12/6/11.
Accession Number: 20111206–5166.
Comments Due: 5 p.m. ET 12/27/11.

Docket Numbers: ER10–2964–002; *ER10–2959–002.*
Applicants: Selkirk Cogen Partners, L.P., Chambers Cogeneration, Limited Partnership.
Description: Notice of Non-Material Change in Status (Chambers and Selkirk).
Filed Date: 12/6/11.
Accession Number: 20111206–5072.
Comments Due: 5 p.m. ET 12/27/11.

Docket Numbers: ER12–85–001.
Applicants: Owens Corning Sales, LLC.
Description: Owens Corning Rate Schedule FERC No. 1 Amendment to be effective 12/6/2011.
Filed Date: 12/6/11.
Accession Number: 20111206–5043.
Comments Due: 5 p.m. ET 12/27/11.

Docket Numbers: ER12–551–000.
Applicants: Westar Energy, Inc.
Description: Compliance Filing, Schedule 3A, Generator Regulation & Frequency Response Svc to be effective 12/25/2011.
Filed Date: 12/6/11.
Accession Number: 20111206–5001.
Comments Due: 5 p.m. ET 12/27/11.

Docket Numbers: ER12–554–000.
Applicants: Alabama Power Company.
Description: Greenway Renewable Power LGIA Filing to be effective 11/28/2011.
Filed Date: 12/6/11.
Accession Number: 20111206–5079.
Comments Due: 5 p.m. ET 12/27/11.

Docket Numbers: ER12–555–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: G427 LGIA Termination to be effective 2/5/2012.
Filed Date: 12/6/11.
Accession Number: 20111206–5091.
Comments Due: 5 p.m. ET 12/27/11.

Docket Numbers: ER12–556–000.
Applicants: California Independent System Operator Corporation.
Description: 2011–12–06 LGIA between CAISO, SDGE and C SOLAR to be effective 10/22/2011.
Filed Date: 12/6/11.
Accession Number: 20111206–5095.
Comments Due: 5 p.m. ET 12/27/11.

Docket Numbers: ER12–557–000.
Applicants: Southwest Power Pool, Inc.
Description: 1636R6 Kansas Electric Power Cooperative, Inc. NITSA NOA to be effective 10/1/2011.
Filed Date: 12/6/11.
Accession Number: 20111206–5110.
Comments Due: 5 p.m. ET 12/27/11.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES12–7–000.
Applicants: Westar Energy, Inc.
Description: Application of Westar Energy, Inc. for an Order authorizing the issuance and pledge of securities under Section 204 of the Federal Power Act.
Filed Date: 12/6/11.
Accession Number: 20111206–5151.
Comments Due: 5 p.m. ET 12/27/11.

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: December 7, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–32151 Filed 12–14–11; 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: RP12–221–000.
Applicants: Alliance Pipeline L.P.
Description: Contract Ext 2011 to be effective 1/1/2012.
Filed Date: 12/2/11.
Accession Number: 20111202–5086.
Comments Due: 5 p.m. ET 12/14/11.

Docket Numbers: RP12–222–000.
Applicants: Ruby Pipeline, L.L.C.
Description: Non-Conforming Negotiated Rate Agreement to be effective 1/3/2012.
Filed Date: 12/2/11.
Accession Number: 20111202–5135.
Comments Due: 5 p.m. ET 12/14/11.

Docket Numbers: RP12–223–000.
Applicants: Guardian Pipeline, L.L.C.
Description: Non-conforming Agreement—Sequent PAL to be effective 5/1/2011.
Filed Date: 12/6/11.
Accession Number: 20111206–5000.
Comments Due: 5 p.m. ET 12/19/11.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 6, 2011.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. 2011–32147 Filed 12–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–25–000; RP12–220–000 (cancelled)]

Brian Hamilton v. El Paso Natural Gas, El Paso Western Pipelines; Notice Announcing Docket Number Change

On December 2, 2011, the Commission issued a notice in docket number RP12–220–000. *Notice of Complaint,* December 2, 2011. Commission's staff has decided to cancel the original docket number, RP12–220–000 and give the proceeding a new docket number. This notice changes the docket number of the proceeding to CP12–25–000 as referenced above.

The docket number change does not affect the original comment due date of this proceeding, which is December 21, 2011.

Dated: December 8, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–32149 Filed 12–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2784–004–CA]

Pacific Gas and Electric Company; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the Rollins Transmission Line Project located within the Bear River basin, on private land in Placer and Nevada counties, California. The transmission line extends 0.72 mile from Nevada Irrigation District's (NID) existing Rollins powerhouse switchyard (part of the Yuba-Bear Hydroelectric Project, FERC Project No. 2266) to the junction with PG&E's Drum-Grass Valley-Weimer transmission line (non-FERC

jurisdictional). Commission staff has prepared an Environmental Assessment (EA) that analyzes the potential environmental effects of the transmission line and concludes that issuing a new license for the Rollins Transmission Line Project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The EA contains staff's analysis of the potential environmental effects of the project and alternatives and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–(866) 208–3676, or for TTY, (202) 502–8659.

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 project. For assistance, contact FERC Online Support.

Any comments on the EA should be filed within 30 days from the date of this notice. Comments 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.

Please contact Mary Greene by telephone at (202) 502–8865 or by email at *mary.greene@ferc.gov* if you have any questions.

Dated: December 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–32126 Filed 12–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–63–001]

Southcross Alabama Pipeline LLC; Notice of Filing

Take notice that on December 7, 2011, Southcross Alabama Pipeline LLC (SAP) submitted a revised Statement of Operating Conditions for services provided under Section 311 of the Natural Gas Policy Act of 1978 (''NGPA''). SAP states the filing is to change the effective date of the tariff to August 31, 2011, due to the transfer of control and name change from Enterprise Alabama Intrastate, LLC on that date.

Any person desiring to participate in this rate proceeding must file a motion 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. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 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 Monday December 19, 2011.

Dated: December 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–32124 Filed 12–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–569–000]

Blackwell Wind, LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Blackwell Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 28, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by

clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive 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.

Dated: December 8, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–32148 Filed 12–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14288–000]

FFP Project 9 LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On September 15, 2011, FFP Project 9 LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of a hydropower project at the Ross Barnett Dam, owned and operated by the Pearl River Valley Water Supply District, located on the Pearl River, in Rankin and Hinds Counties, Mississippi. 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) A 23,400-foot-long, 64-foot-high earthen dam; (2) a reservoir with a surface area of 32,000 acres and a storage capacity of 341,000 acre-feet; (3) a 100-foot-long, 40-foot-wide intake structure; (4) three 14-foot-diameter, 400-foot-long steel penstocks; (5) a powerhouse, constructed in a lock chamber, containing three generating units with a total capacity of 21.0 megawatts; (6) a 125-foot-long, 100-foot-wide tailrace; (7) a 4.16/69.0 kilo-Volt (kV) substation; and (8) a 75-foot-long, 69.0 kV transmission line. The proposed project would have an average annual generation of 50.0 gigawatt-hours.

Applicant Contact: Ms. Ramya Swaminathan, Free Flow Power Corp., 239 Causeway Street, Suite 300, Boston, MA 02114, (978) 283–2822.

FERC Contact: Michael Spencer, *michael.spencer@ferc.gov,* (202) 502–6093.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* 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–14288–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: December 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–32127 Filed 12–14–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OCS–EPA–R4007; DPA–EPA–R4001; FRL–9506–9]

Notice of Issuance of Final Air Permits for Eni US Operating Co., Inc. and Port Dolphin Energy, LLC.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This notice is to announce that on October 27, 2011, the EPA issued a final Outer Continental Shelf (OCS) air permit for Eni US Operating Inc. (Eni). This permit became effective on November 28, 2011. In addition, the EPA issued a final Prevention of Significant Deterioration (PSD) air permit for Port Dolphin Energy, LLC (Port Dolphin), which was issued and became effective on December 1, 2011.

The Eni permit regulates air pollutant emissions from the Transocean Pathfinder drillship and support vessels, which Eni intends to operate within lease block Lloyd Ridge 411 on the OCS in the Gulf of Mexico, approximately 154 miles southeast of the mouth of the Mississippi River and 189 miles south of the nearest Florida coast. The operation will last up to two years, and based on applicable permitting regulations, is a ''temporary source'' for permitting purposes.

The Port Dolphin permit will regulate air pollutant emissions from the operation of a liquefied natural gas deepwater port located in federal waters of the Gulf of Mexico, approximately 28 miles off the west coast of Florida, and 42 miles southwest of the pipeline landing at Port Manatee, Florida.

ADDRESSES: The final permits, the EPA's response to the public comments for the Eni permit, and additional supporting information are available at *http://www.epa.gov/region4/air/permits/index.htm.* Copies of the final permits and the EPA's response to comments are also available for review at the EPA Regional Office and upon request in writing. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Eva Land, Air Permits Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9103. Ms. Land can also be reached via electronic mail at *land.eva@epa.gov.*

SUPPLEMENTARY INFORMATION: On September 2, 2011, the EPA Region 4 Office requested public comments on a proposal to issue an OCS air permit for Eni. During the public comment period, which ended on October 3, 2011, the EPA received comments from Eni and from one other commenter who

expressed general support for drilling. The EPA carefully reviewed each of the comments submitted, and after consideration of the expressed view of all interested persons, the pertinent federal statutes and regulations, the application and additional material relevant to the application and contained in the administrative record, the EPA made a decision in accordance with 40 CFR 52.21, 40 CFR part 71 and 40 CFR part 55 to issue a final OCS permit.

On October 14, 2011, the EPA Region 4 Office requested public comments on a proposal to issue an air permit for Port Dolphin. The EPA received no comments during the public comment period, which ended on November 14, 2011. The EPA made a decision in accordance with the provisions of the Deepwater Port Act (DPA) of 1974, as amended, 33 U.S.C. 1501 *et seq.,* and in accordance with the provisions of Title I of the Clean Air Act (CAA), 42 U.S.C. 7401 *et seq.,* and applicable rules and regulations approved or promulgated under the CAA, including air permitting rules promulgated by the Florida Department of Environmental Protection (FDEP), to issue a final permit.

Under 40 CFR 124.19(f)(2), notice of any final Agency action regarding a prevention of significant deterioration (PSD) permit must be published in the **Federal Register**. Section 307(b)(1) of the CAA provides for review of final Agency action that is locally or regionally applicable in the United States Court of Appeals for the appropriate circuit. Such a petition for review of final Agency action must be filed within 60 days from the date of notice of such action in the **Federal Register**. For purposes of judicial review under the CAA, final Agency action occurs when a final PSD permit is issued or denied by the EPA and Agency review procedures are exhausted, per 40 CFR 124.19(f)(1).

Any person who filed comments on the draft Eni permit was provided the opportunity to petition the Environmental Appeals Board by November 28, 2011. No petitions were submitted; therefore the permit became effective on November 28, 2011. No person filed comments on the draft Port Dolphin permit; therefore the permit became effective on December 1, 2011.

Dated: December 6, 2011.

Jeaneanne M. Gettle,

Acting Division Director, Air, Pesticides and Toxics, Management Division, Region 4.

[FR Doc. 2011–32177 Filed 12–14–11; 8:45 a.m.]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9507–5]

Proposed CERCLA Administrative Cashout Settlement; The Atlantic Richfield Company

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Ophir Mills and Smelter Site in Tooele County, Utah with the Atlantic Richfield Company based upon a cash-out settlement. The settlement includes a covenant not to sue the settling party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA Region 8 Records Center, 1595 Wynkoop Street, Denver, Colorado 80202.

DATES: Comments must be submitted on or before January 17, 2012.

ADDRESSES: The proposed settlement is available for public inspection at the EPA Region 8 Records Center, 1595 Wynkoop Street, Denver, Colorado 80202. A copy of the proposed settlement may be obtained from John Works, EPA Technical Enforcement Officer, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312–6196. Comments should reference the Ophir Mills and Smelter Site, Tooele County, Utah and EPA Docket No. 08–2012–0002 and should be addressed to John Works, EPA Technical Enforcement Officer, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: John Works, EPA Technical Enforcement Officer, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312–6196.

Dated: December 7, 2011.

Andrew M. Gaydosh,

Assistant Regional Administrator, Office of Enforcement and Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region 8.

[FR Doc. 2011–32174 Filed 12–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9495–3]

Office of External Affairs and Environmental Education; Request for Nominations of Candidates for the National Environmental Education Advisory Council

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) Office of External Affairs and Environmental Education Staff Office is soliciting applications for environmental education professionals for consideration on the National Environmental Education Advisory Council (NEEAC). There are eleven vacancies on the Advisory Council that must be filled. Additional avenues and resources may be utilized in the solicitation of applications. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

DATES: Applications should be submitted by January 15, 2012.

ADDRESSES: Submit non-electronic application materials to Javier Araujo, Designated Federal Officer, National Environmental Education Advisory Council, U.S. Environmental Protection Agency, Office of External Affairs and Environmental Education (MC:1704A), 1200 Pennsylvania Ave. NW., Room 1426(ARN), Washington, DC 20460, *Ph:* (202) 564–2642, *Fax:* (202) 564–2754, *email: araujo.javier@epa.gov.*

FOR FURTHER INFORMATION CONTACT: For information regarding this Request for Nominations, please contact Mr. Javier Araujo, Designated Federal Officer (DFO), EPA National Environmental Education Advisory Council, at *araujo.javier@epa.gov* or (202) 564–2642. General information concerning NEEAC can be found on the EPA Web site at: *http://www.epa.gov/enviroed/.*

SUPPLEMENTARY INFORMATION: The National Environmental Education Act requires that the Council be comprised of eleven (11) members appointed by

the Administrator of EPA. Members represent a balance of perspectives, professional qualifications, and experience. The Act specifies that members must represent the following sectors: Primary and secondary education (one of whom shall be a classroom teacher)—two members; colleges and universities—two members; business and industry—two members; non-profit organizations involved in environmental education—two members; state departments of education and natural resources—one member each; senior Americans—one member. Members are chosen to represent various geographic regions of the country, and the Council strives for a diverse representation. The professional backgrounds of Council members should include education, science, policy, or other appropriate disciplines. Each member of the Council shall hold office for a one (1) To three (3) year period. Members are expected to participate in up to two (2) meetings per year and monthly or more conference calls per year. Members of the Council shall receive compensation and allowances, including travel expenses, at a rate fixed by the Administrator.

Expertise Sought: The NEEAC staff office seeks candidates with demonstrated experience and/or knowledge in any of the following environmental education issue areas: (a) Integrating environmental education into state and local education reform and improvement; (b) state, local and tribal level capacity building; (c) cross-sector partnerships; (d) leveraging resources for environmental education; (e) design and implementation of environmental education research; (f) evaluation methodology; professional development for teachers and other education professionals; and targeting under-represented audiences, including low-income, multi-cultural, senior citizens and other adults.

The NEEAC staff office is also looking for individuals who demonstrate the ability to make the time commitment, strong leadership skills, strong analytical skills, strong communication and writing skills, the ability to evaluate programs in an unbiased manner, team players, which can meet deadlines, and review items on short notice.

How to Submit Applications: Any interested and qualified individuals may be considered for appointment on the National Environmental Education Advisory Council. Applications should be submitted in electronic format to the Designated Federal Officer, Javier Araujo, *araujo.javier@epa.gov.* and contain the following: Contact information including name, address, phone and fax numbers and an email address; a curriculum vitae or resume; the specific area of expertise in environmental education and the sector/slot the applicant is applying for; recent service on other national advisory committees or national professional organizations; and a one-page commentary on the applicant's philosophy regarding the need for, development, implementation and/or management of environmental education nationally.

Persons having questions about the application procedure or who are unable to submit applications by electronic means, should contact Javier Araujo, DFO, at the contact information provided above in this notice. Non-electronic submissions must contain the same information as the electronic. The NEEAC Staff Office will acknowledge receipt of the application. The NEEAC Staff Office will develop a short list of candidates for more detailed consideration. The short list candidates will be required to fill out the Confidential Disclosure Form for Special Government Employees Serving Federal Advisory Committees at the U.S. Environmental Protection Agency (EPA Form 3110–48). This confidential form allows government officials to determine whether there is a statutory conflict between that person's public responsibilities (which include membership on a Federal advisory committee) and private interests and activities and the appearance of a lack of impartiality as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: *http://www.epa.gov/oppt/aegl/pubs/ethics_form.pdf.*

Dated: November 29, 2011.

Stephanie Owens,

Deputy Associate Administrator, Javier Araujo, Designated Federal Officer.

[FR Doc. 2011–32182 Filed 12–14–11; 8:45 am]

BILLING CODE ;P

FARM CREDIT ADMINISTRATION

Market Access Agreement

AGENCY: Farm Credit Administration.

ACTION: Notice of approval of the Draft Second Amended and Restated Market Access Agreement.

SUMMARY: The Farm Credit Administration (FCA) announces that it has approved the Draft Second Amended and Restated Market Access Agreement (Draft Second Restated MAA) proposed to be entered into by all of the banks of the Farm Credit System (System or FCS) and the Federal Farm Credit Banks Funding Corporation (Funding Corporation). The Draft Second Restated MAA sets forth the rights and responsibilities of each of the parties when the condition of a bank falls below pre-established financial thresholds.

FOR FURTHER INFORMATION CONTACT:

Thomas R. Risdal, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4257, TTY (703) 883–4434,

or

Rebecca S. Orlich, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION: The FCA published the Draft Second Restated MAA in the **Federal Register** on November 1, 2011 (76 FR 67440) with a request for public comment by December 1, 2011. No public comments were received on the Draft Second Restated MAA.

The Draft Second Restated MAA is an update to the Amended and Restated MAA that was approved by the FCA on April 10, 2003 and published in the **Federal Register** on April 21, 2003 (68 FR 19539). That 2003 agreement updated the original MAA approved by the FCA on August 17, 1994 and published in the **Federal Register** on August 23, 1994 (59 FR 4334).[1] The Amended and Restated MAA entered into in 2003 has a termination date of December 31, 2011. The Draft Second Restated MAA provides that it will go into effect on January 1, 2012, provided that certain conditions precedent have been satisfied, including FCA's approval of, and the Farm Credit System Insurance Corporation's (FCSIC) expression of its support for, the Draft Second Restated MAA. The FCA announces that it has approved the Draft Second Restated MAA.

System banks and the Funding Corporation entered into the original MAA in September 1994, to help control the risk of each System bank by outlining each party's respective rights

[1] On December 3, 2010, the FCA Board also approved amendments to the Amended and Restated MAA that would conform its provisions to the System banks' proposed Joint and Several Liability Reallocation Agreement (Reallocation Agreement) to ensure that the MAA provisions did not impede operation of the Reallocation Agreement; the amendments further provided that the MAA and the Reallocation Agreement are separate agreements, and invalidation of one does not affect the other. The FCA published those amendments in the **Federal Register** on December 9, 2010 (75 FR 76729).

and responsibilities in the event the condition of a System bank fell below certain financial thresholds. As part of the original MAA, System banks and the Funding Corporation agreed to periodic reviews of the terms of the MAA to consider whether any amendments were appropriate.

The proposed Second Restated MAA retains the same general framework and most of the provisions of the Restated and Amended MAA, updated as necessary.

Having given the public notice and the opportunity to comment, the FCA Board hereby approves the Draft Second Restated MAA pursuant to sections 4.2(c), 4.2(d) and 4.9(b)(2) of the Farm Credit Act of 1971, as amended. The FCA's approval of the Draft Second Restated MAA is conditioned on the board of directors of each bank and the Funding Corporation approving the Draft Second Restated MAA. Neither the Draft Second Restated MAA, when it becomes effective, nor FCA approval of it shall in any way restrict or qualify the authority of the FCA or the FCSIC to exercise any of the powers, rights, or duties granted by law to the FCA or the FCSIC. Finally, the FCA retains the right to modify or revoke its approval of the Draft Second Restated MAA at any time.

Dated: December 9, 2011.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2011–32136 Filed 12–14–11; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 11–189; FCC 11–169]

Standardizing Program Reporting Requirements for Broadcast Licensees

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document seeks comment on a proposal to replace the issues/programs list that television stations must place in their public file with a streamlined, standardized disclosure form that will be available to the public online. The FCC's goal is to make it easier for the public to learn about how television stations serve their communities, and to make broadcasters more accountable to the public, by requiring stations to provide easily accessible programming information in a standardized format. This standardized disclosure will also assist the FCC and researchers to study and analyze how broadcasters respond to the needs and interests of their communities of license. The FCC seeks to address many of the shortcomings that have been attributed to the form adopted in the 2007 Enhanced Disclosure Report and Order, which we have vacated in a separate Order on Reconsideration and Further Notice of Proposed Rulemaking.

DATES: Comments are due January 17, 2012 and reply comments are due January 30, 2012.

ADDRESSES: You may submit comments, identified by MB Docket No. 11–189, by any of the following methods:

- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by *email: FCC504@fcc.gov* or *phone:* (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Holly Saurer, Media Bureau, Policy Division, (202) 418–7283, or Kim Matthews, Media Bureau, Policy Division, (202) 418–2154.

SUPPLEMENTARY INFORMATION: Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

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).

Below is a synopsis of the Commission's Notice of Inquiry in MB Docket No. 11–189, adopted November 11, 2011 and released November 14, 2011.

Synopsis of Notice of Inquiry

I. Introduction

1. In this Notice of Inquiry (NOI), we seek comment on a proposal to replace the issues/programs list that television stations have been required to place in their public files for decades with a streamlined, standardized disclosure form that will be available to the public online. Our goal is to make it easier for members of the public to learn about how television stations serve their communities, and to make broadcasters more accountable to the public, by requiring stations to provide easily accessible programming information in a standardized format. This standardized disclosure will also assist the Commission and researchers to study and analyze how broadcasters respond to the needs and interests of their communities of license. We seek to address many of the shortcomings that have been attributed to the form adopted in the 2007 Enhanced Disclosure Report and Order, 73 FR 13452, March 13, 2008, which we have vacated in a separate Order on Reconsideration and Further Notice of Proposed Rulemaking (FNPRM) in MB Docket No. 00–168, FCC 11–162, rel. Oct. 27, 2011. While we have vacated the 2007 Report and Order, we continue to believe that the creation and

implementation of a standardized form is beneficial and worthy of pursuing. In this NOI, we propose to require broadcasters to report on their programming using a sample-based methodology, and we also seek comment on a more limited number of reporting categories. We propose to limit this disclosure form requirement to television licensees at this time.

2. In the Enhanced Disclosure FNPRM, we seek comment on a proposal to make television broadcasters' public inspection files accessible online, in a new database to be hosted by the Commission. Our objective in this NOI is to develop a standardized form that will be included in the new online public file. We note that we are addressing only the standardized form requirement in this NOI. Due to the complexity of the issues surrounding the standardized form, we have opened this new docket to address these issues specifically. The existing Enhanced Disclosure docket, MM docket number 00–168, will now be dedicated to addressing the proposed online public file requirement. Given the value of the comments previously filed in that proceeding regarding the standardized form issues, however, we will incorporate that record into this proceeding. We ask commenters to file their comments regarding the online public file requirement in response to the Enhanced Disclosure FNPRM, docket 00–168, and comments regarding the standardized form in this docket. We remain committed to the implementation of a standardized form, and seek to do so expeditiously. We seek comments in this proceeding that will assist us in crafting a form that is beneficial and workable for those using and drafting the forms.

II. Background

3. One of a television broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license. In 1984, the Commission adopted the current issues/programs list requirement, which requires a station to place in its public inspection file ''every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period.'' This issues/programs list must include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment, together with the time, date, duration, and title of each program in which the issue was treated. In adopting the issues/programs list requirement for television stations, the Commission expected the list to be ''[t]he most significant source of issue-responsive information under the new regulatory scheme.'' Moreover, the list was intended to be a significant source of information for any initial investigation by the public or the Commission when renewal of the station's license was at issue. In 1998, the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters issued its Final Report. The Advisory Committee Report determined that ''[e]ffective self-regulation by the broadcast industry in the public interest requires the availability to the public of adequate information about what a local broadcaster is doing.'' The Committee recommended that the currently required lists of issue-responsive programming and children's programming be augmented by including more information about stations' public interest programs and activities, and it put forward a sample standardized form that could be used to that end.

4. In 2000, the Commission issued the Enhanced Disclosure Notice of Proposed Rulemaking, 65 FR 62683, October 19, 2000, which grew out of a prior Notice of Inquiry, 65 FR 4211, January 26, 2000, exploring the public interest obligations of broadcast television stations as they transitioned to digital. The Commission tentatively proposed to require television stations to use a standardized form to report on how they serve the public interest. In making this proposal, the Commission noted the difficulties that members of the public had encountered in accessing programming information under the existing issues/programs list requirement, given the lack of a standardized reporting mechanism. The Commission suggested that the use of a standardized disclosure form would facilitate access to the issues/program information and would make broadcasters more accountable to the public. It also observed that a standardized form would benefit the public by reducing the time needed to locate information and by providing the public with a better mechanism for reviewing broadcaster public interest programming and activities.

5. In 2007, the Commission adopted a Report and Order in the Enhanced Disclosure proceeding requiring television broadcasters to replace their issues/programs lists with Standardized Television Disclosure Form 355 and to post the completed forms online. The Commission found that uniform and consistent programming lists would allow the public more effectively to compare the efforts of various stations, and assess the programming aired. The Commission anticipated that the online posting of such forms would give rise to a more active dialogue between licensees and their audiences, which in turn would lead to more programs that are responsive to issues important to local communities. The Commission determined that standardized disclosure would also provide useful information for assessing the effectiveness of current Commission policies. The 2007 standardized disclosure form, Form 355, required each station to submit a comprehensive list of any programs or program segments it aired every quarter that fell into specific categories. The categories included: National news, local news, local civic affairs, local electoral affairs, independently produced programming, local programming, public service announcements, paid public service announcements, programming that meets the needs of underserved communities, religious programming, efforts undertaken to determine the programming needs of the community, service for persons with disabilities, and current emergency information. The Commission found that the benefits derived from public disclosure of such a comprehensive list of programming outweighed the burden that the requirement placed on broadcasters.

6. Following the release of the Report and Order, several industry petitioners raised a number of issues regarding the standardized form, generally contending that it was vague, overly complex, and burdensome. Public interest advocates also filed petitions for reconsideration, arguing that the standardized form should be designed to facilitate the downloading and aggregation of data for researchers. They also asked the Commission to conduct periodic audits of data accuracy to ensure the removal of incorrect data, reassess whether the system is providing information in a useful format, and seek ongoing input from researchers on its staff and outside the Commission to ensure that the system is implemented in a useful and user-friendly manner. In addition, five parties sought court review of the Report and Order, and the cases were consolidated in the United States Court of Appeals for the DC Circuit. The DC Circuit granted a petition to hold the court proceeding in abeyance while the Commission reviewed the petitions for reconsideration. Challenging the 2007 rules in a third forum, several parties opposed the information collection contained in the Report and Order at the Office of Management and Budget (OMB) under the Paperwork Reduction

Act. Because the Commission determined that it would need to revise the rules on reconsideration, it did not transmit the information collection and form to OMB, and therefore the rules and form have never gone into effect.

7. In June 2011, a working group including Commission staff, scholars and consultants released ''The Information Needs of Communities'' (INC Report), a comprehensive report on the current state of the media landscape. The INC Report discussed both the need to empower citizens to ensure that broadcasters serve their communities in exchange for the use of public spectrum, and also the need to remove unnecessary burdens on broadcasters who aim to serve their communities. The INC Report provided several recommendations relevant to this proceeding, including replacing the enhanced disclosure standardized form adopted in 2007 with a streamlined, Web-based form through which broadcasters could provide programming information based on a composite or sample period.

8. In a separate Order on Reconsideration and FNPRM, we vacated the form adopted in the Report and Order. We determined that we should reexamine the determinations made in the Report and Order in light of the arguments raised in the petitions for reconsideration and given that the record upon which those rules were adopted does not reflect the rapid technological advances that have occurred since the proceeding was commenced in 2000. We now seek to address many of the criticisms directed at the standardized form adopted in the Report and Order.

III. Discussion

A. Standardized Form

9. In the Report and Order, the Commission sought to address the systemic problem that the public lacked access to consistent and uniform information about television broadcasters' programming, as identified in the Advisory Committee Report and the record of the proceeding. We remain dedicated to addressing this problem. Nonetheless, the reconsideration petitions we received from broadcasters and public interest advocates and the responses thereto have persuaded us to reexamine the balance the Commission struck in 2007 between public access to programming information and the burden providing such information imposes on broadcasters. Although we have vacated the 2007 Report and Order and dismissed the petitions for reconsideration of that order, we believe that some of the proposals developed in the Enhanced Disclosure proceeding are worth further consideration. In addition, to the extent that the arguments made in the petitions for reconsideration are relevant and can inform this new NOI, we discuss them below. We also seek comment on INC Report proposals and other proposals to ensure that the public has standardized information about how broadcasters are serving their communities, while also avoiding placing unnecessary burdens on broadcasters.

10. We continue to believe that the use of a standardized disclosure form will facilitate access to information on how licensees are serving the public interest and will allow the public to play a more active role in helping a station meet its obligation to provide programming that addresses the community's needs and interests. The issues/programs list required under the current rules, while providing some information to the public and establishing a record of some of a station's community-oriented programming, suffers from several drawbacks, including a lack of uniformity and consistency in the way broadcasters maintain the lists. This makes effective access to the program information and assessment of a broadcaster's program performance extremely difficult. A standardized disclosure form could address these concerns, and in view of advances in technology and the revisions to the form we discuss here, should not impose unwarranted burdens of broadcasters. A standardized disclosure form will make broadcasters more accountable to the public, and improving broadcaster accountability to the public will minimize the need for government involvement in monitoring how broadcasters comply with their public interest obligations. A standardized disclosure will significantly reduce the time needed to locate information sought by the public and will provide the public with a better mechanism for reviewing a broadcaster's public interest programming and activities. Placing the new standardized form online, instead of merely on paper in the broadcasters' offices, will make it far easier for the public to review the information. We seek comment on these tentative findings.

11. We disagree with the reconsideration petitioners in the 2007 Enhanced Disclosure proceeding who argue that there is no need for the Commission to adopt a standardized form. The record in the Enhanced Disclosure docket, which is incorporated in this proceeding, demonstrates that ''[t]he lack of uniformity and consistency of the issues/program lists make it difficult to discern both how much and what types of public interest programming a broadcaster provided,'' which makes any ''overall assessment or comparison between broadcasters virtually impossible.'' Commenters in the Enhanced Disclosure proceeding identified the benefits of a standardized form, including enhanced access to information on the extent to which broadcasters are meeting their public interest obligations, ease of use by the public and broadcasters alike, and the promotion of a dialog between stations and the public they serve. Moreover, the Report and Order noted that the record of the Localism proceeding—especially that portion amassed during a series of public hearings conducted across the country—suggested that there may be a communications breakdown between licensees and their communities concerning the breadth of their efforts to air programming that serves their licensed communities' local needs and interests. Written comments submitted in the Localism docket and testimony received during several localism field hearings indicated that many members of the public are not fully aware of the community-responsive programming that their local stations air. The Report and Order noted that affording the public improved access to information about a station's programming through the use of a standardized disclosure form would foster a better understanding of stations' localism efforts within their communities. The Report and Order also noted that by enhancing a dialogue with viewers as a result of improved public access to such information, the standardized disclosure form could assist the Commission in determining whether the licensees are serving the public interest. Finally, the Report and Order further noted that the standardized disclosure form would provide information that will be useful to the Commission and the public in assessing the effectiveness of current Commission policies governing television broadcasting. We agree with the Commission's prior findings regarding the benefits of a standardized form. We note that technological advances have made it possible for the public to review data much more easily via the Internet, but we believe the efficacy of such disclosures is much greater when the information is offered in a standardized format. We seek comment on these findings.

12. We have seen no evidence that broadcasters have attempted to change their issues/programs reporting to become more consistent or uniform since the Commission launched this proceeding in 2000. In fact, the recently released INC Report discusses consistency and uniformity problems similar to those identified in the Commission's prior proceeding, and supports the continuing need for a standardized form. We continue to believe that a standardized form is necessary and should replace the current issues/programs list. We seek comment on this tentative finding.

13. We are persuaded by petitioners in the Enhanced Disclosure proceeding who argued that Form 355 as adopted in the Report and Order was overly burdensome. We propose changes to that form, as discussed below, to substantially reduce the burden it imposes on broadcasters. These changes include adopting a sample approach to reporting and streamlining the information that must be included in the form. We welcome any other proposals that will lead to effective disclosure by broadcasters of the ways in which they serve the public.

1. Reporting Period

14. Form 355 as adopted in the Report and Order required television broadcasters to report quarterly on every relevant program or program segment aired for each program category listed in the Form. We agree with the reconsideration petitioners who argued that requiring reporting on all programming in those categories would be unduly burdensome.

15. Some petitioners asserted that the Commission could lessen the burden on licensees while providing adequate disclosure of licensees' public interest programming by restricting reporting to one week per quarter. As noted, the INC Report similarly recommends that the Commission consider requiring information drawn from only a sample or composite week of programming on a quarterly basis, rather than requiring a comprehensive listing of all relevant programs throughout the year. A constructed or composite week is a sampling method in which individual days are selected at random by the Commission to construct a week that contains different days of the week from different weeks of the quarter. First, a Sunday is randomly selected from all possible Sundays in the quarter. Then, a Monday is selected in the same way, and so on. The Commission has used a composite week reporting approach in the past. In the 1970s, the Commission authorized the staff to act, through delegated authority, on applications for renewal of radio and television stations that aired specified amounts of certain programming. Failure to satisfy the guidelines, based on a composite broadcast week analysis, resulted in the referral of a licensee's renewal application to the full Commission for its consideration.

16. We believe that a sample approach to reporting would provide sufficient information to the public, without unduly burdening broadcasters, and seek comment on this approach. How could a composite week or weeks be structured for reportable programming? For example, how many days of programming should be included in the reporting requirement for each quarter? We seek comment on how to implement a random selection. Are there are certain distortions to the average programming day, such as sweeps week, that should be excluded? Alternatively, would it be less burdensome for broadcasters to compile information for one or more full weeks during the quarter? What would be the advantages and disadvantages of each approach?

17. In a recent *ex parte* in the Enhanced Disclosure proceeding, the Public Interest, Public Airwaves Coalition (PIPAC) proposes that broadcasters be required to submit data for two constructed or composite weeks per quarter that are selected by the Commission. Under PIPAC's proposal, broadcasters would be obligated to report on programming categories aired during the randomly selected days comprising the two constructed weeks per quarter. PIPAC attaches a statement from a coalition of academics with expertise in media sampling that says that a constructed week, if implemented properly, has methodological validity for academic research and would provide a snapshot of programming for the public. We seek comment on this proposal. In particular, is two constructed weeks the appropriate time period over which to collect programming information? Would one week provide the public and research community with a sufficient sampling period, while lessening the burdens placed on broadcasters that have to compile this information? How should we balance the burdens on broadcasters against the need for a methodologically valid approach that will accurately reflect the reportable programming that broadcasters provide to their community of license? If any period less than two weeks is too little time to be valid or accurate, would that undermine the purpose of the reporting requirement?

18. *Notice.* If we decide to take a composite approach or to select a particular week or weeks for reporting purposes, we will need to determine how and when to notify broadcasters which days are included, and whether such notice should be provided before or after the selected date. We seek comment on how and when to provide such notice. If we adopt a composite week or weeks approach, should the Commission inform the broadcasters that a date has been selected to be part of a composite week on the following day? Alternatively, should the Commission release the reporting dates at the end of the quarter, or would this needlessly require broadcasters to retain programming information for every day in the quarter? How long do licensees retain tapes or other records of their programming in the ordinary course of business? Would it be preferable to announce on a weekly or bi-weekly basis what reporting dates were selected for those weeks? Alternatively, if the Commission were to select a particular week or weeks for reporting, should it be announced at the end of the quarter or immediately after the selected week or weeks? We seek comment on these and other implementation issues and concerns.

19. In petitions for reconsideration of the Report and Order, industry petitioners proposed that the Commission notify stations a few days before the selected reporting dates in order to provide sufficient notice about when broadcasters should start logging the information needed to complete the form. In contrast, PIPAC recommends that broadcasters not be given advance notice of the reporting dates to prevent broadcasters from changing their programming and thereby ''gaming the system.'' PIPAC recommends that the Commission select the relevant reporting dates at the beginning of the quarter and then announce each reporting date the morning after the selected day. They argue that, because most broadcasters maintain a tape of their programming for a short time after broadcast, immediate notification of a reporting date should offer ample notice without giving advance warning that would taint the quality of the sample. We seek comment on these approaches or recommended alternatives.

20. *Exceptions to composite reporting.* We seek comment on whether adopting a composite approach will adequately capture performance for all categories of reportable programming that should be included on the standardized form, or whether there should be certain categories of programming subject to a more comprehensive reporting

requirement. For example, in their recent *ex parte* proposing a composite week, PIPAC argues that local electoral affairs programming is important public interest programming and is critical to an informed citizenry. PIPAC suggests that broadcasters be required to disclose all local electoral affairs programming, defined as discussed below, when the lowest unit charge rules are in effect, *i.e.,* 45 days before a primary election and 60 days before a general election. PIPAC argues that the composite week mechanism, while otherwise sufficient, may not adequately capture local electoral issue coverage, as election timing may not coincide with the randomly selected reporting dates. We seek comment on this proposal, including projected burdens on broadcasters. If commenters believe this proposal to be overly burdensome, what alternatives would adequately reflect the extent of broadcasters' local electoral affairs programming? We seek to ensure that broadcasters are credited with their provision of this important public interest programming. For example, would reporting for some shorter period of time preceding an election be sufficient? Should the Commission consider any other exceptions to a composite week reporting schedule? Are there other categories of programming that should be subject to an enhanced reporting requirement?

21. *Program and segment reporting.* We seek comment on whether reporting should be done on a program or program segment basis. Form 355 required reporting on all programs or program segments aired during the quarter for each programming category listed. We seek comment on what level of reporting is most useful, and whether the benefits of the more granular program segment reporting outweigh the burdens it places on broadcasters. What level of reporting granularity is necessary to provide meaningful information to the public and the research community? Do broadcasters currently retain their programming information in a manner that would enable reporting on a program segment basis, or would new programming retention techniques be required? For example, do broadcasters retain information about the length of each program segment within each news program, i.e. the length of each story? How should the term ''program segment'' be defined for purposes of the reporting requirement? PIPAC asserts that each of the reporting categories should be reportable by program segment. They assert that information will be more useful if it is reported on a more granular level. They assert that this level of specificity is necessary for local news reporting, since some stories reported on the local news are more national in character, and would not fit in the local news reporting category, as it does not pertain to the local community of license. We seek comment on these assertions.

2. Reporting Categories

22. In the 2000 NPRM, we tentatively concluded that the standardized form should require reporting on specified categories of programming, noting that specified categories were necessary because the current issues/programs lists permit such an assortment of information that the public may have difficulty determining the extent to which the station is serving the public interest. The Commission specifically noted the categories of programs proposed by the Presidential Advisory Committee on the Public Interest Obligations of Digital Broadcasters, which they recommended to augment and standardize the reporting about stations' public interest programs and activities. The Committee proposed to include the following categories: Local and national news programming, local and national public affairs programming, programming that meets the needs of underserved communities, programming that contributes to political discourse, other local programming that is not otherwise addressed in the form, and public service announcements. In response to the NPRM, PIPAC submitted a proposed standardized form suggesting use of the following categories: Local civic programming, local electoral affairs programming, public service announcements, paid public service announcements, independently produced programming, local programming, underserved communities, and religious programming. Definitions were included with each of these categories. The Commission included the categories and definitions proposed by PIPAC in Form 355.

23. We disagree with the Enhanced Disclosure reconsideration petitioners who argue that the standardized reporting categories impose *de facto* quantitative programming requirements or pressure stations to ensure carriage of some amount of programming that falls within government-preferred categories. We stress that, as the Commission noted in the Report and Order, the standardized form does not require broadcasters to air any particular category of programming or mix of programming types. Nor do we contemplate imposing any such requirements. This will be merely a replacement reporting requirement, which the Commission has authority to impose, and we believe it will have the important benefit of arming consumers with accurate information on which to base their viewing decisions. We seek comment on these tentative findings.

24. Several petitions for reconsideration raised issues about the particular reporting categories adopted in the Report and Order, arguing that they were confusing, burdensome, and unworkable. We have vacated Form 355 as adopted, and agree that it would be useful to take a fresh look at the categories and definitions that should be included on the form. We want to ensure that the form collects information that is relevant to the public's and our analysis of stations' service to their communities. In addition, it is essential to our goal of ensuring the availability of uniform and consistent data that broadcasters be able easily to categorize programming for inclusion on the form.

25. PIPAC has recently proposed a new sample form, which is available at *http://www.savethenews.org/sample-form.* We are beginning anew our attempt to create a standardized form, including which programming categories to consider. However, in order to guide the discussion in this proceeding, we address below the categories now proposed by PIPAC and seek comment on their proposed form. Are there any categories identified on the newly proposed form that are unnecessary or could otherwise be deleted? What, if any, additional categories should be included? We note that in response to the 2000 NPRM, the Commission received very little comment on specific programming categories; rather, most commenters focused on the merits, or lack thereof, of requiring a standardized form. We urge commenters to provide specific suggestions about the newly proposed reporting categories so that we can include those most relevant and useful for broadcasters and the public alike.

26. We recognize that some programs or program segments could be included in multiple categories. We propose that a program or segment be includable in only one category. This will both ease the reporting burdens and will ensure that any quantitative analyses accurately reflect the amount of time devoted to public interest programming. We seek comment on whether further clarification would be needed among the categories discussed below, and any other proposed categories, to guide

broadcasters in categorizing their programming and/or whether other reporting categories should be adopted with additional instructions.

27. *Local News.* We seek comment on reporting requirements for news. PIPAC proposes that we include a local news category. In the Report and Order, Questions 2(a), (b) and (c) of Form 355 required reporting with respect to national news, local news produced by the station, and local news produced by an entity other than the station; all categories were described as including national and local programs or segments that include significant treatment of community issues. In a petition for reconsideration, Joint Broadcasters raised concerns that the definition of ''news'' is vague because newscasts and other programs, such as nationally syndicated talk shows, often include significant treatment of community issues. PIPAC recommends streamlining the news reporting requirement to just local news, and provides the following definition: ''Programming that is locally produced and reports on issues about, or pertaining to, a licensee's local community of license.'' We seek comment on this proposed category and proposed definition. Does this definition resolve the concern expressed by Joint Broadcasters? Is it an otherwise workable definition? What constitutes an ''issue'' in this definition? Would a program about an issue not specific to a community but of interest to the community be covered by this definition as long as it was locally produced? Are there alternative definitions of local news that we should consider?

28. *Local Civic/Governmental Affairs.* We seek comment on reporting requirements for civic and governmental affairs. PIPAC proposes a local civic/government affairs reporting category. In the Report and Order, Question 2(d) of Form 355 required reporting with respect to local civic affairs. PIPAC proposes retaining that category and provides the following definition, which is largely taken from the Form 355 local civic affairs definition: ''Broadcasts of interviews with or statements by elected or appointed officials and relevant policy experts on issues of importance to the community, government meetings, legislative sessions, conferences featuring elected officials, and substantive discussions of civic issues of interest to local communities or groups.'' We seek comment on this proposed category and definition. Is this definition, or any portion of it, overly vague? What types of programming would qualify as ''substantive discussions of civic issues of interest to local communities or groups''? Are there alternative definitions of local civic/governmental affairs programming that we should consider?

29. *Local Electoral Affairs.* We seek comment on reporting requirements for electoral affairs. PIPAC also proposes a local electoral affairs category. In the Report and Order, Question 2(e) of Form 355 required reporting with respect to local electoral affairs. PIPAC proposes retaining that category and provides the following definition, which is largely taken from the Form 355 local electoral affairs definition: ''Local electoral affairs programming consists of candidate-centered discourse focusing on the local, state and United States Congressional races for offices to be elected by a constituency within the licensee's broadcast area. Local electoral affairs programming includes broadcasts of candidate debates, interviews, or statements, as well as substantive discussions of ballot measures that will be put before the voters in a forthcoming election.'' We seek comment on this proposed category and definition. Is this definition, or any portion of it, overly vague? If so, how should the definition be refined? Are there alternative definitions of local electoral affairs programming that we should consider?

30. *Closed Captioning and Video Description.* We seek comment on reporting requirements regarding services provided to the disability community. On Form 355, as adopted in the Report and Order, Question 4 required reporting the number of hours of programming provided with closed captioning and video description. Reconsideration petitioners asserted that reporting on closed captioning provides little public benefit, and that any benefit is outweighed by the record-keeping burden imposed on broadcasters. Petitioners also argued that the requirement contravened the Commission's prior stance that such reporting is both unnecessarily burdensome and administratively cumbersome. Petitioners argued that, because the Commission provided no reason for changing its position on closed captioning reporting, the requirement was arbitrary and capricious. They also argued that it was inappropriate to ask about video description, since at the time the Commission did not require that it be provided. Campaign Legal Center *et al.* argued that this reporting is necessary to ensure station compliance with the Commission's closed captioning requirements, and to assist the disability community in finding stations that offer video description service. Telecommunications for the Deaf and Hard of Hearing (''TDI'') argued that the closed captioning reporting requirement should be maintained, stressing the importance of reporting to the millions of Americans who rely on closed captioning and have difficulty finding such programming. TDI also noted that the only current enforcement mechanism for ensuring closed-captioning is based on consumer reporting and consumer-derived complaints, and that a lack of benchmark reporting has seriously hampered the effectiveness of the captioning rules and compliance monitoring.

31. PIPAC now proposes streamlining these reporting requirements. As to closed captioning, PIPAC proposes that broadcasters be required to disclose whether the reported programming on the form is closed captioned, and if so, the type of captioning, such as off-line, live, or electronic ''newsroom technique,'' which commonly follows teleprompter scripts. It also proposes that broadcasters report on all programming that is exempt from closed captioning, providing the date, time and length of the program (excluding commercials), and the reason for the exemption. We note that Commission regulations require all programming—with few exceptions—to be closed captioned as of January 1, 2010, and therefore expect the latter reporting requirement would presumably not be unduly burdensome. We seek comment on these proposals.

32. PIPAC also recommends implementing reporting requirements regarding video description, once the new rules mandated by the Communications and Video Accessibility Act go into effect. We note that the Commission recently adopted such rules, requiring the provision of 50 hours per calendar quarter of video-described prime time and/or children's programming by full-power affiliates of the top four national networks located in the top 25 television markets, beginning July 2012. We seek comment on whether and to what extent broadcasters should be required to report on their video description offerings and, if so, how such a reporting requirement should be framed and implemented, given the limited nature of this programming requirement and the need for viewers to have access to information about which programs are video described. Should broadcasters be required to report all of their video description offerings?

33. *Emergency Accessibility Complaints.* We seek comment on reporting requirements regarding emergency accessibility. Question 5 of

Form 355, as adopted in the Report and Order, required reporting with respect to all emergency information and whether that information was available to persons with disabilities. PIPAC now proposes that broadcasters report only the number of complaints that a station receives alleging that its emergency programming was not accessible to people with disabilities. PIPAC claims that such reporting will be less burdensome than the requirements in Form 355 but will assist the public and the Commission in determining the extent to which broadcasters are transmitting emergency information in a way that can be understood by people with disabilities, as required. We recognize that the fact that a consumer has complained to a station does not necessarily mean that a licensee has violated a rule, but, as noted by PIPAC, a large number of reported complaints may indicate a compliance issue. We seek comment on this proposal, as well as other alternatives.

3. NCE Exemption

34. The reporting requirements adopted in the Report and Order applied to both commercial and non-commercial broadcasters. In a petition for reconsideration, the Association of Public Television Stations and the Public Broadcasting Service were joined by noncommercial educational (NCE) licensees (collectively NCEs) in arguing that they should be exempted from the standardized disclosure requirement, so they would not need to divert scarce resources from their core public service activities. They argued that Form 355 failed to differentiate between the programming and practices of commercial and noncommercial television stations. NCEs asserted that the Commission has previously recognized the special status of these stations' noncommercial programming and exempted them from meeting certain requirements, such as the quarterly children's program reporting requirement. Public television licensees argued that exempting NCEs from reporting requirements is appropriate given their ''long history of providing vast amounts of programming that is responsive to issues of importance to their local communities.''

35. We appreciate that NCE licensees have limited resources and that their mix of programming may in some instances be more heavily weighted toward the categories of interest in this proceeding than is the programming on some commercial stations. But the goals underlying this proceeding—facilitating access to information on how licensees are serving the public interest and local communities, making broadcasters more accountable to the public, and providing the public with a better mechanism for reviewing a broadcaster's public interest programming and activities—apply equally to commercial and non-commercial licensees. In order to standardize the review of television broadcast public interest programming and activities, we believe it is important to include all television broadcasters. We believe that much of the concern expressed by the NCE community will be allayed by our proposals only to require reporting on a sample basis, and to otherwise streamline the form. We seek comment on whether these measures are sufficient, or whether there are other ways to address NCE licensees' concerns.

4. Other Reporting Issues

36. *General information.* We also seek comment on the general information stations should be required to supply on the form. For instance, PIPAC proposes to streamline the Form 355 to require the following information: Call sign, channel number, facility ID, community of license, city, state, zip code, legal name of licensee, link to online public file, network affiliation, Nielsen DMA, commercial/NCE status, contact name and phone, and links to the most recent ownership reports and quarterly children's programming reports. We seek comment on this proposal and on whether it is over or under inclusive. In addition, if the Commission determines in the Enhanced Disclosure proceeding to host the online public file, will it be unnecessary to include links to the most recent ownership and children's television reports, since that information will be centrally available in the same location as the standardized form? Should we also require that stations provide their main studio address on the form? Is there any other general station information that should be included or excluded on the form?

37. *Required information for each program and/or segment reported.* We seek comment on the level of detail that should be required for each program or program segment that is reported. For each entry, PIPAC asserts that broadcasters should disclose: Programming/segment title or topic; date/time aired; whether it aired on a primary or multicast channel; whether the material is first-run programming or previously aired on this or another station; the approximate length of the segment excluding interstitial commercials; whether the material reported, or any portion of it, is subject to the disclosure requirements of the Commission's sponsorship identification rules, and if so, the sponsoring entity; and whether the material reported, or any portion of it, is the product of a local marketing agreement, local news service, or shared service agreement, or any other contractual arrangement or agreement between the licensee and another broadcast station or daily newspaper located within the licensee's designated market area, and if so the relevant agreement in the licensee's online public file. We seek comment on these proposed reporting elements, including proposed definitions for the agreements and contractual arrangements that are requested for identification. We seek comment in particular on the benefits of providing any specific piece of information per segment, as weighed against the burdens imposed on broadcasters by the requirement. Are any of these requirements overly broad? If so, can they be further defined or described to narrow the scope of the information required? Should any additional information be required, for example, a brief description of the program or programming segment and the issue it addresses?

38. *Additional reporting.* In addition to reporting on the categories discussed above, should broadcasters also have the option of disclosing other types of programming they provide to serve the needs and interests of their communities, if they wish to do so? Would an optional reporting opportunity provide useful information to the public and the Commission? Would an opportunity to include such information allow broadcasters to showcase their programming, or would the option merely increase the reporting burden? If an optional reporting requirement were adopted, would broadcasters find a drop-down menu with optional categories to be a useful reporting format?

39. PIPAC asserts that an optional reporting opportunity would allow broadcasters to showcase community reporting that does not fall into the specified categories. They assert that any voluntary information should be prominently labeled and that the reporting form should include a disclaimer proclaiming that the absence of voluntary information does not mean that a broadcaster is not providing such services. They recommend the following optional categories: National news, international news, public service announcements (both paid and unpaid), religious programming, emergency programming, and any other category of programming that a broadcaster believes serves their public interest obligation. We seek comment on this proposal and

any others. Are the optional categories useful, or should the list be supplemented or reduced? We also seek comment on definitions of the optional categories listed above as well as any others proposed by commenters.

40. *Comments category.* We seek comment on whether we should include a ''comments'' category, which would allow a licensee to highlight information that it believes is important, but is not included in the reporting categories. A ''comments'' category could provide licensees with space to discuss any mitigating factors or other information relevant to the information provided in the form. For example, a station that was off the air due to severe weather or technical issues on a day selected for reporting may wish to note that on its form. This category could also provide licensees with space to discuss any additional efforts they have made to serve their communities. We seek comment on this proposal. Would a comments category preclude the need for the type of optional reporting categories discussed above?

5. Data Format

41. The INC Report suggests that ensuring that as much data as possible is in a standardized, machine-readable format could enhance the usefulness and accessibility of such data. It recommends that ''online disclosure should be done according to the principles advocated by experts on transparency: In standardized, machine readable and structured formats.'' The INC Report generally notes that information collected by the government should be in formats ''that make it easy for programmers to create new applications that can present the data in more useful formats, or combine one agency's information with another,'' and that ''data releases should include an Application Programming Interface (API) that allows the data to be shared easily with other computers and applications.'' PIPAC supports the INC Report suggestions, asserting that ''an online reporting mechanism that is part of a searchable, integrated database would not only reduce the burden of submitting this information, it would also provide communities and researchers with better access to it.'' PIPAC notes that such a database would allow the public and researchers to download the data in raw form in its entirety to compare stations' performances or perform other analyses. It also asserts that such a database should be connected electronically with the ownership data the Commission already collects, thus reducing further the broadcaster filing burden.

42. We agree that the new standardized disclosure form should be submitted as machine-processable in a standardized, machine-readable format that will be searchable so that the material can be easily analyzed. Such a format would help us accomplish the accessibility and accountability goals for which the form will be created. As recommended in the National Broadband Plan, we believe that as a government agency we should make information available in a machine-readable or otherwise accessible format where possible. We seek recommendations on how to implement this goal.

B. Radio

43. Given the Enhanced Disclosure NOI's genesis in the DTV transition, the Report and Order was limited to reporting by television stations. The Commission later sought comment on implementing a standardized form requirement for analog and digital radio stations in the Further Notice of Proposed Rulemaking in the Digital Audio Broadcasting proceeding. We believe that we should eventually require radio licensees to replace their issues/programs lists with a standardized form as well. We also believe, however, that there may be benefits to requiring television licensees to implement enhanced disclosure requirements first. Television stations have been significantly more involved in considering these issues, from the Enhanced Disclosure NOI in 1999 through the 2007 Report and Order. Further, it may ease the initial implementation of a standardized form if we begin the process with the much smaller number of television licensees. Finally, we foresee that there may be some radio-specific concerns that we will need to address prior to adopting disclosure requirements for radio stations.

IV. Cost/Benefit Analysis

44. In proposing rules to ensure that the public has adequate access to information about how broadcasters are serving their communities, we intend to look at the many factors involved in an effective disclosure form in order to ensure that the form serves its intended purpose without posing an undue burden on industry. There are two key criteria for the success of such an approach.

45. First, acknowledging the potential difficulty of quantifying benefits and burdens, we need to determine whether a disclosure form will significantly benefit the public and, in fact, clarify important issues for them. Second, we seek to maximize the benefits to the public while limiting as much as possible the burden of compliance on broadcasters. These costs and benefits can have many dimensions, some which may not be easy to quantify, including cost implications for industry, public interest benefits to viewers, and other less tangible benefits.

46. To address the first criterion, we seek comment on the best ways to ensure that the form discussed in this *NOI* will actually benefit the public. We seek comment on the extent to which the Commission and members of the public may be expected to utilize the additional information compiled in the form. Further, we seek comment on any considerations regarding the form that would increase the number of people who will benefit from such rules, and the nature of these benefits. In particular, we seek comment on the best ways to ensure that information is more readily accessible to the public. We seek information on whether, and to what extent, the accessibility of a standardized form is greater than an online issues/programs list. While we believe that a standardized form will increase the accessibility of information about how television stations serve their communities, we seek further suggestions for increasing accessibility.

47. To address the second criterion, we seek comment on the nature and magnitude of the costs and benefits of the new proposals on broadcasters. We recognize that these may vary by broadcaster, and seek comment on possible differential impacts, including size and type of broadcaster. We seek specific information about whether, how, and by how much broadcasters may be impacted differently in terms of the costs and benefits of our proposed rules. In response to the Report and Order several reconsideration petitioners argued that compliance would be overly burdensome and costly. To what extent will the new proposal to streamline the form and seek sample data impose less or more of a cost than the cost projections related to Form 355? Will the elimination of the issues/programs list and replacement with a streamlined disclosure online system reduce or increase burdens on broadcasters? Are there ways to further decrease costs of a standardized reporting form?

48. To the extent possible, we request comment that will enable us to weigh the costs and benefits associated with these proposed disclosure rules. We request that commenters provide specific data and information, such as actual or estimated dollar figures for each specific cost or benefit addressed,

including a description of how the data or information was calculated or obtained and any supporting documentation or other evidentiary support. We understand that it may be difficult to place a dollar figure on the benefits of a standardized form, but seek input on the benefits of such a form. We also seek information regarding the burden of compiling the issues/programs list and to what extent the standardized form would either reduce or increase the burden on broadcasters. All comments will be considered and given appropriate weight. Vague or unsupported assertions regarding costs or benefits generally can be expected to receive less weight and be less persuasive than more specific and supported statements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2011–31972 Filed 12–14–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

Aieca International Logistics Corp (OFF), 5583 NW 72 Avenue, Miami, FL 33166, Officer: Humberto E. Espinoza, President/Secretary/Treasurer, (Qualifying Individual), Application Type: New OFF License.

Boacon Synergy Inc (OFF), 3523 Steeplechase Lane, #2A, Loveland, OH 45140, Officers: Benjamin Afolabi, President/Treasurer, (Qualifying Individual), Beatrice O. Afolabi, Secretary, Application Type: New OFF License.

Eastern Express Cargo Inc. dba Eastern Express (OFF), 10717 Camino Ruiz, #119, San Diego, CA 92126, Officers: Alex O. De Guzman, President, (Qualifying Individual), Ehmee O. De Guzman, Secretary/CFO, Application Type: New OFF License.

E.M. Global Cargo, Inc (NVO & OFF), 4980 NW 11th Avenue, Ft. Lauderdale, FL 33334, Officer: Eugenio J. Martinez, President/Secretary/Treasurer/VP, (Qualifying Individual), Application Type: New NVO & OFF License.

Fil Lines USA Inc. (NVO), One Woodbridge Center, Suite 255, Woodbridge, NJ 07095, Officers: Ramesh Krishnan, Director/President/Treasurer, (Qualifying Individual), Martin Huen, Vice President, Application Type: QI Change.

Friendship Logistics LLC (OFF), 7823 New London Drive, Springfield, VA 22153, Officers: Feras Hindi, Member, (Qualifying Individual), Ruba Hindi, Member, Application Type: New OFF License.

Kemka USA Limited Liability Company (NVO & OFF), 421 Lucy Court, South Plainfield, NJ 07080, Officer: Hsiang (Rita) Y. Hsiao, Member, (Qualifying Individual), Application Type: Add OFF Service.

Lynx Global Corp. (NVO & OFF), 2000 NW 62nd Avenue, Building 711, Miami, FL 33122, Officers: Eugenio J. Clur, Director, (Qualifying Individual), Alfonso Rey, Owner, Application Type: New NVO & OFF License.

Markland Investments, Inc. (OFF), 4517 Fulton Industrial Blvd., Atlanta, GA 30336, Officer: Mark Asare, President, (Qualifying Individual), Application Type: New OFF License.

Midas International Investments LLC dba Midas Express, Shipping and Freight (NVO), 142223 Cherry Lane Court, Laurel, MD 20707, Officer: Ademola Oreagba, President, (Qualifying Individual), Application Type: New NVO License.

One Shipping, Inc. (NVO & OFF), 6703 N. Cicero Avenue, Lincolnwood, IL 60712, Officer: Steven Chong, President/Secretary, (Qualifying Individual), Application Type: New NVO & OFF License.

Sealand Freight LLC (NVO), 3925 Galveston Road, Houston, TX 77017, Officers: Walid M. Hattab, Chief Executive Member, (Qualifying Individual), Ola M. Ghunmat, Member, Application Type: New NVO License.

Dated: December 9, 2011.

Karen V. Gregory,

Secretary.

[FR Doc. 2011–32110 Filed 12–14–11; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocation

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary license has been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 018407N.

Name: Pacific Atlantic Lines, Inc.

Address: 2629 Townsgate Road, Suite 225, Thousand Oaks, CA 91361.

Date Revoked: November 19, 2011.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2011–32111 Filed 12–14–11; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 11 a.m. (Eastern Time), December 19, 2011.

PLACE: 4th Floor Conference Room, 1250 H Street NW., Washington, DC 20005.

STATUS: Parts will be open to the public and parts will be closed to the public .

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the minutes of the November 30, 2011 Board Member Meeting.
2. Thrift Savings Plan Activity Report by the Executive Director:
   a. Monthly Participant Activity Report.
   b. Monthly Investment Performance Review.
   c. Legislative Report.
3. 2012 Board Meeting Calendar.

Parts Closed to the Public

4. Procurement.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: December 13, 2011.

Thomas K. Emswiler,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. 2011–32236 Filed 12–13–11; 11:15 am]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

[File No. 111 0155]

Laboratory Corporation of America Holdings and Orchid Cellmark Inc.; Analysis of Proposed Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 9, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''LabCorp/Orchid, File No. 111 0155'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/labcorporchidconsent,* by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Barnett (202) 326–2362), FTC, Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 8, 2011), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 9, 2012. Write ''LabCorp/Orchid, File No. 111 0155'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/labcorporchidconsent* by following the instructions on the Web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''LabCorp/Orchid, File No. 111 0155'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 9, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') with Laboratory Corporation of America Holdings (''LabCorp''), which is designed to remedy the anticompetitive effects of its proposed acquisition of Orchid Cellmark Inc. (''Orchid''). Under the terms of the Consent Agreement, LabCorp is required to divest Orchid's U.S. government paternity testing services business to DNA Diagnostics Center (''ADDC''). The Consent Agreement also requires LabCorp to facilitate the assignment of Orchid's current government contracts to provide paternity testing services. The assets involved include all of the necessary relevant equipment, books and records, and other information necessary for DDC to bid competitively for future government paternity testing services

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

business. With this Consent Agreement, the competition that would otherwise be eliminated through the proposed acquisition of Orchid by LabCorp will be fully preserved.

The proposed Consent Agreement has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement, modify it, or make final the accompanying Decision and Order (''Order'').

Pursuant to an Agreement and Plan of Merger dated April 5, 2011, LabCorp intends to acquire Orchid in a cash tender offer valued at approximately $85.4 million. Both parties provide paternity testing services to government agencies, and are by far the largest providers of those services in the United States. The Commission's complaint alleges that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in U.S. markets for the provision of paternity testing services to state and local government agencies. The proposed Consent Agreement remedies the alleged violations by replacing the lost competition in the relevant market that would result from the acquisition.

II. The Products and Structure of the Markets

DNA paternity testing services for government agencies is a relevant product market in which to analyze the competitive effects of the proposed acquisition. No other types of paternity testing services, like blood testing, meet government agencies' requirements. LabCorp and Orchid are the two principal competitors in the United States for government paternity testing services contracts—they are the only two firms that consistently bid for these contracts, they account for the overwhelming majority of awarded contracts, and they have been the winner and runner-up in most of these bids. As a result, LabCorp and Orchid accounted for the overwhelming majority of the business in this roughly $27 million market.

III. Entry

The anticompetitive impact of LabCorp's acquisition of Orchid is not likely to be averted by entry or expansion from other DNA testing labs. Most other DNA testing laboratories do not have the scale or the experience needed to compete effectively for government contracts.

IV. Effects of the Acquisition

The proposed acquisition likely would result in significant anticompetitive harm in the highly-concentrated relevant market for government paternity testing services. LabCorp and Orchid are the only significant competitors in this highly-concentrated market. Over the past five years, LabCorp and Orchid consistently participated in the vast majority of state and local government bids conducted in the United States, almost always as head-to-head competitors. They bid more often, and typically at lower prices, than any other labs. The acquisition will eliminate this significant head-to-head competition and is likely to result in higher prices for government paternity testing services contracts.

V. The Consent Agreement

The proposed Consent Agreement remedies the competitive concerns raised by the transaction by requiring the parties to divest Orchid's U.S. government paternity testing business to DDC. LabCorp also must divest testing equipment along with contract and service information necessary to enable DDC to replicate Orchid's market position. LabCorp also must facilitate the assignment of all existing government paternity testing services contracts to DDC. This divestiture preserves competition that would otherwise be eliminated as a result of the acquisition.

The proposed Consent Agreement also contains several provisions designed to ensure that the divestiture is successful. LabCorp must provide lab testing services to DDC until the assets are fully transferred and Orchid's government contracts are assigned to DDC. In addition, DDC will have access to the personnel and information that are at Orchid's Dayton facility. Finally, LabCorp cannot use or retain any confidential business information except as necessary to maintain the assets for DDC's use during the transition period. To prevent improper sharing of information, a manager of the business being transferred who reports directly to Commission staff will be put in place.

DDC is a respected provider of paternity testing services for both private and government customers. DDC operates a testing laboratory located in Fairfield, Ohio that, with the divested assets and business, will enable DDC to effectively replace Orchid as the primary competitor to LabCorp. DDC has the resources and experience necessary to acquire the divested assets and assume responsibility for Orchid's existing government contracts.

If the Commission determines that either DDC is not an acceptable acquirer of the assets to be divested, or that the manner of the divestitures is not acceptable, LabCorp must unwind the divestiture and divest the assets within six months of the date the Order becomes final to another Commission-approved acquirer. If LabCorp fails to divest the assets within the six months, the Commission may appoint a trustee to divest the relevant assets.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Consent Agreement or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–32125 Filed 12–14–11; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0294; Docket No. 2011–0001; Sequence 4]

Information Collection; Implementation of Information Technology Security Provision

AGENCY: General Services Administration (GSA).

ACTION: Notice of request for public comments regarding a new OMB information clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement regarding Implementation of Information Technology Security Provision.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the GSAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can

minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before February 13, 2012.

ADDRESSES: Submit comments identified by Information Collection 3090–0294, Implementation of Information Technology Security Provision, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''Information Collection 3090–0294, Implementation of Information Technology Security Provision,'' under the heading ''Enter Keyword or ID'' and selecting ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0294, Implementation of Information Technology Security Provision''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0294, Implementation of Information Technology Security Provision'' on your attached document.
- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. Attn: Hada Flowers/IC 3090–0294, Implementation of Information Technology Security Provision.

Instructions: Please submit comments only and cite Information Collection 3090–0294, Implementation of Information Technology Security Provision, in all correspondence related to this collection. 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: Ms. Deborah Lague, Procurement Analyst, Office of Acquisition Policy, at (202) 694–8149 or via email at *deborah.lague@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) issued a interim rule (76 FR 34886) to implement a recommendation from the Office of the Inspector General (OIG) based on an internal audit of the security of GSA's information technology data and systems. The audit recommended that GSA develop standard requirements and deliverables for IT service contracts and task orders that promote compliance with GSA IT Security Policy and Procedures.

The rule requires contracting officers to insert the clause at 552.239–71, Security Requirements for Unclassified Information Technology Resources, in solicitations and contracts containing the provision at 552.239–70, Information Technology Security Plan and Accreditation. As such, the provision and clause will be inserted in solicitations that include information technology supplies, services or systems in which the contractor will have physical or electronic access to government information that directly supports the mission of GSA. The rule requires contractors, within 30 days after contract award to submit an IT Security Plan to the Contracting Officer and Contacting Officer's Representative that describes the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processes, or used under the contract. The rule will also require that contractors submit written proof of IT security authorization six months after contract award, and verify that the IT Security Plan remains valid annually.

B. Annual Reporting Burden

Respondents: 147.

Responses per Respondent: 2.

Hours per Response: 5.

Total Burden Hours: 1,470.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 3090–0294, Implementation of Information Technology Security Provision, in all correspondence.

Dated: December 9, 2011.

Joseph A. Neurauter,

Director, Office of Acquisition Policy, Senior Procurement Executive.

[FR Doc. 2011–32156 Filed 12–14–11; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0027; Docket 2011–0001; Sequence 8]

General Services Administration Acquisition Regulation; Information Collection; Contract Administration, Quality Assurance (GSAR Parts 542 and 546; GSA Form 1678 and GSA Form 308)

AGENCY: Office of the Chief Acquisition Officer, GSA.

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding contract administration, and quality assurance.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: February 13, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Dana Munson, Procurement Analyst, General Services Acquisition Policy Division, at (202) 357–9652 or via email to *dana.munson@gsa.gov.*

ADDRESSES: Submit comments identified by Information Collection 3090–0027, Contract Administration and Quality Assurance (GSAM Part 542 and Part 546; GSA Form 1678 and GSA Form 308), by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''Information Collection 3090–0027, Contract Administration and Quality Assurance (GSAM Part 542 and Part 546; GSA Form 1678 and GSA Form 308)'', under the heading ''Enter Keyword or ID'' and selecting ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0027, Contract Administration and Quality Assurance (GSAM Part 542 and Part 546; GSA Form 1678 and GSA Form 308)''. Follow the instructions provided at the ''Submit

a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0027, Contract Administration and Quality Assurance (GSAM Part 542 and Part 546; GSA Form 1678 and GSA Form 308)'', on your attached document.

- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 3090–0027, Contract Administration and Quality Assurance (GSAM Part 542 and Part 546; GSA Form 1678 and GSA Form 308).

Instructions: Please submit comments only and cite Information Collection 3090–0027, Contract Administration and Quality Assurance (GSAM Part 542 and Part 546; GSA Form 1678 and GSA Form 308), in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under certain contracts, because of reliance on contractor inspection in lieu of Government inspection, GSA's Federal Supply Service (FSS) requires documentation from its contractors to effectively monitor contractor performance and ensure that it will be able to take timely action should that performance be deficient.

B. Annual Reporting Burden

Respondents: 4,604.
Total Responses: 116,869.
Total Burden Hours: 7,830.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 3090–0027, Contract Administration, Quality Assurance (GSAR Parts 542 and 546; GSA Form 1678, and GSA Form 308), in all correspondence.

Dated: December 9, 2011.

Joseph A. Neurauter,

Director, Office of Acquisition Policy & Senior Procurement Executive.

[FR Doc. 2011–32157 Filed 12–14–11; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990—New]

Agency Emergency Information Collection Clearance Request for Public Comment

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office at (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above email address within 15 days.

Proposed Project: Let's Move! Cities, Towns, and Counties—OMB No. 0990—NEW—Emergency Information Collection Clearance Request—Office of the Assistant Secretary for Planning and Evaluation (ASPE).

Abstract: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is requesting approval from the Office of Management and Budget (OMB) to conduct a survey of public sector organizations for the *Let's Move!* Cities, Towns and Counties Initiative. *Let's Move!* is a comprehensive initiative, launched by the First Lady, dedicated to solving the challenge of childhood obesity within a generation. Combining comprehensive strategies with common sense, *Let's Move!* is about:

- Putting children on the path to a healthy future during their earliest months and years;
- Giving parents helpful information and fostering environments that support healthy choices;
- Providing healthier foods in our schools;
- Ensuring that every family has access to healthy, affordable food; and
- Helping kids become more physically active.

Let's Move! Cities, Towns, and Counties emphasizes the unique ability of communities to solve the challenge locally, and the critical leadership mayors and elected officials can provide to bring communities together and spur action. The initiative is designed to encourage mayors and elected officials to adopt a long-term, sustainable and holistic approach to fighting childhood obesity.

This activity is requesting comment on the burden for a baseline survey for local or county officials who have chosen to participate in *Let's Move!* Cities, Towns, and Counties. The survey requests information about the activities the locality is choosing to undertake. The responses to these questions will be used to show progress and successes over time for localities participating in *Let's Move!* Cities, Towns, and Counties. Separate notices will be published for subsequent surveys.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Form	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Government Official (city, town, county)	Baseline Survey	1,000	1	15/60	250

Keith A. Tucker,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2011–32118 Filed 12–14–11; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990–New; 30-day notice]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at (202) 395–5806.

Proposed Project: Patient Centered Care Collaboration to Improve Minority Health, OMB# 0990–New, Office of Minority Health.

Abstract: The Office of Minority Health (OMH) in the Office of the Assistant Secretary for Health (OASH), Office of the Secretary (OS) is requesting approval from the Office of Management and Budget (OMB) on new data collection activities for the Patient Centered Care Collaboration to Improve Minority Health project (PCCC). This dissemination and adoption initiative funded in 2010, under the ARRA, 2009, through the Office of Minority Health and the Agency for Health Care Quality supports dissemination and adoption priorities as outlined in the HHS Report to Congress on Comparative Effectiveness Research. The PCCC evaluation will assess whether disseminating a diabetes education intervention in a community based health clinic and offering a medication management and adherence intervention through home visits to seniors, improves the health and well being of racial and ethnic minority program participants; if the approach taken through the implementation of proven PCOR findings such as using community health workers and educators, and pharmacists to deliver the interventions improves the likelihood of patients changing their behaviors to improve their health status; and to determine if participants learned new information and skills that would help them to manage their health conditions and improve their health status.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden (in hours) per response	Total burden hours
Chicago:					
Screening Questionnaire	Individuals	165	1	5/60	14
Intake Questionnaire	Individuals	50	1	40/60	33
Post Questionnaire	Individuals	40	1	40/60	27
Sub-Total		255	1		74
Houston:					
Eligibility Screening Form: Hypertension and Diabetes.	Individual	200	1	15/60	50
First Home Visit Forms: Hypertension, Diabetes, or Hypertension and Diabetes.	Individual	200	1	40/60	133
Telephone Follow-up: Being Active and Managing Stress.	Individual	180	1	20/60	60
Telephone Follow-up: Healthy Eating	Individual	180	1	20/60	60
Post Intervention Follow-up Form: Hypertension, Diabetes, or Hypertension and Diabetes.	Individual	180	1	20/60	60
Sub-total		940			363
Total	Individual	1195			437

Keith A. Tucker,

Office of the Secretary, Paperwork Reduction Act Clearance Officer.

[FR Doc. 2011–32123 Filed 12–14–11; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee G—Education.

Date: January 24, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Jeannette F. Korczak, Ph.D., Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8115, Bethesda, MD 20892, (301) 496–9767, *korczakj@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/irg/irg.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: December 7, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–32104 Filed 12–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review PAR–11–289 K12s.

Date: January 19, 2012.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Mary Kelly, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, NIH 6701 Democracy Blvd., Room 672, MSC 4878, Bethesda, md 20892–4878, (301) 594–4809, *mary_kelly@nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; PAR–11–144 Competitive Revision Applications Scientific Review Meeting.

Date: January 25, 2012.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, (301) 594–4861, *mooremar@nidcr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: December 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–32194 Filed 12–14–11; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, DEM Fellowship Reviews.

Date: January 31, 2011–February 1, 2012.

Time: 8 a.m. to 2 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: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, Dea, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, PAR09–247: Ancillary Studies of Interest to the NIDDK: SWIFT.

Date: January 23, 2012.

Time: 1:30 p.m. to 3 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: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, Dea, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.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: December 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–32192 Filed 12–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; P01 Review January 2012.

Date: January 5, 2012.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Tracy A. Shahan, Ph.D., MBA, Scientific Review Officer, Scientific Review Program, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 451–2606, *tshahan@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Program Application.

Date: January 12, 2012.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Andrea L. Wurster, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–761, (301) 496–2550, *wurstera@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–32191 Filed 12–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel Sanctuary.

Date: January 10, 2012.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Review, National Center for Research Resources, 6701 Democracy Blvd. Room 1068, Bethesda, MD 20892, (301) 435–0965, *slicelw@mail.nih.gov*.

Name of Committee: National Center for Research Resources Special Emphasis Panel, ZRR1 CR–3—IDeA–CTR.

Date: January 19, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville, 1750 Rockville Pike, Plaza III, Rockville, MD 20852.

Contact Person: Guo Zhang, Ph.D., Scientific Review Officer, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Blvd., Dem. 1, Room 1064, Msc 4874, Bethesda, MD 20892–4874, (301) 435–0812, *zhanggu@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333; 93.702, ARRA Related Construction Awards, National Institutes of Health, HHS)

Dated: December 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–32189 Filed 12–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism Initial Review Group, Epidemiology, Prevention and Behavior Research Review Subcommittee.

Date: March 28, 2012.

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: Katrina L. Foster, Ph.D., Scientific Review Administrator, National Institutes on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 3037, Rockville, MD 20852, (301) 443–3037, *katrina@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: December 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–32188 Filed 12–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. 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 Advisory Council on Alcohol Abuse and Alcoholism;

Date: February 8–9, 2012.

Closed: February 8, 2012, 5 p.m. to 7:30 p.m.

February 9, 2012, 8 a.m. to 9 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fisher Lane, Bethesda, MD 20892.

Open: February 9, 201, 9 a.m. to 1:30 p.m.

Agenda: Presentations and other business of the council.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Abraham P. Bautista, Ph.D., Executive Secretary, National Institute On Alcohol Abuse & Alcoholism National Institutes of Health, 5635 Fishers Lane, Rm 2085, Rockville, MD 20852, (301) 443–9737, *bautistaa@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: December 9, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–32186 Filed 12–14–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Resettlement

Announcing the Award of a Single-Source Grant to Support Services for Haitian Medical Evacuees to the Florida Department of Children and Families in St. Petersburg, FL

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Notice to award a single-source grant to support medical evacuees from the Haiti earthquake of 2010.

CFDA Number: 93.576.

Statutory Authority: This grant is authorized by the Supplemental Appropriations Act, 2010 (Pub. L. 111–212).

SUMMARY: Notice is hereby given that a single-source grant of $220,000 was awarded to Florida Department of Children and Families, located in St. Petersburg, FL, by the Administration for Children and Families, Office of Refugee Resettlement. Award funds will provide medical and supportive social services to Haitian medical evacuees affected by the earthquake in 2010.

The Haitian medical evacuees were brought to the United States (U.S.) in the aftermath of the earthquake in Haiti on January 12, 2010. This is a population that arrived in the U.S. with significant medical issues and no available system for ongoing medical and supportive social services. They had sustained a wide range of injuries, including burns, crush injuries, and head and spine injuries. During Fiscal Year 2010, the refugees' medical costs for their first 8 months in Florida totaled $6.2 million. The single-source award will provide urgently needed support to this group, which are currently residing in a tent complex in St. Petersburg, FL.

DATES: October 1, 2011–September 30, 2012.

FOR FURTHER INFORMATION CONTACT: Kenneth Tota, Deputy Director, Office of Refugee Resettlement, 901 D Street SW., Washington, DC 20047. *Telephone:* (202) 401–4858. *Email: ktota@acf.hhs.gov.*

Dated: December 6, 2011.

Eskinder Negash,

Director, Office of Refugee Resettlement.

[FR Doc. 2011–32168 Filed 12–14–11; 8:45 am]

BILLING CODE 4120–27–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0025]

Revised Analysis and Mapping Procedures for Non-Accredited Levees

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) is accepting comments on the proposed solution for Revised Analysis and Mapping Procedures for Non-Accredited Levees. This document proposes a revised procedure for the analysis and mapping of non-accredited levees on FEMA's Flood Insurance Rate Maps. FEMA seeks input on this policy in terms of its feasibility, flexibility, and collaborative nature.

DATES: Comments must be received by January 30, 2012.

ADDRESSES: Comments must be identified by docket ID FEMA–2011–0025 and may be submitted by one of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Please note that this proposed policy is not a rulemaking and the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

Mail: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street SW., Washington, DC 20472–3100.

National Flood Insurance Program (NFIP) Levees Comment Web site: http://www.NFIP-levees.com. Follow the instructions for submitting comments on the Web site.

FOR FURTHER INFORMATION CONTACT: Bill Blanton, Levee Analysis and Mapping Approach Public Review, 1800 South Bell Street, Room 601, Arlington, VA 20598–3015. Phone: (202) 646–3151.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Instructions: 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, which can be viewed by clicking on the ''Privacy Notice'' link in the footer of *http://www.regulations.gov*.

You may submit your comments and material by the methods specified in the **ADDRESSES** section. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

Docket: The proposed solution document is available in docket ID FEMA–2011–0025. Additionally, the document can be found at *http://www.fema.gov/plan/prevent/fhm/lv_lamp.shtm*. For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for the docket ID. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C St. SW., Washington, DC, 20472.

II. Public Online Forum

FEMA will hold three public online forums to present the approach. The first public forum will be held on December 21, 2011 from 1:30 p.m. EST to 3 p.m. EST. The second online forum will be held on January 3, 2012, from 1:30 p.m. EST to 3 p.m. EST. The third online forum will be held on January 10, 2012 from 1:30 p.m. EST to 3 p.m. EST. All meetings will take place through an online webinar. If you are interested in participating in the online forum, please email *FEMA-GS@dhs.gov* to reserve a slot for the forum and receive further instructions for logging in and participating.

III. Background

FEMA maps flood hazards on Flood Insurance Rate Maps, a tool used to support the National Flood Insurance Program. These maps identify areas that are flood prone for a variety of reasons. One unique category of flood hazards is the areas behind levees. Levees can be recognized as providing protection on FEMA's flood maps if they meet all requirements of 44 CFR 65.10, the regulations that define the design, maintenance and operation standards specifically for this purpose. Levees meeting all aspects of 44 CFR 65.10 are considered eligible to be accredited. Those that cannot meet all of these standards cannot be accredited.

The current approach for analyzing and mapping flood hazards associated with non-accredited levees is a singular approach where one technical procedure applies to all non-accredited levees. The feedback on this one-size-all approach is that it does not take the unique conditions of each levee into consideration. Many stakeholders also believe this approach does not adequately reflect the ability of these levees to provide some level of flood hazard reduction.

FEMA is listening to this stakeholder feedback that this current approach used to map flood hazards associated with non-accredited levees is too coarse to represent the variety of situations associated with levees. In response, FEMA has worked to revise the mapping procedures for non-accredited levees. This approach works within the confines of existing federal regulations, yet is more flexible, collaborative and feasible.

FEMA is replacing the former, singular approach with a suite of procedures that are technically sound, understandable to stakeholders, and cost effective. This suite of procedures will better meet the needs of the public and provide more precise results, while at the same time recognizing that uncertainty will remain. While these procedures allow for more detailed modeling and mapping of flood hazards for non-accredited levee systems, the risk of flooding in levee-impacted areas remains. Therefore, levee system owners and communities still need to remain engaged in flood risk management and communication activities.

IV. Request for Comments

FEMA welcomes your comments, questions, and concerns regarding the proposed approach's technical clarity, potential local impact, and feasibility for community participation. FEMA also welcomes any suggestions for improvement to the proposed approach.

Authority: 42 U.S.C. 4001, 44 CFR part 65.

Sandra Knight,

Deputy Associate Administrator, Federal Insurance and Mitigation, Federal Emergency Management Agency.

[FR Doc. 2011–32128 Filed 12–14–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service, Interior

[FWS–R4–FHC–2011–N255;FVHC98130406900Y4–XXX–FF04G01000]

Deepwater Horizon Oil Spill; Draft Phase I Early Restoration Plan and Environmental Assessment

AGENCY: Department of the Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill, the Federal and State natural resource trustee agencies (Trustees) have prepared a Draft Early Restoration Plan and Environmental Assessment (DERP/EA) describing and proposing a suite of early restoration projects intended to commence the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico. The purpose of this notice is to inform the public of the availability of the DERP/EA and to seek written comments on the proposed restoration alternative presented in the DERP/EA.

DATES: *Comments Due Date:* We will consider public comments received on or before February 14, 2012.

Public Meetings: A series of public meetings are scheduled to facilitate public review and comment on the DERP/EA. Both written and verbal public comments will be taken at the meetings. The meeting dates, times, and locations are listed below. Meeting facilities and their addresses will be published in local newspapers and will be posted on the web at *www.gulfspillrestoration.noaa.gov.*

Date	Time	Location
Jan 11, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Florida
Jan 12, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Florida

Date	Time	Location
Jan 17, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Mississippi
Jan 18, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Mississippi
Jan 19, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Mississippi
Jan 23, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Alabama
Jan 24, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Alabama
Jan 26, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Texas
Jan 31, 2012	5:30 pm Open House 6:30 pm Meeting/presentation/comment	Louisiana
Feb 1, 2012	5:30 pm Open House 6:30 pm Meeting/presentation/comment	Louisiana
Feb 2, 2012	5:30 pm Open House 6:30 pm Meeting/presentation/comment	Louisiana
Feb 7, 2012	6:00 pm Open House 7:00 pm Meeting/presentation/comment	Washington, D.C.

ADDRESSES: *Obtaining Documents:* You may download the DERP/EA and the framework agreement at *http://www.gulfspillrestoration.noaa.gov* or *http://www.doi.gov/deepwaterhorizon.* Alternatively, you may request a CD of the DERP/EA (see **FOR FURTHER INFORMATION CONTACT**). You may also review hard copies of the DERP/EA at any of the public repositories listed at *http://www.gulfspillrestoration.noaa.gov. Submitting Comments:* You may submit comments on the DERP/EA by one of following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov.*
- *For electronic submission of comments containing attachments, email: Phase1DERPcomments@fws.gov.*
- *U.S. Mail:* c/o U.S. Fish and Wildlife Service, P.O. Box 200, Fairhope, AL 36533.

FOR FURTHER INFORMATION CONTACT: Brian Spears at *FW4DWHInfo@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252—MC252), experienced a significant explosion, fire and subsequent sinking in the Gulf of Mexico, resulting in discharges of oil and other substances from the rig and from the wellhead on the seabed. An estimated 4.9 million barrels (210 million gallons) of oil were released from the well into the Gulf of Mexico over a period of approximately three months. In addition, approximately 771,000 gallons of dispersants were applied to the waters of the spill area in an attempt to minimize impacts from spilled oil. Affected resources include ecologically, recreationally, and commercially important species and their habitats in the Gulf of Mexico and along the coastal areas of Alabama, Florida, Louisiana, Mississippi, and Texas.

Federal and State trustees (listed below) are conducting the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, federal and state agencies and Indian tribes may act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the damages required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship. The trustees have developed this DERP/EA under the Framework Agreement.

The trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S Department of Commerce;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- Texas Parks and Wildlife Department, Texas General Land Office and Texas Commission on Environmental Quality.

The U.S. Department of Defense (DOD) is a Trustee, but does not have affected lands in this Draft Phase I Early Restoration Project.

Background

On April 20, 2011, BP agreed to provide up to $1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. This early restoration agreement, entitled ''Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill'' (Framework Agreement), represents a preliminary step toward the restoration of injured natural resources. The Framework Agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together ''to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable'' prior to the completion of the natural resource damage assessment process or full resolution of the Trustees' natural resource damages claim.

The Trustees have actively solicited public input on restoration project ideas

through a variety of mechanisms, including public meetings, electronic communication, and creation of a Trustee-wide public Web site and database to share information and receive public project submissions. The Trustees are considering a broad array of potential early restoration projects. Their key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public's benefit while the longer-term process of fully assessing injury and damages is still underway. As the first step in this accelerated process, the Trustees are first proposing eight projects as set forth in this Phase I Draft Early Restoration Plan/Environmental Assessment (DERP/EA) in accordance with OPA and NEPA. The projects proposed in this plan are not intended to, and do not fully, address all injuries caused by the spill or provide the extent of restoration needed to satisfy claims against BP.

In keeping with the Framework Agreement, the DERP/EA includes an estimate of the gains anticipated to result from each project, referred to as ''Natural Resource Damage Offsets'' (NRD Offsets). These NRD Offsets were identified consistent with the terms of the Framework Agreement. If these projects are approved, at the end of the NRDA process, the Trustees would credit these NRD Offsets generated by these early restoration projects towards the total restoration credits required based on the completed injury assessment. Further comprehensive restoration will still be required to fully compensate the public for natural resource losses from the oil spill.

Overview of the Phase 1 DERP/EA

Draft Early Restoration Plan Alternatives, Including Proposed Alternative

The DERP/EA describes two early restoration alternatives: No Action—Natural Recovery (required for consideration by OPA) and Proposed Action—Proposed Early Restoration Projects. Under the No Action alternative, the trustees would not implement early restoration projects as described in this DERP/EA. Rather, the trustees would rely, for the time being, solely on natural recovery processes to restore natural resources to their pre-spill conditions and would undertake no early actions to accelerate recovery or to help address interim resource losses.

Under the Proposed Action, the Trustees are considering eight projects that meet the selection criteria as described in the DERP/EA.

Proposed Action—Proposed Early Restoration Projects

The proposed projects are intended to provide services that will benefit injured marshes, coastal dune habitats, nearshore sediments, oysters, and human uses (on water recreation). Each of these projects provides benefits to natural resources and their services injured by the *Deepwater Horizon* oil spill. The proposed projects are: (1) Lake Hermitage Marsh Creation, Louisiana; (2) Louisiana Oyster Cultch Project; (3) Mississippi Oyster Cultch Restoration; (4) Mississippi Artificial Reef Habitat; (5) Marsh Island (Portersville Bay, Alabama) Marsh Creation; (6) Alabama Dune Restoration Cooperative Project; (7) Florida Boat Ramp Enhancement Cooperative Project; (8) Florida Dune Restoration.

Next Step

After the public comment period ends, we will analyze and address the comments. After close of the public comment period, the Trustees will consider all input received before a Phase I Early Restoration Plan is finalized. As described above, a series of public meetings are scheduled to facilitate the public review and comment process. Upon completion of the Phase I Early Restoration Plan, negotiations with BP will be completed and approved projects will proceed to implementation, pending compliance with all applicable state and federal laws.

Public Availability of Comments

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 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.

Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: *http://www.doi.gov/deepwaterhorizon.*

Author

The primary author of this notice is Nanciann Regalado.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), the implementing Natural Resource Damage Assessment regulations found at 15 CFR Part 990, and the Framework Agreement for Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill.

Cynthia K. Dohner,

DOI Authorized Official.

[FR Doc. 2011–32185 Filed 12–14–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for the Bureau of Indian Education Adult Education Program; Request for Comments

AGENCIES: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is submitting to the Office of Management and Budget (OMB) a request for renewal for the collection of information for the Adult Education Program. The information collection is currently authorized by OMB Control Number 1076–0120, which expires December 31, 2011.

DATES: Interested persons are invited to submit comments on or before *January 17, 2012.*

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_DOCKET@omb.eop.gov.* Please send a copy of your comments to Brandi Sweet, Bureau of Indian Education, 1849 C Street NW., MS–4141, Washington, DC 20240, fax (202) 208–3312; email: *Brandi.Sweet@bie.edu.*

FOR FURTHER INFORMATION CONTACT: Brandi Sweet, Bureau of Indian Education, at (202) 208–5504. You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Indian Education (BIE) is seeking renewal of the approval for the information collection conducted under 25 CFR part 46 to manage program resources and for fiscal accountability and appropriate direct services documentation. Approval for this collection expires on December 31, 2011. This information includes an

annual report form. Minor changes were made to the form and instructions to provide respondents clear and concise instructions consistent with the annual report form. No changes are being made to the approved burden hours for this information collection. BIE published a 60-day notice in the **Federal Register** on August 23, 2011. (76 FR 52687). No comments were received in response to that notice.

II. Request for Comments

The BIE requests that you send your comments on this collection to the location listed in the **ADDRESSES** section. Your comments should address: (a) The necessity of the information collection for the proper performance of the agencies, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or conduct, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number. Approval for this collection expires December 31, 2011. Response to the information collection is required to obtain a benefit.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section during the hours of 9 a.m.—5 p.m., Eastern Time, Monday through Friday except for legal holidays. Before including your address, phone number, email address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0120.

Title: Bureau of Indian Affairs Adult Education Program Annual Report Form.

Brief Description of Collection: Submission of this information allows BIE to manage program resources, for fiscal accountability and appropriate direct services documentation, and to prioritize programs. The information helps manage the resources available to provide education opportunities for adult Indians and Alaska Natives to complete high school graduation requirements and gain new skills and knowledge for self-enhancement.

Type of Review: Extension without change of a currently approved collection.

Respondents: Individuals (Tribal Adult Education Program Administrators).

Number of Respondents: 70 per year, on average.

Total Number of Responses: 70 per year, on average.

Estimated Time per Response: 4 hours.

Estimated Total Annual Cost Burden to Repondents: $200.

Estimated Total Annual Burden Hours: 280.

Dated: December 9, 2011.

Alvin Foster,

Assistant Director for Information Resources.

[FR Doc. 2011–32155 Filed 12–14–11; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Renewal of Agency Information Collection for the Bureau of Indian Education Information Collection Activities; Request for Comments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is seeking comments on renewal of Office of Management and Budget (OMB) approval for the collection of information for the Application for Admission to Haskell Indian Nations University (Haskell) and to Southwestern Indian Polytechnic Institute (SIPI), authorized by OMB Control Number 1076–0114, the Student Transportation Form, authorized by OMB Control Number 1076–0134, and the Data Elements for Student Enrollment in Bureau-funded Schools, authorized by OMB Control Number 1076–0122. These information collections expire March 30, 2012.

DATES: Submit comments on or before February 13, 2012.

ADDRESSES: You may submit comments on the information collection to Brandi Sweet, Program Analyst, U.S. Department of the Interior, Bureau of Indian Education, 1849 C Street NW., Washington, DC 20240; email: *Brandi.Sweet@bie.edu.*

FOR FURTHER INFORMATION CONTACT: Brandi Sweet, Program Analyst, (202) 208–5504.

SUPPLEMENTARY INFORMATION:

I. Abstract

These collections help support the educational efforts for American Indian and Alaska Native students from elementary through post-secondary levels. The collections help fulfill the trust responsibility of the Secretary of the Department of the Interior and the Assistant Secretary—Indian Affairs, as delegated under 25 U.S.C. 2 and 9, and 209 DM 8.

Application for Admission to Haskell & SIPI

The BIE is requesting renewal of OMB approval for the admission forms for Haskell and SIPI. These admission forms are used in determining program eligibility of American Indian and Alaska Native students for educational services. These forms are utilized pursuant to the Blood Quantum Act, Public Law 99–228; the Snyder Act, Chapter 115, Public Law 67–85; and, the Indian Appropriations of the 48th Congress, Chapter 180, page 91, For Support of Schools, July 4, 1884.

Student Transportation Form

The BIE is requesting renewal of OMB approval for the Student Transportation Form. The Student Transportation regulations in 25 CFR part 39, subpart G, contain the program eligibility and criteria that govern the allocation of transportation funds. Information collected from the schools will be used to determine the rate per mile. The information collection provides transportation mileage for Bureau-funded schools, which determines the allocation of transportation funds.

Data Elements for Student Enrollment in Bureau-funded Schools

The BIE is requesting renewal of OMB approval for the Student Enrollment Application in Bureau-funded Schools. School registrars collect information on this form to determine the student's eligibility for enrollment in a Bureau-funded school, and if eligible, is shared with appropriate school officials to identify the student's base and supplemental educational and/or residential program needs. The BIE compiles the information into a national database to facilitate budget requests and the allocation of congressionally appropriated funds.

II. Request for Comments

The BIE requests your comments on this collection concerning: (a) The necessity of this information collection 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 (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0114.

Title: Application for Admission to Haskell Indian Nations University and to Southwestern Indian Polytechnic Institute.

Brief Description of Collection: Submission of these eligibility applications forms are mandatory in determining a student's eligibility for educational services. The information is collected on one two forms: Application for Admission to Haskell form and SIPI form.

Type of Review: Extension without change of a currently approved collection.

Respondents: Students.

Number of Respondents: 4,000 per year, on average.

Total Number of Responses: 4,000 per year, on average.

Frequency of Response: Once per year for Haskell; each trimester for SIPI.

Estimated Time per Response: 30 minutes per Haskell application; 30 minutes per SIPI application.

Estimated Total Annual Hour Burden: 2,000 hours.

Estimated Total Annual Cost Burden: $10,000 is the estimated total annual cost burden. We estimate 1,000 Haskell applications at a $10 filing fee charge per application. The fee for SIPI is included in tuition costs and therefore, is not included in this estimate, reducing the previous estimated annual cost burden from $16,500 to $10,000.

* * * * *

OMB Control Number: 1076–0134.

Title: Student Transportation Form.

Brief Description of Collection: This annual collection provides pertinent data concerning the school's bus transportation mileage and related long distance travel mileage to determine funding levels for school transportation. This information is collected on the Indian School Equalization Program (ISEP) Student Transportation form.

Type of Review: Extension without change of a currently approved collection.

Respondents: Contract and Grant schools; Bureau-operated schools.

Number of Respondents: 121 per year, on average.

Total Number of Responses: 121 per year, on average.

Frequency of Response: Once per year.

Estimated Time per Response: 6 hours.

Estimated Total Annual Burden: 726 hours.

* * * * *

OMB Control Number: 1076–0122.

Title: Data Elements for Student Enrollment in Bureau-funded Schools.

Brief Description of Collection: This annual collection provides Bureau-funded schools with data about students that impacts placement, special needs assessments, and funding for individuals and assists schools in developing a plan for the school year. The information is collected on a Student Enrollment Application form.

Type of Review: Extension without change of a currently approved collection.

Respondents: Contract and Grant schools; Bureau-operated schools.

Number of Respondents: 48,000 per year, on average.

Total Number of Responses: 48,000 per year, on average.

Frequency of Response: Once per year.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden: 12,000 total burden hours.

Dated: December 9, 2011.

Alvin Foster,

Assistant Director for Information Resources.

[FR Doc. 2011–32154 Filed 12–14–11; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000: HAG12–0049]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management Oregon/Washington State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 23 S., R. 5 W., accepted November 16, 2011.
T. 31 S., R. 9 W., accepted November 16, 2011.
T. 18 S., R. 1 E., accepted November 16, 2011.
T. 11 S., R. 3 E., accepted December 1, 2011.
T. 11 S., R. 2 E., accepted December 1, 2011.
T. 19 S., R. 7 W., accepted December 1, 2011.
T. 18 S., R. 8 W., accepted December 1, 2011.
T. 2 S., R. 6 E., accepted December 1, 2011.
T. 26 S., R. 7 W., accepted December 1, 2011.
T. 18 S., R. 6 W., accepted December 1, 2011.
T. 7 S., R. 7 W., accepted December 1, 2011.
T. 19 S., R. 7 W., accepted December 1, 2011.

Washington

T. 2 N., R. 1 E., accepted December 5, 2011.

ADDRESSES: A copy of the plats may be obtained from the Land Office at the Bureau of Land Management, Oregon/Washington State Office, 333 SW. 1st Avenue, Portland, Oregon 97204, upon required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest (at the above address) with the Oregon/Washington State Director, Bureau of Land Management, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6124, Branch of Geographic Sciences, Bureau of Land Management, 333 SW. 1st Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800)–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Before including your address, phone number, 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.

Mary J.M. Hartel,

Chief, Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2011–32180 Filed 12–14–11; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 51022, LLCAD06000 L51010000 ER0000 LVRWB10B3780]

Notice of Availability of the Record of Decision for the Rice Solar Energy, LLC, Rice Solar Energy Project (RSEP) and California Desert Conservation Area Plan Amendment, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD)/Approved Amendment to the California Desert Conservation Area (CDCA) Plan, the applicable Resource Management Plan (RMP) for the project site and the surrounding areas, located in the California Desert District. The Secretary of the Interior approved the ROD on December 8, 2011, which constitutes the final decision of the Department.

ADDRESSES: Copies of the ROD/Approved Amendment to the CDCA Plan are available upon request from the Field Manager, Palm Springs-South Coast Field Office, Bureau of Land Management, 1201 Bird Center Drive, Palm Springs, California, 92262, or via the Internet at the following Web site: *http://www.blm.gov/ca/st/en/fo/palmsprings.html.*

FOR FURTHER INFORMATION CONTACT: Allison Shaffer, BLM Project Manager; telephone (760) 833–7100; through mail at the address above; or email *Allison_Shaffer@blm.gov.*

SUPPLEMENTARY INFORMATION: Rice Solar Energy, LLC, a subsidiary of SolarReserve, LLC plans to construct a 150 megawatt (MW) solar concentrating thermal project on 1,410 acres of a 2,560 acre parcel of private land. The site is located 40 miles northwest of Blythe, California, in Riverside County, California. The major generation equipment that makes up the concentrating solar thermal electrical generation plant includes: A central receiver tower, sun tracking heliostat field, and an integrated thermal storage system using molten salt as the heat transfer and storage medium.

With these components, a large field of mirrors or heliostats concentrates and focuses the sun's energy onto a central receiver. The project uses thermal energy storage that allows solar energy to be captured throughout the day and retained in a molten salt heat transfer fluid. When electricity is generated, hot liquid salt is routed to heat exchangers to heat water and produce steam. The steam is used to generate electricity in a conventional steam turbine cycle.

Rice Solar Energy submitted a right-of-way (ROW) application to the BLM in association with the private land solar energy project. This ROW application was filed to lease approximately 150 acres of BLM-administered land needed to construct and operate a 161/230 kV electrical transmission line (also called a generator tie-line, or ''gen-tie'') and an associated access road. A ROW application was also filed by the Western Area Power Administration (Western) to lease approximately 4 acres of BLM-administered land needed for a new substation that would be owned and operated by Western in support of the RSEP.

Under these ROW grants RSEP would be allowed the right to use, occupy and develop a 161/230kV gen-tie line and associated access road, which would exit the Rice Solar Energy Project, and travel southeast in an undeveloped area of the Sonoran Desert in eastern Riverside County, California where it would then interconnect to Western's Parker-Blythe #2 161–kV transmission line at the substation proposed by Western. The gen-tie line and access road as proposed would traverse 8.27 mile in a 150 foot width right-of-way corridor occupying 150 acres of land administered by the BLM.

The substation as proposed by Western would be 300 feet wide by 400 feet long, causing approximately 4 acres of permanent disturbance on BLM lands. Associated infrastructure in the ROW grant would occupy approximately 154 acres of public land administered by the BLM. This project site is in the California Desert District within the planning boundary of the California Desert Conservation (CDCA) Plan, which is the applicable Resource Management Plan (RMP) for the project site and surrounding areas. The CDCA Plan, while recognizing the potential compatibility of solar generation and transmission on public lands requires that all sites associated with power generation or transmission not already identified in the Plan be considered through the BLM's land use plan amendment process. As a result, prior to approval of the ROW grant to the RSEP, the BLM must amend the CDCA Plan to allow the substation as proposed by Western and a transmission corridor leading from the site onto BLM land. The approved Amendment to the CDCA Plan specifically revises the CDCA Plan to allow for the development of the RSEP gen-tie line and ancillary facilities on land managed by the BLM.

The BLM preferred alternative would result in the construction of a gen-tie line, access road and substation to support the Rice Solar Energy Project, capable of producing 150MW of electricity. This alternative was evaluated in the Final Environmental Impact Statement (EIS). The Notice of Availability of the Final EIS for the RSEP and the proposed CDCA Plan amendment was published in the **Federal Register** on June 10, 2011 (76 FR 34073). Subsequently, a 30-day protest period for the proposed amendment to the CDCA Plan was initiated (76 FR 47608, Aug. 5, 2011). At the close of the 30-day period on September 6, 2011, one written protest was received and dismissed, and did not result in changing the decision. This protest dismissal is summarized in the Director's Protest Resolution Report attached to the ROD. Along with the protest period, the Governor of California conducted a 60-day consistency review of the proposed CDCA Plan amendment to identify any inconsistencies with State or local plan, policies or programs; no inconsistencies were identified.

Because this decision is approved by the Secretary of the Interior, it is not subject to administrative appeal (43 CFR 4.410(a)(3)).

Authority: 40 CFR 1506.6.

Neil Kornze,

Acting Deputy Director, Bureau of Land Management.

[FR Doc. 2011–32181 Filed 12–14–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

[9919–726–252Z]

Description of Boundary Addition, Noatak National Preserve

AGENCY: National Park Service, Interior.

ACTION: Notice of boundary addition description.

SUMMARY: This notice sets out the legal description of the Noatak National Preserve and Wilderness Addition.

FOR FURTHER INFORMATION CONTACT: National Park Service, Chief, Land Resources Program Center, Alaska Region, 240 W. 5th Avenue, Anchorage, Alaska 99501, (907) 644–3426.

ADDRESSES: The map of the Noatak National Preserve and Noatak Wilderness is available for viewing at the National Park Service offices in Anchorage at 240 West 5th Avenue, Anchorage, Alaska 99501, and in Kotzebue at 171 Third Avenue, Kotzebue, Alaska 99752.

SUPPLEMENTARY INFORMATION: Noatak National Preserve and Wilderness were established on December 2, 1980 by the Alaska National Interest Lands Conservation Act. The boundaries of the Park, Preserve and Wilderness were published in the **Federal Register** on September 30, 1992. This notice sets out the description of a 17,168 acre addition to Noatak National Preserve and Wilderness: The Addition was established by Section 302 of the Omnibus Parks and Public Lands Management Act of 1996 (Pub. L. 104–333, 110 Stat. 4093). The following legal description is to be included and made part of the descriptions of the boundaries for Noatak National Preserve and Noatak Wilderness as published in the **Federal Register**/Vol. 57, No. 190/Wednesday, September 30, 1992/pages 45221 to 45224. The land is depicted on a map titled ''Noatak National Preserve and Noatak Wilderness Addition'', map number 189/80,041, dated September 1994, which is available at the National Park Service offices in Anchorage and Kotzebue, Alaska.

Noatak National Preserve and Wilderness Addition

Kateel River Meridian, Alaska

T. 31 N., R. 13 E. (unsurveyed),
Secs. 4 and 5;
Sec. 6, E½E½ E½E½W½NE¼ and NE¼NE¼NW¼SE¼;
Secs. 8 to 11, inclusive;
Secs. 13 to 16, inclusive;
Sec. 17, N½ and SE¼;
Secs. 23, 24 and 25.

T. 32 N., R. 13 E. (unsurveyed),
Sec. 31, excluding lands within National Petroleum Reserve of Alaska;
Sec. 32, W½E½ and W½.

T. 30 N., R. 14 E. (unsurveyed),
Sec. 3, SW¼SW¼;
Secs. 4 and 5;
Sec. 6, NE¼NE¼;
Sec. 8, N½NE¼;
Secs. 9 and 10;
Sec. 11, W½, excluding lands within Gates of the Arctic National Park;
Sec. 14, NW¼, excluding lands within Gates of the Arctic National Park;
Sec. 15, N½;
Sec. 16, NE¼.

T. 31 N., R. 14 E. (unsurveyed),
Secs. 19 and 20;
Secs. 29 to 32, inclusive.

DATES: The effective date of this boundary revision is November 12, 1996.

Dated: November 15, 2011.

Sue E. Masica,

Regional Director, Alaska Region.

[FR Doc. 2011–32135 Filed 12–14–11; 8:45 am]

BILLING CODE 4312–HN–P

DEPARTMENT OF THE INTERIOR

National Park Service

[9919–726–252Z]

Revised Descriptions of Park, Preserve and Wilderness Boundaries, Gates of the Arctic National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Notice of Revised Boundary Descriptions.

SUMMARY: This notice sets out the revised legal descriptions of the boundaries of an expanded Gates of the Arctic National Park and a revised Gates of the Arctic Wilderness. For the sake of completeness this notice also sets out the unrevised description of the boundary of an unchanged Gates of the Arctic National Preserve.

FOR FURTHER INFORMATION CONTACT: National Park Service, Chief, Land Resources Program Center, Alaska Region, 240 W. 5th Avenue, Anchorage, Alaska 99501, (907) 644–3426.

ADDRESSES: The map of the Gates of the Arctic National Park and Wilderness is available for viewing at the National Park Service offices in Anchorage at 240 West 5th Avenue, Anchorage, Alaska 99501, and in Fairbanks at 4175 Geist Road, Fairbanks, Alaska 99709.

SUPPLEMENTARY INFORMATION:

Gates of the Arctic National Park and Preserve and Wilderness were established on December 2, 1980 by the Alaska National Interest Lands Conservation Act. The boundaries of the Park, Preserve and Wilderness were published in the **Federal Register** on September 30, 1992.

This notice publishes two sets of boundary changes:

(1) The external boundaries of Gates of the Arctic National Park, Unit Number 1, and Gates of the Arctic Wilderness, Unit Number 1, as published in the **Federal Register** at 57 FR 45186–88 and 45190–94 September 30, 1992, are herein updated by the addition of the lands and waters described in ''Gates of the Arctic National Park and Preserve, Alaska; Addition of Kurupa Lake and Adjoining Lands to the Park'', published in 45 FR 35041, August 12,1982, and as corrected under ''National Park Service, Gates of the Arctic National Park and Preserve, Alaska; Addition of Kurupa Lake and Adjoining Lands to the Park'', 47 FR 42181, September 24, 1982, with the additional lands being a part of the Gates of the Arctic National Park. The boundary change that resulted from the ''Addition of Kurupa Lake and Adjoining Lands to the Park'' was not included in the legal description published in the **Federal Register** on September 30, 1992, because that legal description was required by Section 103(b) of the Alaska National Interest Lands Conservation Act (Pub. L. 96–487, 94 Stat. 2371), to describe solely the changes in land management status effected by that Act. The ''Addition of Kurupa Lake and Adjoining Lands to the Park'' occurred after passage of that Act.

(2) The external boundaries of Gates of the Arctic Wilderness, Unit Numbers 1 and 3, were amended by Section 302 of the Omnibus Parks and Public Lands Management Act of 1996 (Pub. L. 104–333, 110 Stat. 4093). The amended wilderness boundaries are depicted on a map titled ''Wilderness Actions'', map number 185/80,040, dated April 1994, available at the National Park Service offices in Anchorage and Fairbanks, Alaska.

The remainder of this notice is organized into the following sections:

I. Units within Gates of the Arctic National Park and Preserve.

II. Units of the National Wilderness Preservation System within Gates of the Arctic National Park.

In the following legal descriptions the symbol ∧ identifies the paragraphs affected by the revised park boundary descriptions.

I. Units Within Gates of the Arctic National Park and Preserve

Gates of the Arctic National Park

The complete revised description of the external boundary for Gates of the Arctic National Park, incorporating the addition of Kurupa Lake and adjoining lands, described in its entirety, is as follows:

(1) Unit Number 1

Beginning at the corner of sections 19, 24, 25 and 30, T. 20 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence easterly, between sections 19 and 30, 20 and 29, 21 and 28, 22 and 27, along a common boundary with Gates of the Arctic National Preserve (Unit Number 1), to the summit of a ridge located in sections 22 and 27, T. 20 N., R. 19 E., Kateel River Meridian, approximate elevation 4,000 feet;

Thence southeasterly, northeasterly, easterly and southeasterly, along the crest of a ridge, to a high point on the ridge located in the westerly portion of section 5, T. 19 N., R. 20 E., Kateel River Meridian, approximate elevation 2,900 feet;

Thence on an approximate forward bearing of S. 14° E., to the summit of a mountain located in section 17, T. 19 N., R. 20 E., Kateel River Meridian, approximate elevation 2,577 feet;

Thence on an approximate forward bearing of S. 14° E., to the corner of sections 20, 21, 28 and 29, T. 19 N., R. 20 E., Kateel River Meridian;

Thence on an approximate forward bearing of east to a point on the left bank of the Kobuk River at the center of the confluence of the outlet stream from Walker Lake with the Kobuk River, in section 19, T. 19 N., R. 21 E., Kateel River Meridian;

Thence northeasterly, along the left bank of the Kobuk River and Kichaiakaka Creek, to a point between sections 1 and 36, Tps. 19 and 20 N., R. 22 E., Kateel River Meridian;

Thence easterly, between Tps. 19 and 20 N., to the corner of Tps. 19 and 20 N., Rs. 22 and 23 E., Kateel River Meridian;

Thence easterly, departing from the common boundary with Gates of the Arctic National Preserve (Unit Number 1), between Tps. 19 and 20 N., to the corner of sections 3, 4, 33 and 34, Tps. 19 and 20 N., R. 23 E., Kateel River Meridian;

Thence northerly, between sections 33 and 34, 27 and 28, 21 and 22, 15 and 16, 9 and 10, 3 and 4, to the north corner of sections 3 and 4, T. 20 N., R. 23 E., Kateel River Meridian;

Thence easterly, along the Fifth Standard Parallel North, to the south corner of T. 21 N., Rs. 23 and 24 E., Kateel River Meridian;

Thence northerly, between Rs. 23 and 24 E., to the corner of Tps. 21 and 22 N., Rs. 23 and 24 E., Kateel River Meridian;

Thence easterly, between Tps. 21 and 22 N., to the corner of sections 3, 4, 33 and 34, Tps. 21 and 22 N., R. 25 E., Kateel River Meridian;

Thence northerly, between sections 33 and 34, 27 and 28, 21 and 22, 15 and 16, 9 and 10, 3 and 4, to the corner of sections 3, 4, 33 and 34, Tps. 22 and 23 N., R. 25 E., Kateel River Meridian;

Thence easterly, between Tps. 22 and 23 N., to the east corner of Tps. 22 and 23 N., R. 26 E., on the boundary of the Kateel River Meridian;

Thence southerly, between Kateel River and Fairbanks Meridians, to the west corner of sections 18 and 19, T. 29 N., R. 24 W., Fairbanks Meridian;

Thence easterly, between sections 18 and 19, 17 and 20, 16 and 21, to the corner of sections 15, 16, 21 and 22, T. 29 N., R. 24 W., Fairbanks Meridian;

Thence northerly, between sections 15 and 16, 9 and 10, 3 and 4, 33 and 34, 27 and 28, 21 and 22, 15 and 16, 9 and 10, 3 and 4, to the corner of sections 3, 4, 33 and 34, Tps. 30 and 31 N., R. 24 W., Fairbanks Meridian;

Thence westerly, between Tps. 30 and 31 N., to the west corner of Tps. 30 and 31 N., R. 24 W., on the boundary of the Fairbanks Meridian;

Thence northerly, between Fairbanks and Kateel River Meridians, to the west corner of Tps. 31 and 32 N., R. 24 W., Fairbanks Meridian;

Thence easterly, between Tps. 31 and 32 N., to the corner of Tps. 31 and 32 N., Rs. 18 and 19 W., Fairbanks Meridian;

Thence northerly, between Rs. 18 and 19 W., to the north corner of T. 32 N., Rs. 18 and 19 W., Fairbanks Meridian;

Thence easterly, along the Eighth Standard Parallel North, to the north corner of T. 32 N., Rs. 17 and 18 W., Fairbanks Meridian;

Thence southerly, between Rs. 17 and 18 W., to the corner of Tps. 31 and 32 N., Rs. 17 and 18 W., Fairbanks Meridian;

Thence easterly, between Tps. 31 and 32 N., to the corner of Tps. 31 and 32 N., Rs. 16 and 17 W., Fairbanks Meridian;

Thence southerly, between Rs. 16 and 17 W., to the corner of Tps. 29 and 30 N., Rs. 16 and 17 W., Fairbanks Meridian;

Thence easterly, between Tps. 29 and 30 N., to the corner of Tps. 29 and 30 N., Rs. 15 and 16 W., Fairbanks Meridian;

Thence southerly, between Rs. 15 and 16 W., to the south corner of T. 29 N., Rs. 15 and 16 W., Fairbanks Meridian;

Thence westerly, along the Seventh Standard Parallel North, to the north corner of T. 28 N., Rs. 16 and 17 W., Fairbanks Meridian;

Thence southerly, between Rs. 16 and 17 W., to the meander corner of sections 31 and 36 at the line of mean high water on the right bank of the most northerly interconnecting waterway of the Koyukuk River, T. 26 N., Rs. 16 and 17 W., Fairbanks Meridian;

Thence northeasterly, along the line of mean high water on the right bank of the most northerly interconnecting waterways of the Middle Fork of the Koyukuk River, closing the mouth of the North Fork Koyukuk River, to the meander corner of sections 13 and 14, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence northerly, between sections 13 and 14, to the north 1/16 section corner of sections 13 and 14, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence easterly, along the east and west centerline of the northwest 1/4 of section 13, to the northwest 1/16 section corner of section 13, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence northerly, along the north and south centerlines of the northwest 1/4 of section 13, and the southwest 1/4 of section 12, to the center-west 1/16 section corner of section 12, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence easterly, on the east and west centerline of section 12, to the center 1/4 section corner of section 12, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence northerly, along the north and south centerlines of sections 12, 1 and 36, to the 1/4 section corner of sections 25 and 36, T. 27 N., R. 14 W., Fairbanks Meridian;

Thence easterly, between sections 25 and 36, to the corner of sections 25, 30, 31 and 36, T. 27 N., Rs. 13 and 14 W., Fairbanks Meridian;

Thence northerly, between Rs. 13 and 14 W., to the corner of sections 19, 24, 25 and 30, T. 27 N., Rs. 13 and 14 W., Fairbanks Meridian;

Thence easterly, between sections 19 and 30, to the corner of sections 19, 20, 29 and 30, T. 27 N., R. 13 W., Fairbanks Meridian;

Thence on an approximate forward bearing of N. 30° E., to the summit of a low point on Twelvemile Mountain located in the southwest portion of section 20, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 2,200 feet;

Thence on an approximate forward bearing of N. 9° E., to a summit of Twelvemile Mountain located in the westerly portion of section 20, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 2,950 feet;

Thence on an approximate forward bearing of N. 3° E., to a summit of Twelvemile Mountain located in the northwesterly portion of section 20, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 3,100 feet;

Thence on an approximate forward bearing of N. 60° E., to the summit of Twelvemile Mountain located in the northerly portion of section 20, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 3,180 feet;

Thence on an approximate forward bearing of N. 36° E., to a summit of Twelvemile Mountain located in the southeasterly portion of section 17, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 3,100 feet;

Thence on an approximate forward bearing of N. 6° E., to the summit of a low point on Twelvemile Mountain located in the easterly portion of section 17, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 2,600 feet;

Thence on an approximate forward bearing of N. 48° W., to the center-north 1/16 section corner of section 17, T. 27 N., R. 13 W., Fairbanks Meridian;

Thence northerly, on the north and south centerline of section 17, to the ¼ section corner of sections 8 and 17, T. 27 N., R. 13 W., Fairbanks Meridian;

Thence westerly, between sections 8 and 17, 7 and 18, 12 and 13, to the corner of sections 11, 12, 13 and 14, T. 27 N., R. 14 W., Fairbanks Meridian;

Thence northerly, between sections 11 and 12, to the 1/4 section corner of sections 11 and 12, T. 27 N., R. 14 W., Fairbanks Meridian;

Thence on an approximate forward bearing of N. 25° W., to the summit of a mountain located in the southerly portion of section 2, T. 27 N., R. 14 W., Fairbanks Meridian, approximate elevation 3,125 feet;

Thence northerly and northeasterly, along the crest of a ridge between the drainages of the North and Middle Forks of the Koyukuk River, to the summit of a mountain located in section 8, T. 30 N., R. 12 W., Fairbanks Meridian, approximate elevation 3,150 feet;

Thence on an approximate forward bearing of N. 27° E., to the 1/4 section corner of sections 5 and 8, T. 30 N., R. 12 W., Fairbanks Meridian;

Thence northerly, on the north and south centerlines of sections 5 and 32, to the center

1/4 section corner of section 32, T. 31 N., R. 12 W., Fairbanks Meridian;

Thence on an approximate forward bearing of N. 16° E., to the summit of a mountain located in the southerly portion of section 29, T. 31 N., R. 12 W., Fairbanks Meridian, approximate elevation 3,020 feet;

Thence northeasterly, along the crest of a ridge between the drainages of Washington Creek, Canyon Creek, Glacier River and the middle Fork of the Koyukuk River, to the summit of a mountain located in the southerly portion of section 2, T. 31 N., R. 12 W., Fairbanks Meridian, approximate elevation 3,150 feet;

Thence on an approximate forward bearing of S. 69° E., to the junction of Hammond River and Canyon Creek located in the easterly portion of section 12, T. 31 N., R. 12 W., Fairbanks Meridian;

Thence on an approximate forward bearing of S. 82° E., to the summit of a mountain located in the easterly portion of section 7, T. 31 N., R. 11 W., Fairbanks Meridian, approximate elevation 2,738 feet;

Thence southeasterly and northerly, along the crest of a ridge, to the summit of a mountain located in the northerly portion of section 11, T. 31 N., R. 11 W., Fairbanks Meridian, approximate elevation 3,065 feet;

Thence on an approximate forward bearing of N. 32° E., to the summit of a mountain located in section 36, T. 32 N., R. 11 W., Fairbanks Meridian, approximate elevation 3,033 feet;

Thence northerly, along the crest of a ridge between the drainages of Vi Creek, Hammond River, Kalhabuk Creek and the Middle Fork of the Koyukuk River, to the northerly point of the crest of a ridge located in section 5, T. 33 N., R. 10 W., Fairbanks Meridian, approximate elevation 4,100 feet;

Thence on an approximate forward bearing of N. 2° W., on a line passing at midpoint between two lakes in section 32, to the crest of a ridge located near the center of section 29, T. 34 N., R. 10 W., Fairbanks Meridian, approximate elevation 3,200 feet;

Thence northwesterly, northerly and northeasterly along the crest of a ridge between drainages of Dietrich and Hammond Rivers, to the summit of a mountain located in the northwesterly portion of section 31, T. 35 N., R. 10 W., Fairbanks Meridian, approximate elevation 3,110 feet;

Thence on an approximate forward bearing of N. 9° E., to the summit of a mountain located in sections 18 and 19, T. 35 N., R. 10 W., Fairbanks Meridian, approximate elevation 4,010 feet;

Thence northerly, along the crest of a ridge between the Dietrich River drainage and Big Jim and Trembley Creeks, to the summit of a mountain located in the southwesterly portion of section 29, T. 36 N., R. 10 W., Fairbanks Meridian, approximate elevation 4,130 feet;

Thence on an approximate forward bearing of N. 8° E., to the summit of a mountain located near the center of section 17, T. 36 N., R. 10 W., Fairbanks Meridian, approximate elevation 4,230 feet;

Thence northerly, along the crest of a ridge between the drainages of Dietrich River and Kuyuktuvuk Creek, to a point of intersection with the Continental Divide, located near the center of section 31, T. 15 S., R. 10 E., Umiat Meridian, approximate elevation 6,000 feet;

Thence southwesterly, along the Continental Divide, along a common boundary with Gates of the Arctic National Preserve (Unit Number 2), to a point on a ridge where the Continental Divide bears southerly, located in the northerly portion of section 2, T. 16 S., R. 9 E., Umiat Meridian, approximate elevation 6,300;

Thence northwesterly, along the crest of a ridge, to a point between sections 12 and 13, T. 15 S., R. 8 E., Umiat Meridian, approximate elevation 4,650 feet;

Thence on an approximate forward bearing of N. 65° W., to the most southerly point on the shore of an unnamed lake located in the Oolah Valley in section 11, T. 15 S., R. 8 E., Umiat Meridian;

Thence on an approximate forward bearing of N. 59° W., to the summit of a mountain located in section 4, T. 15 S., R. 8 E., Umiat Meridian, approximate elevation 6,323 feet;

Thence northwesterly, along the crest of a ridge between the drainages of Itkillik and Nanushuk Rivers, to the summit of a mountain located near the center of section 26, T. 14 S., R. 6 E., Umiat Meridian, approximate elevation 7,118 feet;

Thence on an approximate forward bearing of N. 70° W., to an easterly summit of Marshmallow Mountain located in the easterly portion of section 20, T. 14 S., R. 6 E., Umiat Meridian, approximate elevation 6,570 feet;

Thence westerly, along the crest of Marshmallow Mountain, to a westerly summit of Marshmallow Mountain located in the northerly portion of section 24, T. 14 S., R. 5 E., Umiat Meridian, approximate elevation 6,972 feet;

Thence on an approximate forward bearing of S. 71° W., to the easterly point of the summit of a mountain located in the northerly portion of section 28, T. 14 S., R. 5 E., Umiat Meridian, approximate elevation 6,500 feet;

Thence southwesterly, northwesterly, and northeasterly, along the crest of a ridge between the Alapah Creek, Anaktuvuk River, Itikmalakpak Creek and the Kayak Creek drainages and northwesterly on a spur ridge, to a point between sections 1 and 36, Tps. 13 and 14 S., R. 4 E., Umiat Meridian;

Thence westerly, departing from the common boundary with Gates of the Arctic National Preserve (Unit Number 2), between Tps. 13 and 14 S., to the corner of Tps. 13 and 14 S., Rs. 1 and 2 E., Umiat Meridian;

Thence northerly, between Rs. 1 and 2 E., to the corner of sections 25, 30, 31 and 36, T. 13 S., Rs. 1 and 2 E., Umiat Meridian;

Thence westerly, between sections 25 and 36, 26 and 35, 27 and 34, 28 and 33, 29 and 32, 30 and 31, 25 and 36, 26 and 35, 27 and 34, 28 and 33, 29 and 32, 30 and 31, to the corner of sections 25, 30, 31 and 36, T. 13 S., Rs. 1 and 2 W., Umiat Meridian;

Thence northerly, between Rs. 1 and 2 W., to the north corner of T. 13 S., Rs. 1 and 2 W., Umiat Meridian;

Thence westerly, along the Third Standard Parallel South, to the south corner of T. 12 S., Rs. 1 and 2 W., Umiat Meridian;

Thence northerly, between Rs. 1 and 2 W., to the corner of sections 13, 18, 19 and 24, T. 12 S., Rs. 1 and 2 W., Umiat Meridian;

Thence westerly, between sections 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, to the corner of sections 13, 18, 19 and 24, T. 12 S., Rs. 2 and 3 W., Umiat Meridian;

Thence southerly, between Rs. 2 and 3 W., to the corner of sections 25, 30, 31 and 36, T. 12 S., Rs. 2 and 3 W., Umiat Meridian;

Thence westerly, between sections 25 and 36, to the corner of sections 25, 26, 35 and 36, T. 12 S., R. 3 W., Umiat Meridian;

Thence southerly, between sections 35 and 36 to the south corner of sections 35 and 36, T. 12 S., R. 3 W., Umiat Meridian;

Thence westerly, along the Third Standard Parallel South, to the south corner of sections 34 and 35, T. 12 S., R. 4 W., Umiat Meridian;

Thence northerly, between sections 34 and 35, 26 and 27, 22 and 23, to the corner of sections 14, 15, 22 and 23, T. 12 S., R. 4 W., Umiat Meridian;

Thence westerly, between sections 15 and 22, 16 and 21, 17 and 20, 18 and 19, to the corner of sections 13, 18, 19 and 24, T. 12 S., Rs. 4 and 5 W., Umiat Meridian;

Thence northerly, between Rs. 4 and 5 W., to the corner of sections 13, 18, 19 and 24, T. 11 S., Rs. 4 and 5 W., Umiat Meridian;

Thence westerly, between sections 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, 13 and 24, 14 and 23, 15 and 22, to the corner of sections 15, 16, 21 and 22, T. 11 S., R. 7 W., Umiat Meridian;

Thence southerly, between sections 21 and 22, 27 and 28, 33 and 34, to the corner of sections 3, 4, 33 and 34, Tps. 11 and 12 S., R. 7 W., Umiat Meridian;

Thence westerly, between Tps. 11 and 12 S., to the corner of Tps. 11 and 12 S., Rs. 7 and 8 W., Umiat Meridian;

Thence southerly, between Rs. 7 and 8 W., to the corner of sections 19, 24, 25 and 30, T. 12 S., Rs. 7 and 8 W., Umiat Meridian;

Thence westerly, between sections 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, to the corner of sections 19, 24, 25 and 30, T. 12 S., Rs 10 and 11 W., Umiat Meridian;

Thence southerly, between Rs. 10 and 11 W., to the south corner of T. 12 S., Rs. 10 and 11 W., on the boundary of the Umiat Meridian;

Thence westerly, between the Umiat and Kateel River Meridians, to the north corner of T. 34 N., Rs. 18 and 19 E., Kateel River Meridian;

∧ Thence southerly, between Rs. 18 and 19 E., to the ¼ section corner of sections 7 and 12, T. 34 N., Rs. 18 and 19 E., Kateel River Meridian;

∧ Thence westerly, on the east and west centerline of section 12, to the center-west 1/16 section corner of section 12, T. 34 N., R. 18 E., Kateel River Meridian;

∧ Thence northerly, on the north and south centerline of the northwest ¼ of section 12, to the north corner of lots 3 and 4 of section 12, T. 34 N., R. 18 E., on the boundary of the Kateel River Meridian;

∧ Thence westerly, between Umiat and Kateel River Meridians, to the south corner

of sections 25 and 26, T. 12 S., R. 12 W., Umiat Meridian;

∧ Thence northerly, between sections 25 and 26, to the corner of sections 23, 24, 25 and 26, T. 12 S., R. 12 W., Umiat Meridian;

∧ Thence westerly, between sections 23 and 26, to the ¼ section corner of sections 23 and 26, T. 12 S., R. 12 W., Umiat Meridian;

∧ Thence northerly, on the north and south centerline of section 23, to the center ¼ section corner of section 23, T. 12 S., R. 12 W., Umiat Meridian;

∧ Thence westerly, on the east and west centerlines of sections 23 and 22, to the ¼ section corner of sections 21 and 22, T. 12 S., R. 12 W., Umiat Meridian;

∧ Thence southerly, between sections 21 and 22, 27 and 28, to the south corner of sections 27 and 28, T. 12 S., R. 12 W., on the boundary of the Umiat Meridian;

∧ Thence westerly, between the Kateel River and Umiat Meridians, to the north corner of lots 2 and 3 of section 9, T. 34 N., R. 18 N., Kateel River Meridian;

∧ Thence southerly, on the north and south centerline of section 9, to the center ¼ section corner of section 9, T. 34 N., R. 18 E., Kateel River Meridian;

∧ Thence easterly, on the east and west centerline of section 9, to the ¼ section corner of sections 9 and 10, T. 34 N., R. 18 E., Kateel River Meridian;

∧ Thence southerly, between sections 9 and 10, 15 and 16, to the ¼ section corner of sections 15 and 16, T. 34 N., R. 18 E., Kateel River Meridian;

∧ Thence easterly, on the east and west centerline of section 15, to the center ¼ section corner of section 15, T. 34 N., R. 18 E., Kateel River Meridian;

∧ Thence southerly, on the north and south centerline of section 15, to the ¼ corner of sections 15 and 22, T. 34 N., R. 18 E., Kateel River Meridian;

∧ Thence easterly, between sections 15 and 22, 14 and 23, to the ¼ section corner of sections 14 and 23, T. 34 N., R. 18 E., Kateel River Meridian;

∧ Thence southerly, on the north and south centerline of section 23, to the ¼ section corner of sections 23 and 26, T. 34 N., R. 18 E., Kateel River Meridian;

∧ Thence westerly, between sections 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, to the corner of sections 19, 24, 25 and 30, T. 34 N., Rs. 15 and 16 E., Kateel River Meridian;

Thence northerly, between Rs. 15 and 16 E., to the north corner of T. 34 N., Rs. 15 and 16 E., on the boundary of the Kateel River Meridian;

Thence westerly, between the Kateel River and Umiat Meridians, to a point of intersection between the western portion of section 10, T. 34 N., R. 14 E., Kateel River Meridian and section 27, T. 12 S., R. 16 W., Umiat Meridian, with a line projected due north of a peak located in the western portion of section 26, T. 30 N., R. 14 E., Kateel River Meridian, approximate elevation 4,640 feet;

Thence due south, to a point between sections 2 and 11, T. 30 N., R. 14 E., Kateel River Meridian;

Thence continuing due south, along a common boundary with Noatak National Preserve (Nigu River Addition), to the east and west centerline of section 14, T. 30 N., R. 14 E., Kateel River Meridian;

Thence continuing due south, departing from the common boundary with Noatak National Preserve (Nigu River Addition), to a peak located along the crest of a divide between the drainages of the Nigu and Noatak Rivers in the western portion of section 26, T. 30 N., R. 14 E., Kateel River Meridian, approximate elevation 4,640 feet;

Thence westerly, northerly and northwesterly, along the crest of a divide between the drainages of the Nigu and Noatak Rivers to a summit of a mountain located on a ridge at the junction with a spur ridge located in section 3, T. 30 N., R. 13 E., Kateel River Meridian, approximate elevation 3,250 feet;

Thence southwesterly and westerly, along the crest of a ridge between the drainages of Midas Creek and Mountain Creek, along a common boundary with Noatak National Preserve, to the summit of a mountain located in section 21, T. 30 N., R. 12 E., Kateel River Meridian, approximate elevation 4,021 feet;

Thence on an approximate forward bearing of S. 87° W., to the summit of a hill located in section 24, T. 30 N., R. 11 E., Kateel River Meridian, approximate elevation 3,473 feet;

Thence northwesterly, along the crest of a ridge to the summit of a mountain located in sections 14 and 15, T. 30 N., R. 11 E., Kateel River Meridian, approximate elevation 4,100 feet;

Thence on an approximate forward bearing of S. 28° W., to the summit of a mountain located in section 22, T. 30 N., R. 11 E., Kateel River Meridian, approximate elevation 3,202 feet;

Thence southwesterly, along the crest of a ridge between Douglas Creek and a tributary of the Noatak River, to the summit of a mountain, located in sections 12 and 13, T. 29 N., R. 10 E., Kateel River Meridian, approximate elevation 3,657 feet;

Thence due south, to a point on the right bank of Douglas Creek located in section 24, T. 29 N., R. 10 E., Kateel River Meridian;

Thence southerly, along the right bank of Douglas Creek, to a point on the right bank of Douglas Creek at the junction of the Noatak River and Douglas Creek located in the northern portion of section 2, T. 28 N., R. 10 E., Kateel River Meridian;

Thence on an approximate forward bearing of S. 24° W., to the summit of a mountain located in section 22, T. 28 N., R. 10 E., Kateel River Meridian, approximate elevation 3,439 feet;

Thence on an approximate forward bearing of S. 51° W., to the summit of a small mountain located in sections 28 and 29, T. 28 N., R. 10 E., Kateel River Meridian, approximate elevation 2,441 feet;

Thence easterly, southerly and westerly, along the divide between the drainages of Kavachurak Creek and Tunukuchiak Creek and Ambler River, to the summit of a mountain located in section 22, T. 26 N., R. 9 E., Kateel River Meridian, approximate elevation 4,298 feet;

Thence northerly, along the crest of the spur ridge to the summit of a mountain located in section 15, T. 26 N., R. 9 E., Kateel River Meridian, approximate elevation 3,980 feet;

Thence on an approximate forward bearing of N. 37° W., to the summit of a mountain located in section 5, T. 26 N., R. 9 E., Kateel River Meridian, approximate elevation 4,625 feet;

Thence southwesterly, along the divide between the drainages of the Ambler and Noatak Rivers, to the summit of a mountain located in sections 23 and 24, T. 26 N., R. 8 E., Kateel River Meridian, approximate elevation 4,508 feet;

Thence on an approximate forward bearing of S. 11° W., to the summit of a mountain located in section 35, T. 26 N., R. 8 E., Kateel River Meridian, approximate elevation 4,720 feet;

Thence easterly, southerly, easterly and southerly along the divide between the Ambler and Imelyak Rivers to the summit of a ridge located in the southern half of section 19, T. 25 N., R. 9 E., Kateel River Meridian, approximate elevation 3,600 feet;

Thence southerly, departing from the common boundary with Noatak National Preserve, along the divide between tributaries of the Ambler River, to a point between sections 9 and 16, T. 24 N., R. 9 E., Kateel River Meridian, approximate elevation 2,800 feet;

Thence easterly, between sections 9 and 16, 10 and 15, 11 and 14, to the crest of a ridge between sections 11 and 14, T. 24 N., R. 9 E., Kateel River Meridian, approximate elevation 2,600 feet;

Thence northeasterly, along the crest of a ridge between the drainages of tributaries of the Ambler River to the summit of a mountain located in the northwesterly portion of section 4, T. 24 N., R. 10 E., Kateel River Meridian, approximate elevation 3,609 feet;

Thence on an approximate forward bearing of east, to the summit of a mountain located in the northwesterly portion of section 2, T. 24 N., R. 10 E., Kateel River Meridian, approximate elevation 4,499 feet;

Thence northeasterly, along the crest of a ridge between the drainages of Ulaneak Creek, Ambler and Ipnelivik Rivers, to the summit of a mountain located in section 27, T. 25 N., R. 11 E., Kateel River Meridian, approximate elevation 5,040 feet;

Thence on an approximate forward bearing of S. 28° E., to the summit of a mountain located in sections 34 and 35, T. 25 N., R. 11 E., Kateel River Meridian, approximate elevation 4,600 feet;

Thence southerly, along the crest of a ridge between the drainages of Ipnelivik River and Ulaneak Creek, to the summit of a mountain located in sections 25 and 26, T. 24 N., R. 11 E., Kateel River Meridian, approximate elevation 4,600 feet;

Thence on an approximate forward bearing of S. 60° E., to the summit of a mountain located in section 31, T. 24 N., R. 12 E., Kateel River Meridian, approximate elevation 5,076 feet;

Thence southerly, easterly and northeasterly, along the crest of a ridge, to the summit of a mountain between sections 5 and 32, Tps. 23 and 24 N., R. 12 E., Kateel River Meridian, approximate elevation 4,517 feet;

Thence easterly, between Tps. 23 and 24 N., to the summit of a mountain between sections 4 and 33, Tps. 23 and 24 N., R. 12 E., Kateel River Meridian, approximate elevation 4,926 feet;

Thence southerly, along the crest of a ridge between the drainages of Kogoluktuk River, to the summit of a mountain located in sections 34 and 35, T. 23 N., R. 12 E., Kateel River Meridian, approximate elevation 4,160 feet;

Thence on an approximate forward bearing of S. 20° E., to the summit of a mountain located in section 11, T. 22 N., R. 12 E., Kateel River Meridian, approximate elevation 3,292 feet;

Thence southerly, easterly and southeasterly, along the crest of a ridge between the drainages of Kogoluktuk River and Ivik Creek, to a point between sections 2 and 35, Tps. 21 and 22 N., R. 13 E., Kateel River Meridian;

Thence easterly, between Tps. 21 and 22 N., to the corner of Tps. 21 and 22 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence southerly, between Rs. 18 and 19 E., to the south corner of T. 21 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence westerly, along the Fifth Standard Parallel North, to the north corner of T. 20 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence southerly, between Rs. 18 and 19 E., to the corner of sections 19, 24, 25 and 30, T. 20 N., Rs. 18 and 19 E., Kateel River Meridian, the place of beginning.

Unit Number 2

Beginning at the corner of sections 13, 18, 19 and 24, T. 11 S., Rs. 2 and 3 W., Umiat Meridian;

Thence northerly, between Rs. 2 and 3 W., to the corner of Tps. 9 and 10 S., Rs. 2 and 3 W., Umiat Meridian;

Thence westerly, between Tps. 9 and 10 S., to the corner of Tps. 9 and 10 S., Rs. 3 and 4 W., Umiat Meridian;

Thence northerly, between Rs. 3 and 4 W., to the corner of sections 13, 18, 19 and 24, T. 9 S., Rs. 3 and 4 W., Umiat Meridian;

Thence westerly, between sections 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, 13 and 24, 14 and 23, 15 and 22, to the corner of sections 15, 16, 21 and 22, T. 9 S., R. 5 W., Umiat Meridian;

Thence southerly, between sections 21 and 22, 27 and 28, 33 and 34, 3 and 4, 9 and 10, 15 and 16, to the corner of sections 15, 16, 21 and 22, T. 10 S., R. 5 W., Umiat Meridian;

Thence easterly, between sections 15 and 22, 14 and 23, 13 and 24, to the corner of sections 13, 18, 19 and 24, T. 10 S., Rs. 4 and 5 W., Umiat Meridian;

Thence southerly, between Rs. 4 and 5 W., to the corner of Tps. 10 and 11 S., Rs. 4 and 5 W., Umiat Meridian;

Thence easterly, between Tps. 10 and 11 S., to the corner of sections 4, 5, 32 and 33, Tps. 10 and 11 S., R. 4 W., Umiat Meridian;

Thence southerly, between sections 4 and 5, 8 and 9, 16 and 17, to the corner of sections 16, 17, 20 and 21, T. 11 S., R. 4 W., Umiat Meridian;

Thence easterly, between sections 16 and 21, 15 and 22, 14 and 23, 13 and 24, 18 and 19, 17 and 20, 16 and 21, 15 and 22, 14 and 23, 13 and 24, to the corner of sections 13, 18, 19 and 24, T. 11 S., Rs. 2 and 3 W., Umiat Meridian, the place of beginning.

Gates of the Arctic National Preserve

The complete description of the external boundary for Gates of the Arctic National Preserve is provided below and is identical to the 1992 published description:

Unit Number 1

Beginning at the corner of sections 19, 24, 25 and 30, T. 20 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence easterly, between sections 19 and 30, 20 and 29, 21 and 28, 22 and 27, along a common boundary with Gates of the Arctic National Park (Unit Number 1), to the summit of a ridge located in sections 22 and 27, T. 20 N., R. 19 E., Kateel River Meridian, approximate elevation 4,000 feet;

Thence southeasterly, northeasterly, easterly and southeasterly along the crest of a ridge, to a high point on a ridge located in the westerly portion of section 5, T. 19 N., R. 20 E., Kateel River Meridian, approximate elevation 2,900 feet;

Thence on a approximate forward bearing of S. 14° E., to the summit of a mountain located in section 17, T. 19 N., R. 20 E., Kateel River Meridian, approximate elevation 2,577 feet;

Thence on an approximate forward bearing of S. 14° E., to the corner of sections 20, 21, 28 and 29, T. 19 N., R. 20 E., Kateel River Meridian;

Thence on an approximate forward bearing of east to a point on the left bank of the Kobuk River at the center of the confluence of the outlet stream from Walker Lake with the Kobuk River, in section 19, T. 19 N., R. 21 E., Kateel River Meridian;

Thence northeasterly, along the left bank of the Kobuk River and Kichaiakaka Creek, to a point between sections 1 and 36, Tps. 19 and 20 N., R. 22 E., Kateel River Meridian;

Thence easterly, between Tps. 19 and 20 N., to the corner of Tps. 19 and 20 N., Rs. 22 and 23 E., Kateel River Meridian;

Thence southerly, departing from the common boundary with Gates of the Arctic National Park (Unit Number 1), between Rs. 22 and 23 E., to the corner of Tps. 17 and 18 N., Rs. 22 and 23 E., Kateel River Meridian;

Thence westerly, between Tps. 17 and 18 N., to the corner of Tps. 17 and 18 N., Rs. 20 and 21 E., Kateel River Meridian;

Thence southerly, between Rs. 20 and 21 E., to the south corner of T. 17 N., Rs. 20 and 21 E., Kateel River Meridian;

Thence westerly, along the Fourth Standard Parallel North, to the north corner of T. 16 N., Rs. 20 and 21 E., Kateel River Meridian;

Thence southerly, between Rs. 20 and 21 E., to the corner of Tps. 14 and 15 N., Rs. 20 and 21 E., Kateel River Meridian;

Thence westerly, between Tps. 14 and 15 N., to the corner of Tps. 14 and 15 N., Rs. 14 and 15 E., Kateel River Meridian;

Thence northerly, between Rs. 14 and 15 E., to the north corner of T. 16 N., Rs. 14 and 15 E., Kateel River Meridian;

Thence westerly, along the Fourth Standard Parallel North, to the south corner of T. 17 N., Rs. 13 and 14 E., Kateel River Meridian;

Thence northerly, between Rs. 13 and 14 E., to the corner of Tps. 17 and 18 N., Rs. 13 and 14 E., Kateel River Meridian;

Thence easterly, between Tps. 17 and 18 N., to the corner of Tps. 17 and 18 N., Rs. 14 and 15 E., Kateel River Meridian;

Thence northerly, between Rs. 14 and 15 E., to the corner of Tps. 18 and 19 N., Rs. 14 and 15 E., Kateel River Meridian;

Thence easterly, between Tps. 18 and 19 N., to the corner of Tps. 18 and 19 N., Rs. 15 and 16 E., Kateel River Meridian;

Thence southerly, between Rs. 15 and 16 E., to the corner of Tps. 17 and 18 N., Rs. 15 and 16 E., Kateel River Meridian;

Thence easterly, between Tps. 17 and 18 N., to the corner of Tps. 17 and 18 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence northerly, between Rs. 18 and 19 E., to the corner of sections 19, 24, 25 and 30, T. 20 N., Rs. 18 and 19 E., Kateel River Meridian, the place of beginning.

Unit Number 2

Beginning at a point on the Continental Divide, at the junction of ridges, located near the center of section 31, T. 15 S., R. 10 E., Umiat Meridian, approximate elevation 6,000 feet;

Thence southwesterly, along the Continental Divide, along a common boundary with Gates of the Arctic National Park (Unit Number 1), to a point on a ridge where the Continental Divide bears southerly, located in the northerly portion of section 2, T. 16 S., R. 9 E., Umiat Meridian, approximate elevation 6,300 feet;

Thence northwesterly, along the crest of a ridge, to a point between sections 12 and 13, T. 15 S., R. 8 E., Umiat Meridian, approximate elevation 4,650 feet;

Thence on an approximate forward bearing of N. 65° W., to the most southerly point on the shore of an unnamed lake located in the Oolah Valley in Section 11, T. 15 S., R. 8 E., Umiat Meridian;

Thence on an approximate forward bearing of N. 59° W., to the summit of a mountain located in section 4, T. 15 S., R. 8 E., Umiat Meridian, approximate elevation 6,323 feet;

Thence northwesterly, along the crest of a ridge between the drainages of Itkillik and Nanushuk Rivers, to the summit of a mountain located near the center of section 26, T. 14 S., R. 6 E., Umiat Meridian, approximate elevation 7,118 feet;

Thence on an approximate forward bearing of N. 70° W., to an easterly summit of Marshmallow Mountain located in the easterly portion of section 20, T. 14 S., R. 6 E., Umiat Meridian, approximate elevation 6,570 feet;

Thence westerly, along the crest of Marshmallow Mountain to a westerly summit of Marshmallow Mountain located in the northerly portion of section 24, T. 14 S., R. 5 E., Umiat Meridian, approximate elevation 6,972 feet;

Thence on an approximate forward bearing of S. 71° W., to the easterly point of the summit of a mountain located in the northerly portion of section 28, T. 14 S., R. 5 E., Umiat Meridian, approximate elevation 6,500 feet;

Thence southwesterly, northwesterly, and northeasterly, along the crest of a ridge

between the Alapah Creek, Anaktuvuk River, and Itikmalakpak Creek and the Kayak Creek drainages and northwesterly on a spur ridge, to a point between sections 1 and 36, Tps. 13 and 14 S., R. 4 E., Umiat Meridian;

Thence easterly, departing from the common boundary with Gates of the Arctic National Park (Unit Number 1), between Tps. 13 and 14 S., to the corner of Tps. 13 and 14 S., Rs. 4 and 5 E., Umiat Meridian;

Thence northerly, between Rs. 4 and 5 E., to the corner of sections 13, 18, 19 and 24, T. 13 S., Rs. 4 and 5 E., Umiat Meridian;

Thence easterly, between sections 18 and 19, 17 and 20, to the corner of sections 16, 17, 20 and 21, T. 13 S., R. 5 E., Umiat Meridian;

Thence northerly, between sections 16 and 17, 8 and 9, 4 and 5, to the north corner of sections 4 and 5, T. 13 S., R. 5 E., Umiat Meridian;

Thence easterly, along the Third Standard Parallel South, to the north corner of T. 13 S., Rs. 5 and 6 E., Umiat Meridian;

Thence southerly, between Rs. 5 and 6 E., to the corner of sections 13, 18, 19 and 24, T. 13 S., Rs. 5 and 6 E., Umiat Meridian;

Thence easterly, between sections 18 and 19, 17 and 20, 16 and 21, 15 and 22, 14 and 23, 13 and 24, 18 and 19, 17 and 20, 16 and 21, 15 and 22, 14 and 23, 13 and 24, to the corner of sections 13, 18, 19 and 24, T. 13 S., Rs. 7 and 8 E., Umiat Meridian;

Thence northerly, between Rs. 7 and 8 E., to the north corner of T. 13 S., Rs. 7 and 8 E., Umiat Meridian;

Thence easterly, along the Third Standard Parallel South, to the south corner of T. 12 S., Rs. 8 and 9 E., Umiat Meridian;

Thence northerly, between Rs. 8 and 9 E., to the corner of Tps. 11 and 12 S., Rs. 8 and 9 E., Umiat Meridian;

Thence easterly, between Tps. 11 and 12 S., to a point on the crest of a ridge between sections 6 and 31, Tps. 11 and 12 S., R. 11 E., Umiat Meridian, approximate elevation 4,650 feet;

Thence southerly, along the crest of a ridge between the drainages of Atigun and Itkillik Rivers, to the summit of a mountain located in the southerly portion of section 18, T. 12 S., R. 11 E., Umiat Meridian, approximate elevation 5,156 feet;

Thence on an approximate forward bearing of S. 35° E., to the summit of a mountain located near the center of section 20, T. 12 S., R. 11 E., Umiat Meridian, approximate elevation 4,950 feet;

Thence southeasterly and southwesterly, between the drainages of Atigun and Itkillik Rivers, to the point of intersection with the Continental Divide located at a high point on the ridge in the easterly portion of section 20, T. 15 S., R. 10 E., Umiat Meridian, approximate elevation 6,480 feet;

Thence southwesterly, along the Continental Divide, to a high point on the Continental Divide at the junction of ridges located near the center of section 31, T. 15 S., R. 10 E., Umiat Meridian, approximate elevation 6,000 feet, the place of beginning.

II. Units of the National Wilderness Preservation System Within Gates of the Arctic National Park

Gates of the Arctic Wilderness

The complete amended description of the external boundary for Gates of the Arctic Wilderness, described in its entirety, is as follows:

(1) Unit Number 1

Beginning at the corner of sections 19, 24, 25 and 30, T. 20 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence easterly, between sections 19 and 30, 20 and 29, 21 and 28, 22 and 27, along a common boundary with Gates of the Arctic National Park (Unit Number 1) and National Preserve (Unit Number 1), to the summit of a ridge located in sections 22 and 27, T. 20 N., R. 19 E., Kateel River Meridian, approximate elevation 4,000 feet;

Thence southeasterly, northeasterly, easterly and southeasterly, along the crest of a ridge, to a high point on the ridge located in the westerly portion of section 5, T. 19 N., R. 20 E., Kateel River Meridian, approximate elevation 2,900 feet;

Thence on an approximate forward bearing of S. 14° E., to the summit of a mountain located in section 17, T. 19 N., R. 20 E., Kateel River Meridian, approximate elevation 2,577 feet;

Thence on an approximate forward bearing of S. 14° E., to the corner of sections 20, 21, 28 and 29, T. 19 N., R. 20 E., Kateel River Meridian;

Thence on an approximate forward bearing of east to a point on the left bank of the Kobuk River at the center of the confluence of the outlet stream from Walker Lake with the Kobuk River, in section 19, T. 19 N., R. 21 E., Kateel River Meridian;

Thence northeasterly, along the left bank of the Kobuk River and Kichaiakaka Creek, to a point between sections 1 and 36, Tps. 19 and 20 N., R. 22 E., Kateel River Meridian;

Thence easterly, between Tps. 19 and 20 N., to the corner of Tps. 19 and 20 N., Rs. 22 and 23 E., Kateel River Meridian;

Thence easterly, departing from the common boundary with Gates of the Arctic National Preserve (Unit Number 1) and continuing along the common boundary with the National Park (Unit Number 1), between Tps. 19 and 20 N., to the corner of sections 3, 4, 33 and 34, Tps. 19 and 20 N., R. 23 E., Kateel River Meridian;

Thence northerly, between sections 33 and 34, 27 and 28, 21 and 22, 15 and 16, 9 and 10, 3 and 4, to the north corner of sections 3 and 4, T. 20 N., R. 23 E., Kateel River Meridian;

Thence easterly, along the Fifth Standard Parallel North, to the south corner of T. 21 N., Rs. 23 and 24 E., Kateel River Meridian;

Thence northerly, between Rs. 23 and 24 E., to the corner of Tps. 21 and 22 N., Rs. 23 and 24 E., Kateel River Meridian;

Thence easterly, between Tps. 21 and 22 N., to the corner of sections 3, 4, 33 and 34, Tps. 21 and 22 N., R. 25 E., Kateel River Meridian;

Thence northerly, between sections 33 and 34, 27 and 28, 21 and 22, 15 and 16, 9 and 10, 3 and 4, to the corner of sections 3, 4, 33 and 34, Tps. 22 and 23 N., R. 25 E., Kateel River Meridian;

Thence easterly, between Tps. 22 and 23 N., to the east corner of Tps. 22 and 23 N., R. 26 E., on the boundary of the Kateel River Meridian;

Thence southerly, between Kateel River and Fairbanks Meridians, to the west corner of sections 18 and 19, T. 29 N., R. 24 W., Fairbanks Meridian;

Thence easterly, between sections 18 and 19, 17 and 20, 16 and 21, to the corner of sections 15, 16, 21 and 22, T. 29 N., R. 24 W., Fairbanks Meridian;

Thence northerly, between sections 15 and 16, 9 and 10, 3 and 4, 33 and 34, 27 and 28, 21 and 22, 15 and 16, 9 and 10, 3 and 4, to the corner of sections 3, 4, 33 and 34, Tps. 30 and 31 N., R. 24 W., Fairbanks Meridian;

Thence westerly, between Tps. 30 and 31 N., to the west corner of Tps. 30 and 31 N., R. 24 W., on the boundary of the Fairbanks Meridian;

Thence northerly, between Fairbanks and Kateel River Meridians, to the west corner of Tps. 31 and 32 N., R. 24 W., Fairbanks Meridian;

Thence easterly, between Tps. 31 and 32 N., to the corner of Tps. 31 and 32 N., Rs. 18 and 19 W., Fairbanks Meridian;

Thence northerly, between Rs. 18 and 19 W., to the north corner of T. 32 N., Rs. 18 and 19 W., Fairbanks Meridian;

Thence easterly, along the Eighth Standard Parallel North, to the north corner of T. 32 N., Rs. 17 and 18 W., Fairbanks Meridian;

Thence southerly, between Rs. 17 and 18 W., to the corner of Tps. 31 and 32 N., Rs. 17 and 18 W., Fairbanks Meridian;

Thence easterly, between Tps. 31 and 32 N., to the corner of Tps. 31 and 32 N., Rs. 16 and 17 W., Fairbanks Meridian;

Thence southerly, between Rs. 16 and 17 W., to the corner of Tps. 29 and 30 N., Rs. 16 and 17 W., Fairbanks Meridian;

Thence easterly, between Tps. 29 and 30 N., to the corner of Tps. 29 and 30 N., Rs. 15 and 16 W., Fairbanks Meridian;

Thence southerly, between Rs. 15 and 16 W., to the south corner of T. 29 N., Rs. 15 and 16 W., Fairbanks Meridian;

Thence westerly, along the Seventh Standard Parallel North, to the north corner of T. 28 N., Rs. 16 and 17 W., Fairbanks Meridian;

Thence southerly, between Rs. 16 and 17 W., to the meander corner of sections 31 and 36 at the line of mean high water on the right bank of the most northerly interconnecting waterway of the Koyukuk River, T. 26 N., Rs. 16 and 17 W., Fairbanks Meridian;

Thence northeasterly, along the line of mean high water on the right bank of the most northerly interconnecting waterways of the Middle Fork of the Koyukuk River, closing the mouth of the North Fork Koyukuk River, to the meander corner of sections 13 and 14, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence northerly, between sections 13 and 14, to the north 1/16 section corner of sections 13 and 14, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence easterly, along the east and west centerline of the northwest 1/4 of section 13, to the northwest 1/16 section corner of section 13, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence northerly, along the north and south centerlines of the northwest ¼ of section 13, and the southwest ¼ of section 12, to the center-west 1/16 section corner of section 12, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence easterly, on the east and west centerline of section 12, to the center ¼ section corner of section 12, T. 26 N., R. 14 W., Fairbanks Meridian;

Thence northerly, along the north and south centerlines of sections 12, 1 and 36, to the ¼ section corner of sections 25 and 36, T. 27 N., R. 14 W., Fairbanks Meridian;

Thence easterly, between sections 25 and 36, to the corner of sections 25, 30, 31 and 36, T. 27 N., Rs. 13 and 14 W., Fairbanks Meridian;

Thence northerly, between Rs. 13 and 14 W., to the corner of sections 19, 24, 25 and 30, T. 27 N., Rs. 13 and 14 W., Fairbanks Meridian;

Thence easterly, between sections 19 and 30, to the corner of sections 19, 20, 29 and 30, T. 27 N., R. 13 W., Fairbanks Meridian;

Thence on an approximate forward bearing of N. 30° E., to the summit of a low point on Twelvemile Mountain located in the southwest portion of section 20, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 2,200 feet;

Thence on an approximate forward bearing of N. 9° E., to a summit of Twelvemile Mountain located in the westerly portion of section 20, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 2,950 feet;

Thence on an approximate forward bearing of N. 3° E., to a summit of Twelvemile Mountain located in the northwesterly portion of section 20, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 3,100 feet;

Thence on an approximate forward bearing of N. 60° E., to the summit of Twelvemile Mountain located in the northerly portion of section 20, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 3,180 feet;

Thence on an approximate forward bearing of N. 36° E., to a summit of Twelvemile Mountain located in the southeasterly portion of section 17, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 3,100 feet;

Thence on an approximate forward bearing of N. 6° E., to the summit of a low point on Twelvemile Mountain located in the easterly portion of section 17, T. 27 N., R. 13 W., Fairbanks Meridian, approximate elevation 2,600 feet;

Thence on an approximate forward bearing of N. 48° W., to the center-north 1/16 section corner of section 17, T. 27 N., R. 13 W., Fairbanks Meridian;

Thence northerly, on the north and south centerline of section 17, to the ¼ section corner of sections 8 and 17, T. 27 N., R. 13 W., Fairbanks Meridian;

Thence westerly, between sections 8 and 17, 7 and 18, 12 and 13, to the corner of sections 11, 12, 13 and 14, T. 27 N., R. 14 W., Fairbanks Meridian;

Thence northerly, between sections 11 and 12, to the ¼ section corner of sections 11 and 12, T. 27 N., R. 14 W., Fairbanks Meridian;

Thence on an approximate forward bearing of N. 25° W., to the summit of a mountain located in the southerly portion of section 2, T. 27 N., R. 14 W., Fairbanks Meridian, approximate elevation 3,125 feet;

Thence northerly and northeasterly, along the crest of a ridge between the drainages of the North and Middle Forks of the Koyukuk River, to the summit of a mountain located in section 8, T. 30 N., R. 12 W., Fairbanks Meridian, approximate elevation 3,150 feet;

Thence on an approximate forward bearing of N. 27° E., to the ¼ section corner of sections 5 and 8, T. 30 N., R. 12 W., Fairbanks Meridian;

Thence northerly, on the north and south centerlines of sections 5 and 32, to the center ¼ section corner of section 32, T. 31 N., R. 12 W., Fairbanks Meridian;

Thence on an approximate forward bearing of N. 16° E., to the summit of a mountain located in the southerly portion of section 29, T. 31 N., R. 12 W., Fairbanks Meridian, approximate elevation 3,020 feet;

Thence northeasterly, along the crest of a ridge between the drainages of Washington Creek, Canyon Creek, Glacier River and the middle Fork of the Koyukuk River, to the summit of a mountain located in the southerly portion of section 2, T. 31 N., R. 12 W., Fairbanks Meridian, approximate elevation 3,150 feet;

Thence on an approximate forward bearing of S. 69° E., to the junction of Hammond River and Canyon Creek located in the easterly portion of section 12, T. 31 N., R. 12 W., Fairbanks Meridian;

Thence on an approximate forward bearing of S. 82° E., to the summit of a mountain located in the easterly portion of section 7, T. 31 N., R. 11 W., Fairbanks Meridian, approximate elevation 2,738 feet;

Thence southeasterly and northerly, along the crest of a ridge, to the summit of a mountain located in the northerly portion of section 11, T. 31 N., R. 11 W., Fairbanks Meridian, approximate elevation 3,065 feet;

Thence on an approximate forward bearing of N. 32° E., to the summit of a mountain located in section 36, T. 32 N., R. 11 W., Fairbanks Meridian, approximate elevation 3,033 feet;

Thence northerly, along the crest of a ridge between the drainages of Vi Creek, Hammond River, Kalhabuk Creek and the Middle Fork of the Koyukuk River, to the northerly point of the crest of a ridge located in section 5, T. 33 N., R. 10 W., Fairbanks Meridian, approximate elevation 4,100 feet;

Thence on an approximate forward bearing of N. 2° W., on a line passing at midpoint between two lakes in section 32, to the crest of a ridge located near the center of section 29, T. 34 N., R. 10 W., Fairbanks Meridian, approximate elevation 3,200 feet;

Thence northwesterly, northerly and northeasterly along the crest of a ridge between drainages of Dietrich and Hammond Rivers, to the summit of a mountain located in the northwesterly portion of section 31, T. 35 N., R. 10 W., Fairbanks Meridian, approximate elevation 3,110 feet;

Thence on an approximate forward bearing of N. 9° E., to the summit of a mountain located in sections 18 and 19, T. 35 N., R. 10 W., Fairbanks Meridian, approximate elevation 4,010 feet;

Thence northerly, along the crest of a ridge between the Dietrich River drainage and Big Jim and Trembley Creeks, to the summit of a mountain located in the southwesterly portion of section 29, T. 36 N., R. 10 W., Fairbanks Meridian, approximate elevation 4,130 feet;

Thence on an approximate forward bearing of N. 8° E., to the summit of a mountain located near the center of section 17, T. 36 N., R. 10 W., Fairbanks Meridian, approximate elevation 4,230 feet;

Thence northerly, along the crest of a ridge between the drainages of Dietrich River and Kuyuktuvuk Creek, to a point of intersection with the Continental Divide, located near the center of section 31, T. 15 S., R. 10 E., Umiat Meridian, approximate elevation 6,000 feet;

Thence southwesterly, along the Continental Divide, along a common boundary with Gates of the Arctic National Park (Unit Number 1) and National Preserve (Unit Number 2), to a point on a ridge where the Continental Divide bears southerly, located in the northerly portion of section 2, T. 16 S., R. 9 E., Umiat Meridian, approximate elevation 6,300;

Thence northwesterly, along the crest of a ridge, to a point between sections 12 and 13, T. 15 S., R. 8 E., Umiat Meridian, approximate elevation 4,650 feet;

Thence on an approximate forward bearing of N. 65° W., to the most southerly point on the shore of an unnamed lake located in the Oolah Valley in section 11, T. 15 S., R. 8 E., Umiat Meridian;

Thence on an approximate forward bearing of N. 59° W., to the summit of a mountain located in section 4, T. 15 S., R. 8 E., Umiat Meridian, approximate elevation 6,323 feet;

Thence northwesterly, along the crest of a ridge between the drainages of Itkillik and Nanushuk Rivers, to the summit of a mountain located near the center of section 26, T. 14 S., R. 6 E., Umiat Meridian, approximate elevation 7,118 feet;

Thence on an approximate forward bearing of N. 70° W., to an easterly summit of Marshmallow Mountain located in the easterly portion of section 20, T. 14 S., R. 6 E., Umiat Meridian, approximate elevation 6,570 feet;

Thence westerly, along the crest of Marshmallow Mountain, to a westerly summit of Marshmallow Mountain located in the northerly portion of section 24, T. 14 S., R. 5 E., Umiat Meridian, approximate elevation 6,972 feet;

Thence on an approximate forward bearing of S. 71° W., to the easterly point of the summit of a mountain located in the northerly portion of section 28, T. 14 S., R. 5 E., Umiat Meridian, approximate elevation 6,500 feet;

Thence southwesterly, northwesterly, and northeasterly, along the crest of a ridge between the Alapah Creek, Anaktuvuk River, Itikmalakpak Creek and the Kayak Creek drainages and northwesterly on a spur ridge, to a point between sections 1 and 36, Tps. 13 and 14 S., R. 4 E., Umiat Meridian;

^Thence westerly, departing from the common boundary with Gates of the Arctic National Preserve (Unit Number 2) and continuing along the common boundary with the National Park (Unit Number 1), between Tps. 13 and 14 S., to the corner of sections 4, 5, 32 and 33, Tps. 13 and 14 S., R. 3 E., Umiat Meridian;

∧Thence southerly, departing from the common boundary with Gates of the Arctic National Park (Unit Number 1), between sections 4 and 5, 8 and 9, 16 and 17, 20 and 21, 28 and 29, to the corner of sections 28, 29, 32 and 33, T. 14 S., R. 3 E., Umiat Meridian;

∧Thence westerly, between sections 29 and 32, to the corner of sections 29, 30, 31 and 32, T. 14 S., R. 3 E., Umiat Meridian;

∧Thence southerly, between sections 31 and 32, to the corner of sections 5, 6, 31 and 32, Tps. 14 and 15 S., R. 3 E., Umiat Meridian;

∧Thence westerly, between Tps. 14 and 15 S., to the corner of Tps. 14 and 15 S., Rs. 2 and 3 E., Umiat Meridian;

∧Thence southerly, between Rs. 2 and 3 E., to the corner of sections 7, 12, 13 and 18, T. 15 S., Rs. 2 and 3 E., Umiat Meridian;

∧Thence easterly, between sections 7 and 18, to the west 1/16 section corner of sections 7 and 18, T. 15 S., R. 3 E., Umiat Meridian;

∧Thence southerly, on the north and south centerline of the northwest ¼ of section 18, to the northwest 1/16 section corner of section 18, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerline of the northwest ¼ of section 18, to the center-north 1/16 section corner of section 18, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of section 18, to the center ¼ section corner of section 18, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerline of section 18, to the center-east 1/16 section corner of section 18, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of the southeast ¼ of section 18, to the southeast 1/16 section corner of section 18, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerlines of the southeast ¼ of section 18, the south ½ of section 17, and the south ½ of section 16, to the southeast 1/16 section corner of section 16, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of the southeast ¼ of section 16, to the east 1/16 section corner of sections 16 and 21, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence easterly, between sections 16 and 21, 15 and 22, to the west 1/16 section corner of sections 15 and 22, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of the northwest ¼ of section 22, to the northwest 1/16 section corner of section 22, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerline of the northwest ¼ of section 22, to the center-north 1/16 section corner of section 22, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of section 22, to the center ¼ section corner of section 22, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerlines of sections 22 and 23, to the center-west 1/16 section corner of section 23, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of the southwest ¼ of section 23, to the southwest 1/16 section corner of section 23, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerline of the south ½ of section 23, to the southeast 1/16 section corner of section 23, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of the southeast ¼ of section 23, to the east 1/16 section corner of sections 23 and 26, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence easterly, between sections 23 and 26, 24 and 25, to the ¼ section corner of sections 24 and 25, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence northerly, on the north and south centerline of section 24, to the center-south 1/16 section corner of section 24, T. 15 S., R. 3 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerline of the southeast ¼ of section 24, to the south 1/16 section corner of sections 19 and 24, T. 15 S., Rs. 3 and 4 E., Umiat Meridian;

∧ Thence northerly, between Rs. 3 and 4 E., to the ¼ section corner of sections 19 and 24, T. 15 S., Rs. 3 and 4 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerline of section 19, to the center ¼ section corner of section 19, T. 15 S., R. 4 E., Umiat Meridian;

∧ Thence northerly, on the north and south centerline of section 19, to the ¼ section corner of sections 18 and 19, T. 15 S., R. 4 E., Umiat Meridian;

∧ Thence easterly, between sections 18 and 19, 17 and 20, 16 and 21, 15 and 22, 14 and 23, 13 and 24, to the corner of sections 13, 18, 19 and 24, T. 15 S., Rs. 4 and 5 E., Umiat Meridian;

∧ Thence southerly, between Rs. 4 and 5 E., to the south 1/16 section corner of sections 19 and 24, T. 15 S., Rs. 4 and 5 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerline of the southwest ¼ of section 19, to the center-south 1/16 section corner of section 19, T. 15 S., R. 5 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of section 19, to the ¼ section corner of sections 19 and 30, T. 15 S., R. 5 E., Umiat Meridian;

∧ Thence easterly, between sections 19 and 30, 20 and 29, 21 and 28, to the west 1/16 section corner of sections 21 and 28, T. 15 S., R. 5 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of the northwest ¼ of section 28, to the center-west 1/16 section corner of section 28, T. 15 S., R. 5 E., Umiat Meridian;

∧ Thence easterly, on the the east and west centerline of section 28, to the center ¼ section corner of section 28, T. 15 S., R. 5 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerline of section 28, to the center-south 1/16 section corner of section 28, T. 15 S., R. 5 E., Umiat Meridian;

∧ Thence easterly, on the centerlines of the southeast ¼ of section 28, and the south ½ of section 27, to the south 1/16 section corner of sections 26 and 27, T. 15 S., R. 5 E., Umiat Meridian;

∧ Thence southerly, between sections 26 and 27, 34 and 35, to the south 1/16 section corner of sections 34 and 35, T. 15 S., R. 5 E., Umiat Meridian;

∧ Thence westerly, on the east and west centerline of the southeast ¼ of section 34, to the southeast 1/16 section corner of section 34, T. 15 S., R. 5 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerlines of the southeast ¼ of section 34, and the northeast ¼ of section 3, to the northeast 1/16 section corner of section 3, T. 16 S., R. 5 E., Umiat Meridian;

∧ Thence westerly, on the east and west centerline of the northeast ¼ section 3, to the center-north 1/16 section corner of section 3, T. 16 S., R. 5 E., Umiat Meridian;

∧ Thence southerly, on the north and south centerlines of sections 3 and 10, to the ¼ section corner of sections 10 and 15, T. 16 S., R. 5 E., Umiat Meridian;

∧ Thence westerly, between sections 10 and 15, 9 and 16, 8 and 17, 7 and 18, to the corner of sections 7, 12, 13 and 18, T. 16 S., Rs. 4 and 5 E., Umiat Meridian;

∧ Thence southerly, between Rs. 4 and 5 E., to the corner of sections 13, 18, 19 and 24, T. 16 S., Rs. 4 and 5 E., Umiat Meridian;

∧ Thence westerly, between sections 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, to the corner of sections 13, 18, 19 and 24, T. 16 S., Rs. 3 and 4 E., Umiat Meridian;

Thence southerly, between Rs. 3 and 4 E., to the corner of sections 25, 30, 31 and 36, T. 16 S., Rs. 3 and 4 E., Umiat Meridian;

Thence westerly, between sections 25 and 36, 26 and 35, 27 and 34, 28 and 33, 29 and 32, 30 and 31, to the corner of sections 25, 30, 31 and 36, T. 16 S., Rs. 2 and 3 E., Umiat Meridian;

∧ Thence southerly, between Rs. 2 and 3 E., to the corner of Tps. 16 and 17 S., Rs. 2 and 3 E., Umiat Meridian;

∧ Thence westerly, between Tps. 16 and 17 S., to the corner of Tps. 16 and 17 S., Rs. 1 and 2 E., Umiat Meridian;

Thence northerly, between Rs. 1 and 2 E., to the corner of sections 1, 6, 7 and 12, T. 16 S., Rs. 1 and 2 E., Umiat Meridian;

Thence westerly, between sections 1 and 12, 2 and 11, to the corner of sections 2, 3, 10 and 11, T. 16 S., R. 1 E., Umiat Meridian;

Thence southerly, between sections 10 and 11, to the corner of sections 10, 11, 14 and 15, T. 16 S., R. 1 E., Umiat Meridian;

Thence westerly, between sections 10 and 15, to the corner of sections 9, 10, 15 and 16, T. 16 S., R. 1 E., Umiat Meridian;

Thence southerly, between sections 15 and 16, 21 and 22, to the corner of sections 21, 22, 27 and 28, T. 16 S., R. 1 E., Umiat Meridian;

Thence westerly, between sections 21 and 28, to the corner of sections 20, 21, 28 and 29, T. 16 S., R. 1 E., Umiat Meridian;

Thence northerly, between sections 20 and 21, to the corner of sections 16, 17, 20 and 21, T. 16 S., R. 1 E., Umiat Meridian;

Thence westerly, between sections 17 and 20, to the corner of sections 17, 18, 19 and 20, T. 16 S., R. 1 E., Umiat Meridian;

∧ Thence southerly, between sections 19 and 20, 29 and 30, 31 and 32 to the corner of sections 5, 6, 31 and 32, Tps. 16 and 17 S., R. 1 E., Umiat Meridian;

∧ Thence westerly, between Tps. 16 and 17 S., to the corner of Tps. 16 and 17 S., Rs. 1 E. and 1 W., Umiat Meridian;

∧ Thence northerly, between Rs. 1 E. and 1 W., to the corner of sections 25, 30, 31 and 36, T. 16 S., Rs. 1 E. and 1 W., Umiat Meridian;

Thence westerly, between sections 25 and 36, to the corner of sections 25, 26, 35 and 36, T. 16 S., R. 1 W., Umiat Meridian;

Thence southerly, between sections 35 and 36, to the corner of sections 1, 2, 35 and 36, Tps. 16 and 17 S., R. 1 W., Umiat Meridian;

Thence westerly, between Tps. 16 and 17 S., to the corner of sections 2, 3, 34 and 35, Tps. 16 and 17 S., R. 1 W., Umiat Meridian;

Thence southerly, between sections 2 and 3, to the south corner of sections 2 and 3, on the boundary of the Umiat Meridian, T. 17 S., R. 1 W.;

Thence westerly, between the Umiat and Fairbanks Meridians, to the south corner of sections 4 and 5, T. 17 S., R. 1 W., Umiat Meridian;

Thence northerly, between sections 4 and 5, 32 and 33, to the corner of sections 28, 29, 32 and 33, T. 16 S., R. 1 W., Umiat Meridian;

∧Thence westerly, between sections 29 and 32, 30 and 31, 25 and 36, 26 and 35, to the corner of sections 26, 27, 34 and 35, T. 16 S., R. 2 W., Umiat Meridian;

∧Thence southerly, between sections 34 and 35, to the corner of sections 2, 3, 34 and 35, Tps. 16 and 17 S., R. 2 W., Umiat Meridian;

∧Thence westerly, between Tps. 16 and 17 S., to the corner of sections 1, 2, 35 and 36, Tps. 16 and 17 S., R. 3 W., Umiat Meridian;

∧Thence northerly, between sections 35 and 36, 25 and 26, 23 and 24, 13 and 14, 11 and 12, to the corner of sections 1, 2, 11 and 12, T. 16 S., R. 3 W., Umiat Meridian;

∧Thence easterly, between sections 1 and 12, to the corner of sections 1, 6, 7 and 12, T. 16 S., Rs. 2 and 3 W., Umiat Meridian;

∧Thence southerly, between Rs. 2 and 3 W., to the corner of sections 13, 18, 19 and 24, T. 16 S., Rs. 2 and 3 W., Umiat Meridian;

∧Thence easterly, between sections 18 and 19, to the corner of sections 17, 18, 19 and 20, T. 16 S., R. 2 W., Umiat Meridian;

∧Thence southerly, between sections 19 and 20, to the 1/4 section corner of sections 19 and 20, T. 16 S., R. 2 W., Umiat Meridian;

∧Thence easterly, on the east and west centerlines of sections 20, 21, 22, 23 and 24, to the center 1/4 section corner of section 24, T. 16 S., R. 2 W., Umiat Meridian;

∧Thence northerly, on the north and south centerline of section 24, to the 1/4 section corner of sections 13 and 24, T. 16 S., R. 2 W., Umiat Meridian;

∧Thence easterly, between sections 13 and 24, to the corner of sections 13, 18, 19 and 24, T. 16 S., Rs. 1 and 2 W., Umiat Meridian;

∧Thence northerly, between Rs. 1 and 2 W., to the corner of sections 1, 6, 7 and 12, T. 16 S., Rs. 1 and 2 W., Umiat Meridian;

∧Thence westerly, between sections 1 and 12, 2 and 11, to the corner of sections 2, 3, 10 and 11, T. 16 S., R. 2 W., Umiat Meridian;

∧Thence northerly, between sections 2 and 3, 34 and 35, to the corner of sections 26, 27, 34 and 35, T. 15 S., R. 2 W., Umiat Meridian;

∧Thence easterly, between sections 26 and 35, 25 and 36, to the corner of sections 25, 30, 31 and 36, T. 15 S., Rs. 1 and 2 W., Umiat Meridian;

∧Thence southerly, between Rs. 1 and 2 W., to the 1/4 section corner of sections 31 and 36, T. 15 S., Rs. 1 and 2 W., Umiat Meridian;

∧Thence easterly, on the east and west centerlines of sections 31, 32, 33 and 34, to the 1/4 section corner of sections 34 and 35, T. 15 S., R. 1 W., Umiat Meridian;

∧Thence northerly, between sections 34 and 35, 26 and 27, to the corner of sections 22, 23, 26 and 27, T. 15 S., R. 1 W., Umiat Meridian;

Thence westerly, between sections 22 and 27, 21 and 28, to the corner of sections 20, 21, 28 and 29, T. 15 S., R. 1 W., Umiat Meridian;

Thence northerly, between sections 20 and 21, to the corner of sections 16, 17, 20 and 21, T. 15 S., R. 1 W., Umiat Meridian;

∧Thence westerly, between sections 17 and 20, 18 and 19, 13 and 24, to the corner of sections 13, 14, 23 and 24, T. 15 S., R. 2 W., Umiat Meridian;

∧Thence northerly, between sections 13 and 14, to the corner of sections 11, 12, 13 and 14, T. 15 S., R. 2 W., Umiat Meridian;

∧Thence westerly, between sections 11 and 14, 10 and 15, 9 and 16, 8 and 17, to the corner of sections 7, 8, 17 and 18, T. 15 S., R. 2 W., Umiat Meridian;

∧Thence northerly, between sections 7 and 8, to the corner of sections 5, 6, 7 and 8, T. 15 S., R. 2 W., Umiat Meridian;

∧Thence westerly, between sections 6 and 7, to the corner of sections 1, 6, 7 and 12, T. 15 S., Rs. 2 and 3 W., Umiat Meridian;

∧Thence northerly, between Rs. 2 and 3 W., to the corner of Tps. 14 and 15 S., Rs. 2 and 3 W., Umiat Meridian;

∧Thence westerly, between Tps. 14 and 15 S., to the corner of sections 4, 5, 32 and 33, Tps. 14 and 15 S., R. 3 W., Umiat Meridian;

∧Thence southerly, between sections 4 and 5, to the 1/4 section corner of sections 4 and 5, T. 15 S., R. 3 W., Umiat Meridian;

∧Thence westerly, on the east and west centerlines of sections 5, 6, 1 and 2, to the 1/4 section corner of sections 2 and 3, T. 15 S., R. 4 W., Umiat Meridian;

∧Thence northerly, between sections 2 and 3, to the corner of sections 2, 3, 34 and 35, Tps. 14 and 15 S., R. 4 W., Umiat Meridian;

∧Thence westerly, between Tps. 14 and 15 S., to the corner of sections 3, 4, 33 and 34, Tps. 14 and 15 S., R. 4 W., Umiat Meridian;

∧Thence northerly, between sections 33 and 34, 27 and 28, 21 and 22, to the corner of sections 15, 16, 21 and 22, T. 14 S., R. 4 W., Umiat Meridian;

∧Thence easterly, between sections 15 and 22, to the corner of sections 14, 15, 22 and 23, T. 14 S., R. 4 W., Umiat Meridian;

∧Thence northerly, between sections 14 and 15, 10 and 11, to the corner of sections 2, 3, 10 and 11, T. 14 S., R. 4 W., Umiat Meridian;

∧Thence easterly, between sections 2 and 11, to the corner of sections 1, 2, 11 and 12, T. 14 S., R. 4 W., Umiat Meridian;

∧Thence northerly, between sections 1 and 2, to the corner of sections 1, 2, 35 and 36, Tps. 13 and 14 S., R. 4 W., Umiat Meridian;

∧Thence easterly, between Tps. 13 and 14 S., to the east 1/16 section corner of sections 1 and 36, Tps. 13 and 14 S., R. 4 W., Umiat Meridian;

∧Thence northerly, on the north and south centerline of the east 1/2 of section 36, to the east 1/16 section corner of sections 25 and 36, T. 13 S., R. 4 W., Umiat Meridian;

∧Thence easterly, between sections 25 and 36, to the corner of sections 25, 30, 31 and 36, T. 13 S., Rs. 3 and 4 W., Umiat Meridian;

∧Thence northerly, between Rs. 3 and 4 W., to the north corner of T. 13 S., Rs. 3 and 4 W., Umiat Meridian;

∧Thence westerly, along the Third Standard Parallel South, along a common boundary with Gates of the Arctic National Park (Unit Number 1), to the south corner of sections 34 and 35, T. 12 S., R. 4 W., Umiat Meridian;

Thence northerly, between sections 34 and 35, 26 and 27, 22 and 23, to the corner of sections 14, 15, 22 and 23, T. 12 S., R. 4 W., Umiat Meridian;

Thence westerly, between sections 15 and 22, 16 and 21, 17 and 20, 18 and 19, to the corner of sections 13, 18, 19 and 24, T. 12 S., Rs. 4 and 5 W., Umiat Meridian;

Thence northerly, between Rs. 4 and 5 W., to the corner of sections 13, 18, 19 and 24, T. 11 S., Rs. 4 and 5 W., Umiat Meridian;

Thence westerly, between sections 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, 13 and 24, 14 and 23, 15 and 22, to the corner of sections 15, 16, 21 and 22, T. 11 S., R. 7 W., Umiat Meridian;

Thence southerly, between sections 21 and 22, 27 and 28, 33 and 34, to the corner of sections 3, 4, 33 and 34, Tps. 11 and 12 S., R. 7 W., Umiat Meridian;

Thence westerly, between Tps. 11 and 12 S., to the corner of Tps. 11 and 12 S., Rs. 7 and 8 W., Umiat Meridian;

Thence southerly, between Rs. 7 and 8 W., to the corner of sections 19, 24, 25 and 30, T. 12 S., Rs. 7 and 8 W., Umiat Meridian;

Thence westerly, between sections 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, to the corner of sections 19, 24, 25 and 30, T. 12 S., Rs. 10 and 11 W., Umiat Meridian;

Thence southerly, between Rs. 10 and 11 W., to the south corner of T. 12 S., Rs. 10 and 11 W., on the boundary of the Umiat Meridian;

Thence westerly, between the Umiat and Kateel River Meridians, to the north corner of T. 34 N., Rs. 18 and 19 E., Kateel River Meridian;

∧Thence southerly, between Rs. 18 and 19 E., to the 1/4≤ section corner of sections 7 and 12, T. 34 N., Rs. 18 and 19 E., Kateel River Meridian;

∧Thence westerly, on the east and west centerline of section 12, to the center-west 1/16 section corner of section 12, T. 34 N., R. 18 E. Kateel River Meridian;

∧Thence northerly, on the north and south centerline of the northwest 1/4 of section 12, to the north corner of lots 3 and 4 of section 12, T. 34 N., R. 18 E., on the boundary of the Kateel River Meridian;

∧Thence westerly, between Umiat and Kateel River Meridians, to the south corner of sections 25 and 26, T. 12 S., R. 12 W., Umiat Meridian;

∧Thence northerly, between sections 25 and 26, to the corner of sections 23, 24, 25 and 26, T. 12 S., R. 12 W., Umiat Meridian;

∧Thence westerly, between sections 23 and 26, to the 1/4 section corner of sections 23 and 26, T. 12 S., R. 12 W., Umiat Meridian;

∧Thence northerly, on the north and south centerline of section 23, to the center 1/4 section corner of section 23, T. 12 S., R. 12 W., Umiat Meridian;

∧Thence westerly, on the east and west centerlines of sections 23 and 22, to the 1/4 section corner of sections 21 and 22, T. 12 S., R. 12 W., Umiat Meridian;

∧Thence southerly, between sections 21 and 22, 27 and 28, to the south corner of sections 27 and 28, T. 12 S., R. 12 W., on the boundary of the Umiat Meridian;

∧Thence westerly, between the Kateel River and Umiat Meridians, to the north corner of lots 2 and 3 of section 9, T. 34 N., R. 18 N., Kateel River Meridian;

∧Thence southerly, on the north and south centerline of section 9, to the center 1/4 section corner of section 9, T. 34 N., R. 18 E., Kateel River Meridian;

∧Thence easterly, on the east and west centerline of section 9, to the 1/4 section corner of sections 9 and 10, T. 34 N., R. 18 E., Kateel River Meridian;

∧Thence southerly, between sections 9 and 10, 15 and 16, to the 1/4 section corner of sections 15 and 16, T. 34 N., R. 18 E., Kateel River Meridian;

∧Thence easterly, on the east and west centerline of section 15, to the center 1/4 section corner of section 15, T. 34 N., R. 18 E., Kateel River Meridian;

∧Thence southerly, on the north and south centerline of section 15, to the 1/4 corner of sections 15 and 22, T. 34 N., R. 18 E., Kateel River Meridian;

∧Thence easterly, between sections 15 and 22, 14 and 23, to the 1/4 section corner of sections 14 and 23, T. 34 N., R. 18 E., Kateel River Meridian;

∧Thence southerly, on the north and south centerline of section 23, to the 1/4 section corner of sections 23 and 26, T. 34 N., R. 18 E., Kateel River Meridian;

∧Thence westerly, between sections 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, 24 and 25, 23 and 26, 22 and 27, 21 and 28, 20 and 29, 19 and 30, to the corner of sections 19, 24, 25 and 30, T. 34 N., Rs. 15 and 16 E., Kateel River Meridian;

Thence northerly, between Rs. 15 and 16 E., to the north corner of T. 34 N., Rs. 15 and 16 E., on the boundary of the Kateel River Meridian;

Thence westerly, between the Kateel River and Umiat Meridians, to a point of intersection between the western portion of section 10, T. 34 N., R. 14 E., Kateel River Meridian and section 27, T. 12 S., R. 16 W., Umiat Meridian, with a line projected due north of a peak located in the western portion of section 26, T. 30 N., R. 14 E., Kateel River Meridian, approximate elevation 4,640 feet;

Thence due south to a peak located along the crest of a divide between the drainages of the Nigu and Noatak Rivers in the western portion of section 26, T. 30 N., R. 14 E., Kateel River Meridian, approximate elevation 4,640 feet;

Thence westerly, northerly and northwesterly, along the crest of a divide between the drainages of the Nigu and Noatak Rivers to a summit of a mountain located on a ridge at the junction with a spur ridge located in section 3, T. 30 N., R. 13 E., Kateel River Meridian, approximate elevation 3,250 feet;

Thence southwesterly and westerly, along the crest of a ridge between the drainages of Midas Creek and Mountain Creek, to the summit of a mountain located in section 21, T. 30 N., R. 12 E., Kateel River Meridian, approximate elevation 4,021 feet;

Thence on an approximate forward bearing of S. 87° W., to the summit of a hill located in section 24, T. 30 N., R. 11 E., Kateel River Meridian, approximate elevation 3,473 feet;

Thence northwesterly, along the crest of a ridge to the summit of a mountain located in sections 14 and 15, T. 30 N., R. 11 E., Kateel River Meridian, approximate elevation 4,100 feet;

Thence on an approximate forward bearing of S. 28° W., to the summit of a mountain located in section 22, T. 30 N., R. 11 E., Kateel River Meridian, approximate elevation 3,202 feet;

Thence southwesterly, along the crest of a ridge between Douglas Creek and a tributary of the Noatak River, to the summit of a mountain, located in sections 12 and 13, T. 29 N., R. 10 E., Kateel River Meridian, approximate elevation 3,657 feet;

Thence due south, to a point on the right bank of Douglas Creek located in section 24, T. 29 N., R. 10 E., Kateel River Meridian;

Thence southerly, along the right bank of Douglas Creek, to a point on the right bank of Douglas Creek at the junction of the Noatak River and Douglas Creek located in the northern portion of section 2, T. 28 N., R. 10 E., Kateel River Meridian;

Thence on an approximate forward bearing of S. 24° W., to the summit of a mountain located in section 22, T. 28 N., R. 10 E., Kateel River Meridian, approximate elevation 3,439 feet;

Thence on an approximate forward bearing of S. 51° W., to the summit of a small mountain located in sections 28 and 29, T. 28 N., R. 10 E., Kateel River Meridian, approximate elevation 2,441 feet;

Thence easterly, southerly and westerly, along the divide between the drainages of Kavachurak Creek and Tunukuchiak Creek and Ambler River, to the summit of a mountain located in section 22, T. 26 N., R. 9 E., Kateel River Meridian, approximate elevation 4,298 feet;

Thence northerly, along the crest of the spur ridge to the summit of a mountain located in section 15, T. 26 N., R. 9 E., Kateel River Meridian, approximate elevation 3,980 feet;

Thence on an approximate forward bearing of N. 37° W., to the summit of a mountain located in section 5, T. 26 N., R. 9 E., Kateel River Meridian, approximate elevation 4,625 feet;

Thence southwesterly, along the divide between the drainages of the Ambler and Noatak Rivers, to the summit of a mountain located in sections 23 and 24, T. 26 N., R. 8 E., Kateel River Meridian, approximate elevation 4,508 feet;

Thence on an approximate forward bearing of S. 11° W., to the summit of a mountain located in section 35, T. 26 N., R. 8 E., Kateel River Meridian, approximate elevation 4,720 feet;

Thence easterly, southerly, easterly and southerly along the divide between the Ambler and Imelyak Rivers to the summit of a ridge located in the southern half of section 19, T. 25 N., R. 9 E., Kateel River Meridian, approximate elevation 3,600 feet;

Thence southerly, along the divide between tributaries of the Ambler River, to a point between sections 9 and 16, T. 24 N., R. 9 E., Kateel River Meridian, approximate elevation 2,800 feet;

Thence easterly, between sections 9 and 16, 10 and 15, 11 and 14, to the crest of a ridge between sections 11 and 14, T. 24 N., R. 9 E., Kateel River Meridian, approximate elevation 2,600 feet;

Thence northeasterly, along the crest of a ridge between the drainages of tributaries of the Ambler River to the summit of a mountain located in the northwesterly portion of section 4, T. 24 N., R. 10 E., Kateel River Meridian, approximate elevation 3,609 feet;

Thence on an approximate forward bearing of east, to the summit of a mountain located in the northwesterly portion of section 2, T. 24 N., R. 10 E., Kateel River Meridian, approximate elevation 4,499 feet;

Thence northeasterly, along the crest of a ridge between the drainages of Ulaneak Creek, Ambler and Ipnelivik Rivers, to the summit of a mountain located in section 27, T. 25 N., R. 11 E., Kateel River Meridian, approximate elevation 5,040 feet;

Thence on an approximate forward bearing of S. 28° E., to the summit of a mountain located in sections 34 and 35, T. 25 N., R. 11 E., Kateel River Meridian, approximate elevation 4,600 feet;

Thence southerly, along the crest of a ridge between the drainages of Ipnelivik River and Ulaneak Creek, to the summit of a mountain located in sections 25 and 26, T. 24 N., R. 11 E., Kateel River Meridian, approximate elevation 4,600 feet;

Thence on an approximate forward bearing of S. 60° E., to the summit of a mountain located in section 31, T. 24 N., R. 12 E., Kateel River Meridian, approximate elevation 5,076 feet;

Thence southerly, easterly and northeasterly, along the crest of a ridge, to the summit of a mountain between sections 5 and 32, Tps. 23 and 24 N., R. 12 E., Kateel River Meridian, approximate elevation 4,517 feet;

Thence easterly, between Tps. 23 and 24 N., to the summit of a mountain between sections 4 and 33, Tps. 23 and 24 N., R. 12 E., Kateel River Meridian, approximate elevation 4,926 feet;

Thence southerly, along the crest of a ridge between the drainages of Kogoluktuk River, to the summit of a mountain located in sections 34 and 35, T. 23 N., R. 12 E., Kateel River Meridian, approximate elevation 4,160 feet;

Thence on an approximate forward bearing of S. 20° E., to the summit of a mountain located in section 11, T. 22 N., R. 12 E., Kateel River Meridian, approximate elevation 3,292 feet;

Thence southerly, easterly and southeasterly, along the crest of a ridge between the drainages of Kogoluktuk River and Ivik Creek, to a point between sections

2 and 35, Tps. 21 and 22 N., R. 13 E., Kateel River Meridian;

Thence easterly, between Tps. 21 and 22 N., to the corner of Tps. 21 and 22 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence southerly, between Rs. 18 and 19 E., to the south corner of T. 21 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence westerly, along the Fifth Standard Parallel North, to the north corner of T. 20 N., Rs. 18 and 19 E., Kateel River Meridian;

Thence southerly, between Rs. 18 and 19 E., to the corner of sections 19, 24, 25 and 30, T. 20 N., Rs. 18 and 19 E., Kateel River Meridian, the place of beginning.

(2) Unit Number 2

Beginning at the corner of sections 13, 18, 19 and 24, T. 11 S., Rs. 2 and 3 W., Umiat Meridian;

Thence northerly, between Rs. 2 and 3 W., along a common boundary with Gates of the Arctic National Park (Unit Number 2), to the corner of Tps. 9 and 10 S., Rs. 2 and 3 W., Umiat Meridian;

Thence westerly, between Tps. 9 and 10 S., to the corner of Tps. 9 and 10 S., Rs. 3 and 4 W., Umiat Meridian;

Thence northerly, between Rs. 3 and 4 W., to the corner of sections 13, 18, 19 and 24, T. 9 S., Rs. 3 and 4 W., Umiat Meridian;

Thence westerly, between sections 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, 13 and 24, 14 and 23, 15 and 22, to the corner of sections 15, 16, 21 and 22, T. 9 S., R. 5 W., Umiat Meridian;

Thence southerly, between sections 21 and 22, 27 and 28, 33 and 34, 3 and 4, 9 and 10, 15 and 16, to the corner of sections 15, 16, 21 and 22, T. 10 S., R. 5 W., Umiat Meridian;

Thence easterly, between sections 15 and 22, 14 and 23, 13 and 24, to the corner of sections 13, 18, 19 and 24, T. 10 S., Rs. 4 and 5 W., Umiat Meridian;

Thence southerly, between Rs. 4 and 5 W., to the corner of Tps. 10 and 11 S., Rs. 4 and 5 W., Umiat Meridian;

Thence easterly, between Tps. 10 and 11 S., to the corner of sections 4, 5, 32 and 33, Tps. 10 and 11 S., R. 4 W., Umiat Meridian;

Thence southerly, between sections 4 and 5, 8 and 9, 16 and 17, to the corner of sections 16, 17, 20 and 21, T. 11 S., R. 4 W., Umiat Meridian;

Thence easterly, between sections 16 and 21, 15 and 22, 14 and 23, 13 and 24, 18 and 19, 17 and 20, 16 and 21, 15 and 22, 14 and 23, 13 and 24 to the corner of sections 13, 18, 19 and 24, T. 11 S., Rs. 2 and 3 W., Umiat Meridian, the place of beginning.

(3) Unit Number 3

Beginning at the corner of sections 19, 24, 25 and 30, T. 15 S., Rs. 1 E. and 1 W., Umiat Meridian;

∧ Thence southerly, between Rs. 1 E and 1 W., to the corner of sections 25, 30, 31 and 36, T. 15 S., Rs. 1 E. and 1 W., Umiat Meridian;

∧ Thence easterly, between sections 30 and 31, 29 and 32, to the corner of sections 28, 29, 32 and 33, T. 15 S., R. 1 E., Umiat Meridian;

∧ Thence northerly, between sections 28 and 29, to the corner of sections 20, 21, 28 and 29, T. 15 S., R. 1 E., Umiat Meridian;

∧ Thence easterly, between sections 21 and 28, 22 and 27, to the corner of sections 22, 23, 26 and 27, T. 15 S., R. 1 E., Umiat Meridian;

∧ Thence northerly, between sections 22 and 23, 14 and 15, to the corner of sections 10, 11, 14 and 15, T. 15 S., R. 1 E., Umiat Meridian;

∧ Thence westerly, between sections 10 and 15, 9 and 16, to the corner of sections 8, 9, 16 and 17, T. 15 S., R. 1 E., Umiat Meridian;

∧ Thence northerly, between sections 8 and 9, to the corner of sections 4, 5, 8 and 9, T. 15 S., R. 1 E., Umiat Meridian;

∧ Thence westerly, between sections 5 and 8, 6 and 7, to the corner of sections 1, 6, 7 and 12, T. 15 S., Rs. 1 E. and 1 W., Umiat Meridian;

∧ Thence northerly, between Rs. 1 E. and 1 W., to the 1/4 section corner of sections 1 and 6, T. 15 S., Rs. 1 E. and 1 W., Umiat Meridian;

∧ Thence westerly, on the east and west centerline of section 1, to the 1/4 section corner of sections 1 and 2, T. 15 S., R. 1 W., Umiat Meridian;

∧ Thence northerly, between sections 1 and 2, 35 and 36, to the corner of sections 25, 26, 35 and 36, T. 14 S., R. 1 W., Umiat Meridian;

∧ Thence easterly, between sections 25 and 36, to the 1/4 section corner of sections 25 and 36 T. 14 S., R. 1 W., Umiat Meridian;

∧ Thence northerly, on the north and south centerline of section 25, to the center 1/4 section corner of section 25, T. 14 S., R. 1 W., Umiat Meridian;

∧ Thence easterly, on the east and west centerlines of sections 25 and 30, to the 1/4 section corner of sections 29 and 30, T. 14 S., R. 1 E., Umiat Meridian;

∧ Thence southerly, between sections 29 and 30, 31 and 32, to the 1/4 section corner of sections 31 and 32, T. 14 S., R. 1 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerline of section 32, to the 1/4 section corner of sections 32 and 33, T. 14 S., R. 1 E., Umiat Meridian;

∧ Thence southerly, between sections 32 and 33, to the corner of sections 4, 5, 32 and 33, Tps. 14 and 15 S., R. 1 E., Umiat Meridian;

∧ Thence easterly, between Tps. 14 and 15 S., to the corner of sections 3, 4, 33 and 34, Tps. 14 and 15 S., R. 1 E., Umiat Meridian;

∧ Thence southerly, between sections 3 and 4, to the 1/4 section corner of sections 3 and 4, T. 15 S., R. 1 E., Umiat Meridian;

∧ Thence easterly, on the east and west centerline of section 3, to the 1/4 section corner of sections 2 and 3, T. 15 S., R. 1 E., Umiat Meridian;

∧ Thence southerly, between sections 2 and 3, to the corner of sections 2, 3, 10 and 11, T. 15 S., R. 1 E., Umiat Meridian;

∧ Thence easterly, between sections 2 and 11, 1 and 12, to the corner of sections 1, 6, 7 and 12, T. 15 S., Rs. 1 and 2 E., Umiat Meridian;

∧ Thence northerly, between Rs. 1 and 2 E., to the corner of sections 19, 24, 25 and 30, T. 14 S., Rs. 1 and 2 E., Umiat Meridian;

∧ Thence westerly, between sections 24 and 25, 23 and 26, to the corner of sections 22, 23, 26 and 27, T. 14 S., R. 1 E., Umiat Meridian;

∧ Thence northerly, between sections 22 and 23, 14 and 15, to the 1/4 section corner of sections 14 and 15, T. 14 S., R. 1 E., Umiat Meridian;

∧ Thence westerly, on the east and west centerlines of sections 15 and 16, to the 1/4 section corner of sections 16 and 17, T. 14 S., R. 1 E., Umiat Meridian;

∧ Thence northerly, between sections 16 and 17, 8 and 9, to the 1/4 section corner of sections 8 and 9, T. 14 S., R. 1 E., Umiat Meridian;

∧ Thence westerly, on the east and west centerlines of sections 8, 7, 12 and 11, to the 1/4 section corner of sections 10 and 11, T. 14 S., R. 1 W., Umiat Meridian;

∧ Thence northerly, between sections 10 and 11, to the corner of sections 2, 3, 10 and 11, T. 14 S., R. 1 W., Umiat Meridian;

∧ Thence westerly, between sections 3 and 10, 4 and 9, 5 and 8, to the west 1/16 section corner of sections 5 and 8, T. 14 S., R. 1 W., Umiat Meridian;

∧ Thence northerly, on the north and south centerline of the west ½ of section 5, to the west 1/16 section corner of sections 5 and 32, Tps. 13 and 14 S., R. 1 W., Umiat Meridian;

∧ Thence easterly, between Tps. 13 and 14 W., to the 1/4 section corner of sections 5 and 32, Tps. 13 and 14 S., R. 1 W., Umiat Meridian;

∧ Thence northerly, on the north and south centerline of section 32, to the 1/4 section corner of sections 29 and 32, T. 13 S., R. 1 W., Umiat Meridian;

∧ Thence westerly, between sections 29 and 32, 30 and 31, along a common boundary with Gates of the Arctic National Park (Unit Number 1) to the corner of sections 25, 30, 31 and 36, T. 13 S., Rs. 1 and 2 W., Umiat Meridian;

Thence northerly, between Rs. 1 and 2 W., to the north corner of T. 13 S., Rs. 1 and 2 W., Umiat Meridian;

Thence westerly, along the Third Standard Parallel South, to the south corner of T. 12 S., Rs. 1 and 2 W., Umiat Meridian;

Thence northerly, between Rs. 1 and 2 W., to the corner of sections 13, 18, 19 and 24, T. 12 S., Rs. 1 and 2 W., Umiat Meridian;

Thence westerly, between sections 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, to the corner of sections 13, 18, 19 and 24, T. 12 S., Rs. 2 and 3 W., Umiat Meridian;

Thence southerly, between Rs. 2 and 3 W., to the corner of sections 25, 30, 31 and 36, T. 12 S., Rs. 2 and 3 W., Umiat Meridian;

Thence westerly, between sections 25 and 36, to the corner of sections 25, 26, 35 and 36, T. 12 S., R. 3 W., Umiat Meridian;

Thence southerly, between sections 35 and 36, to the south corner of sections 35 and 36, T. 12 S., R. 3 W., Umiat Meridian;

Thence easterly, departing from the common boundary with Gates of the Arctic National Park (Unit Number 1), along the Third Standard Parallel South, to the north corner of sections 1 and 2, T. 13 S., R. 3 W., Umiat Meridian;

Thence southerly, between sections 1 and 2, to the corner of sections 1, 2, 11 and 12, T. 13 S., R. 3 W., Umiat Meridian;

Thence westerly, between sections 2 and 11, 3 and 10, to the corner of sections 3, 4, 9 and 10, T. 13 S., R. 3 W., Umiat Meridian;

∧ Thence southerly, between sections 9 and 10, 15 and 16, 21 and 22, 27 and 28, 33 and 34, to the corner of sections 3, 4, 33 and 34, Tps. 13 and 14 S., R. 3 W., Umiat Meridian;

∧ Thence westerly, between Tps. 13 and 14 S., to the corner of sections 4, 5, 32 and 33, Tps. 13 and 14 S., R. 3 W., Umiat Meridian;

∧ Thence southerly, between sections 4 and 5, to the corner of sections 4, 5, 8 and 9, T. 14 S., R. 3 W., Umiat Meridian;

∧ Thence on an approximate forward bearing of S. 45° W., to the corner of sections 7, 8, 17 and 18, T. 14 S., R. 3 W., Umiat Meridian;

∧ Thence southerly, between sections 17 and 18, 19 and 20, to the corner of sections 19, 20, 29 and 30, T. 14 S., R. 3 W., Umiat Meridian;

Thence easterly, between sections 20 and 29, 21 and 28, 22 and 27, 23 and 26, 24 and 25, 19 and 30, 20 and 29, to the corner of sections 20, 21, 28 and 29, T. 14 S., R. 2 W., Umiat Meridian;

Thence southerly, between sections 28 and 29, 32 and 33, to the corner of sections 4, 5, 32 and 33, Tps. 14 and 15 S., R. 2 W., Umiat Meridian;

Thence easterly, between Tps. 14 and 15 S., to the corner of Tps. 14 and 15 S., Rs. 1 and 2 W., Umiat Meridian;

Thence southerly, between Rs. 1 and 2 W., to the corner of sections 1, 6, 7 and 12, T. 15 S., Rs. 1 and 2 W., Umiat Meridian;

Thence easterly, between sections 6 and 7, 5 and 8, 4 and 9, 3 and 10, to the corner of sections 2, 3, 10 and 11, T. 15 S., R. 1 W., Umiat Meridian;

Thence southerly, between sections 10 and 11, to the corner of sections 10, 11, 14 and 15, T. 15 S., R. 1 W., Umiat Meridian;

Thence easterly, between sections 11 and 14, 12 and 13, to the corner of sections 7, 12, 13 and 18, T. 15 S., Rs. 1 E. and 1 W., Umiat Meridian;

Thence southerly, between Rs. 1 E. and 1 W., to the corner of sections 19, 24, 25 and 30, T. 15 S., Rs. 1 E. and 1 W., Umiat Meridian, the place of beginning.

DATES: The effective date of this boundary revision is November 12, 1996.

Dated: November 15, 2011.

Sue E. Masica,

Regional Director, Alaska Region.

[FR Doc. 2011–32134 Filed 12–14–11; 8:45 am]

BILLING CODE 4310–HK–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0021]

Agency Information Collection Activities: Proposed Collection, Comment Request; Correction

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice of an extension of a currently approved information collection.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are inviting comments on a collection of information requests that we will submit to the Office of Management and Budget (OMB) for review and approval. The OMB formerly approved this information collection request (ICR) under OMB Control Number 1010–0103. After the Secretary of the Department of the Interior established ONRR (the former Minerals Revenue Management, a program under the Minerals Management Service) on October 1, 2010, OMB approved a new series number for ONRR and renumbered our ICRs. This ICR covers the paperwork requirements in the regulations under title 30, *Code of Federal Regulations* (CFR), parts 1202, 1206, and 1207 (previously 30 CFR parts 202, 206, and 207). The revised title of this ICR is ''30 CFR Parts 1202, 1206, and 1207, Indian Oil and Gas Valuation.'' There are five forms associated with this information collection. ONRR published this notice on December 8th, 2011, at 76 FR 76746, with an incorrect due date for comments. This revised notice amends the due date.

DATES: Submit written comments on or before February 13, 2012.

ADDRESSES: You may submit comments on this ICR to ONRR by any of the following methods. Please use ''ICR 1012–0002'' as an identifier in your comment.

- Electronically go to *http://www.regulations.gov*. In the entry titled ''Enter Keyword or ID,'' enter ''ONRR–2011–0021'' and then click ''Search.'' Follow the instructions to submit public comments. The ONRR will post all comments.
- Mail comments to Armand Southall, Regulatory Specialist, Office of Natural Resources, P.O. Box 25165, MS 64000A, Denver, Colorado 80225. Please reference ICR 1012–0002 in your comments.
- Hand-carry comments or use an overnight courier service. Our courier address is Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225. Please reference ICR 1012–0002 in your comments.

FOR FURTHER INFORMATION CONTACT: Armand Southall, telephone (303) 231–3221, or email *armand.southall@onrr.gov*. You may also contact Mr. Southall to obtain copies, at no cost, of (1) The ICR, (2) any associated forms, and (3) the regulations that require the subject collection of information. You may also review the information collection online at *http://www.reginfo.gov/public/PRAMain*.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR parts 1202, 1206, and 1207, Indian Oil and Gas Valuation.

OMB Control Number: 1012–0002.

Bureau Form Number: Forms MMS–4109, MMS–4110, MMS–4295, MMS–4410, and MMS–4411.

Note: The ONRR will publish a rule updating our form numbers to Forms ONRR–4109, ONRR–4110, ONRR–4295, ONRR–4410, and ONRR–4411.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary is required by various laws to manage mineral resource production on Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds in accordance with those laws. Applicable laws pertaining to mineral leases on Federal and Indian lands and the OCS are posted on our Web site at *http://www.onrr.gov/Laws_R_D/PublicLawsAMR.htm*.

The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The ONRR performs the minerals revenue management functions and assists the Secretary in carrying out the Department's trust responsibility for Indian lands. Indian tribes and individual Indian mineral owners receive all royalties generated from their lands. Determining product valuation is essential to ensure that Indian tribes and individual Indian mineral owners receive payment on the full value of the minerals removed from their lands. Failure to collect the data described in this information collection could result in the undervaluation of leased minerals on Indian lands.

Effective October 1, 2010, ONRR reorganized and transferred their regulations from chapter II to chapter XII in title 30 of the *Code of Federal Regulations* (CFR), resulting in a change in our citations. Information collections covered in this ICR are found at 30 CFR part 1202, subparts C and J, which pertain to royalties; part 1206, subparts B and E, which govern the valuation of oil and gas produced from leases on Indian lands; and part 1207, which pertains to recordkeeping. All data reported is subject to subsequent audit and adjustment.

Indian Oil

Regulations at 30 CFR part 1206, subpart B, govern the valuation for

royalty purposes of all oil produced from Indian oil and gas leases (tribal and allotted), except leases on the Osage Indian Reservation, and are consistent with mineral leasing laws, other applicable laws, and lease terms. Generally, the regulations provide that lessees determine the value of oil based upon the higher of (1) The gross proceeds under an arm's-length contract; or (2) major portion analysis. The value determined by the lessee may be eligible for a transportation allowance.

From information collected on Form MMS–4110, Oil Transportation Allowance Report, ONRR and tribal audit personnel evaluate (1) Whether lessee-reported transportation allowances are within regulatory allowance limitations and calculated in accordance with applicable regulations; and (2) whether the lessees reported and paid the proper amount of royalties.

Indian Gas

Regulations at 30 CFR part 1206, subpart E, govern the valuation for royalty purposes of natural gas produced from Indian oil and gas leases (tribal and allotted). The regulations apply to all gas production from Indian oil and gas leases, except leases on the Osage Indian Reservation.

Most Indian leases contain the requirement to perform accounting for comparison (dual accounting) for gas produced from the lease. Lessees must elect to perform actual dual accounting as defined in 30 CFR 1206.176 or alternative dual accounting as defined in 30 CFR 1206.173. Lessees use Form MMS–4410, Accounting for Comparison [Dual Accounting], to certify that dual accounting is not required on an Indian lease or to make an election for actual or alternative dual accounting for Indian leases.

The regulations require lessees to submit Form MMS–4411, Safety Net Report, when gas production from an Indian oil or gas lease is sold beyond the first index pricing point. The safety net calculation establishes the minimum value, for royalty purposes, of natural gas production from Indian oil and gas leases. This reporting requirement ensures that Indian lessors receive all royalties due and aids ONRR compliance efforts.

From information collected on Form MMS–4295, Gas Transportation Allowance Report, ONRR and tribal audit personnel evaluate (1) Whether lessee-reported transportation allowances are within regulatory allowance limitations and calculated in accordance with applicable regulations; and (2) whether the lessees reported and paid the proper amount of royalties.

From information collected on Form MMS–4109, Gas Processing Allowance Summary Report, ONRR and tribal audit personnel evaluate (1) Whether lessee-reported processing allowances are within regulatory allowance limitations and calculated in accordance with applicable regulations; and (2) whether the lessees reported and paid the proper amount of royalties.

Indian Oil and Gas

Form MMS–4393, Request to Exceed Regulatory Allowance Limitation, is used for both Federal and Indian leases. Most of the burden hours are incurred on Federal leases; therefore, the form is approved under ICR 1010–0136, presently 1012–0005, pertaining to Federal oil and gas leases. However, we include a discussion of the form in this ICR, as well as the burden hours for Indian leases. To request permission to exceed a regulatory allowance limit, lessees must (1) Submit a letter to ONRR explaining why a higher allowance limit is necessary; and (2) provide supporting documentation, including a completed Form MMS–4393. This form provides ONRR with the data necessary to make a decision whether to approve or deny the request and track deductions on royalty reports.

OMB Approval

The ONRR will request OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge fiduciary duties and may also result in the inability to confirm the accurate royalty value to Indian tribes and individual Indian mineral owners. ONRR protects proprietary information it receives, and does not collect items of a sensitive nature. The requirement to respond is mandatory for Form MMS–4410, Accounting for Comparison [Dual Accounting], and Form MMS–4411, Safety Net Report, under certain circumstances. And, the lessees are required to submit Forms MMS–4109, MMS–4110, and MMS–4295 in order to obtain a benefit.

Frequency of Response: Annually and on occasion.

Estimated Number and Description of Respondents: 148 Indian lessees.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 1,309 hours.

We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	Part 1202—ROYALTIES			
	Subpart C—Federal and Indian Oil			
1202.101	**Standards for reporting and paying royalties.** Oil volumes are to be reported in barrels of clean oil of 42 standard U.S. gallons (231 cubic inches each) at 60 °F. . .	Burden covered under OMB Control Number 1012–0004 (expires 12/31/2012). Burden covered under § 1210.52.		
	Subpart J—Gas Production From Indian Leases			
1202.551(b)	**How do I determine the volume of production for which I must pay royalty if my lease is not in an approved Federal unit or communitization agreement (AFA)?** (b) You and all other persons paying royalties on the lease must report and pay royalties based on your takes. . .	Burden covered under OMB Control Number 1012–0004. Burden covered under § 1210.52.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1202.551(c)	(c) You and all other persons paying royalties on the lease may ask ONRR for permission . . . . to report entitlements. . .	1	1	1
1202.558(a) and (b)	**What standards do I use to report and pay royalties on gas?** (a) You must report gas volumes as follows:. . . (b) You must report residue gas and gas plant product volumes as follows:. . .	Burden covered under OMB Control Number 1012–0004. Burden covered under § 1210.52.		
	Part 1206—PRODUCT VALUATION Subpart B—Indian Oil			
1206.56(b)(2)	**Transportation allowances—general.** (b)(2) Upon request of a lessee, ONRR may approve a transportation allowance deduction in excess of the limitation prescribed by paragraph (b)(1) of this section. . . . An application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for ONRR to make a determination. . .	4	1	4
1206.57(a)(1)(i)	**Determination of transportation allowances.** (a) *Arm's-length transportation contracts.* (1)(i) . . . The lessee shall have the burden of demonstrating that its contract is arm's-length.	AUDIT PROCESS. See note.		
1206.57(a)(1)(i)	(a) *Arm's-length transportation contracts.* (1)(i) . . . Before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report. . .	Burden covered under § 1206.57(c)(1)(i) and (iii).		
1206.57(a)(1)(iii)	(a) *Arm's-length transportation contracts.* (1)(iii) . . . When ONRR determines that the value of the transportation may be unreasonable, ONRR will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.	AUDIT PROCESS. See note.		
1206.57(a)(2)(i)	(a) *Arm's-length transportation contracts.* (2)(i) . . . Except as provided in this paragraph, no allowance may be taken for the costs of transporting lease production which is not royalty-bearing without ONRR approval.	Burden covered under § 1206.57(a)(3).		
1206.57(a)(2)(ii)	(a) *Arm's-length transportation contracts.* (2)(ii) Notwithstanding the requirements of paragraph (i), the lessee may propose to ONRR a cost allocation method on the basis of the values of the products transported. . .	20	1	20
1206.57(a)(3)	(a) *Arm's-length transportation contracts.* (3) If an arm's-length transportation contract includes both gaseous and liquid products, and the transportation costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to ONRR. . . . The lessee shall submit all available data to support its proposal. . .	40	1	40
1206.57(b)(1)	(b) *Non-arm's-length or no contract.* (1) . . . A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4110 is filed with ONRR, unless ONRR approves a longer period upon a showing of good cause by the lessee. . .	Burden covered under § 1206.57(c)(2)(i) and (iii).		
1206.57(b)(1)	(b) *Non-arm's-length or no contract.* (1) . . . When necessary or appropriate, ONRR may direct a lessee to modify its actual transportation allowance deduction.	Burden covered under OMB Control Number 1012–0004. Burden covered under § 1210.52.		
1206.57(b)(2)(iv)	(b) *Non-arm's-length or no contract.* (2)(iv) . . . After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of ONRR.	20	1	20

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.57(b)(2)(iv)(A)	(b) *Non-arm's-length or no contract.* (2)(iv)(A) . . . After an election is made, the lessee may not change methods without ONRR approval. . .	20	1	20
1206.57(b)(3)(i)	(b) *Non-arm's-length or no contract.* (3)(i) . . . Except as provided in this paragraph, the lessee may not take an allowance for transporting lease production which is not royalty bearing without ONRR approval.	40	1	40
1206.57(b)(3)(ii)	(b) *Non-arm's-length or no contract.* (3)(ii) Notwithstanding the requirements of paragraph (i), the lessee may propose to ONRR a cost allocation method on the basis of the values of the products transported. . .	20	1	20
1206.57(b)(4)	(b) *Non-arm's-length or no contract.* (4) Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to ONRR. . . . The lessee shall submit all available data to support its proposal. . .	20	1	20
1206.57(b)(5)	(b) *Non-arm's-length or no contract.* (5) A lessee may apply to ONRR for an exception from the requirement that it compute actual costs in accordance with paragraphs (b)(1) through (b)(4) of this section. . .	20	1	20
1206.57(c)(1)(i)	(c) *Reporting requirements.* (1) *Arm's-length contracts.* (i) With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report, prior to, or at the same time as, the transportation allowance determined, under an arm's-length contract, is reported on Form MMS–2014, Report of Sales and Royalty Remittance. . .	4	1	4
1206.57(c)(1)(iii)	(c) *Reporting requirements.* (1) *Arm's-length contracts.* (iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4110 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless ONRR approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	4	1	4
1206.57(c)(1)(iv)	(c) *Reporting requirements.* (1) *Arm's-length contracts.* (iv) ONRR may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by ONRR.	AUDIT PROCESS. See note.		
1206.57(c)(2)(i)	(c) *Reporting requirements.* (2) *Non-arm's-length or no contract.* (i) With the exception of those transportation allowances specified in paragraphs (c)(2)(v), (c)(2)(vii) and (c)(2)(viii) of this section, the lessee shall submit an initial Form MMS–4110 prior to, or at the same time as, the transportation allowance determined under a non-arm's-length contract or no-contract situation is reported on Form MMS–2014. . . . The initial report may be based upon estimated costs.	6	1	6

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.57(c)(2)(iii)	(c) *Reporting requirements.* (2) *Non-arm's-length or no contract.* (iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4110 containing the actual costs for the previous reporting period. If oil transportation is continuing, the lessee shall include on Form MMS–4110 its estimated costs for the next calendar year. . . . ONRR must receive the Form MMS–4110 within 3 months after the end of the previous reporting period, unless ONRR approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	6	1	6
1206.57(c)(2)(iv)	(c) *Reporting requirements.* (2) *Non-arm's-length or no contract.* (iv) For new transportation facilities or arrangements, the lessee's initial Form MMS–4110 shall include estimates of the allowable oil transportation costs for the applicable period. . .	Burden covered under § 1206.57(c)(2)(i).		
1206.57(c)(2)(v)	(c) *Reporting requirements.* (2) *Non-arm's-length or no contract.* (v) . . . only those allowances that have been approved by ONRR in writing. . .	Burden covered under § 1206.57(c)(2)(i).		
1206.57(c)(2)(vi)	(c) *Reporting requirements.* (2) *Non-arm's-length or no contract.* (vi) Upon request by ONRR, the lessee shall submit all data used to prepare its Form MMS–4110. The data shall be provided within a reasonable period of time, as determined by ONRR.	AUDIT PROCESS. See note.		
1206.57(c)(4) and (e)(2).	(c) *Reporting requirements.* (4) Transportation allowances must be reported as a separate line item on Form MMS–2014,. . . (e)*Adjustments.* (2) For lessees transporting production from Indian leases, the lessee must submit a corrected Form MMS–2014 to reflect actual costs, . . .	Burden covered under OMB Control Number 1012–0004. Burden covered under § 1210.52.		
1206.59	**May I ask ONRR for valuation guidance?** You may ask ONRR for guidance in determining value. You may propose a value method to ONRR. Submit all available data related to your proposal and any additional information ONRR deems necessary. . .	20	1	20
1206.61(a) and (b)	**What records must I keep and produce?** (a) On request, you must make available sales, volume, and transportation data for production you sold, purchased, or obtained from the field or area. You must make this data available to ONRR, Indian representatives, or other authorized persons. (b) You must retain all data relevant to the determination of royalty value. . .	AUDIT PROCESS. See note.		
	Part 1206—PRODUCT VALUATION **Subpart E—Indian Gas**			
1206.172(b)(1)(ii)	**How do I value gas produced from leases in an index zone?** (b) *Valuing residue gas and gas before processing.* (1)(ii) Gas production that you certify on Form MMS–4410, . . . is not processed before it flows into a pipeline with an index but which may be processed later; . . .	4	58	232
1206.172(e)(6)(i) and (iii).	(e) *Determining the minimum value for royalty purposes of gas sold beyond the first index pricing point.* (6)(i) You must report the safety net price for each index zone to ONRR on Form MMS–4411, Safety Net Report, no later than June 30 following each calendar year; . . . (iii) ONRR may order you to amend your safety net price within one year from the date your Form MMS–4411 is due or is filed, whichever is later. . .	3	11	33

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.172(e)(6)(ii)	(e) *Determining the minimum value for royalty purposes of gas sold beyond the first index pricing point.*	Burden covered under OMB Control Number 1012–0004. Burden covered under § 1210.52.		
1206.172(f)(1)(ii), (f)(2), and (f)(3).	(6)(ii) You must pay and report on Form MMS–2014 additional royalties due no later than June 30 following each calendar year;. . . (f) *Excluding some or all tribal leases from valuation under this section.* (1) An Indian tribe may ask ONRR to exclude some or all of its leases from valuation under this section. . . (ii) If an Indian tribe requests exclusion from an index zone for less than all of its leases, ONRR will approve the request only if the excluded leases may be segregated into one or more groups based on separate fields within the reservation. (2) An Indian tribe may ask ONRR S to terminate exclusion of its leases from valuation under this section. . . (3) The Indian tribe's request to ONRR under either paragraph (f)(1) or (2) of this section must be in the form of a tribal resolution. . .	40	1	40
1206.173(a)(1)	**How do I calculate the alternative methodology for dual accounting?**	2	12	24
	(a) *Electing a dual accounting method.* (1) . . . You may elect to perform the dual accounting calculation according to either § 1206.176(a) (called actual dual accounting), or paragraph (b) of this section (called the alternative methodology for dual accounting).			
1206.173(a)(2)	(a) *Electing a dual accounting method.*	Burden covered under § 1206.173(a)(1).		
	(2) You must make a separate election to use the alternative methodology for dual accounting for your Indian leases in each ONRR S-designated area. . .			
1206.174(a)(4)(ii)	**How do I value gas production when an index-based method cannot be used?**	Burden covered under OMB Control Number 1012–0004. Burden covered under § 1210.52.		
	(a) Situations in which an index-based method cannot be used. (4)(ii) If the major portion value is higher, you must submit an amended Form MMS–2014 to ONRR by the due date specified in the written notice from ONRR of the major portion value. . .			
1206.174(b)(1)(i) and (iii); (b)(2); (d)(2).	(b) *Arm's-length contracts.*	AUDIT PROCESS. See note.		
	(1)(i) You have the burden of demonstrating that your contract is arm's-length. . . (iii) . . . In these circumstances, ONRR will notify you and give you an opportunity to provide written information justifying your value. . . (2) ONRR may require you to certify that your arm's-length contract provisions include all of the consideration the buyer pays, either directly or indirectly, for the gas, residue gas, or gas plant product. (d) *Supporting data.* (2) You must make all such data available upon request to the authorized ONRR or Indian representatives, to the Office of the Inspector General of the Department, or other authorized persons. . .			
1206.174(d)	(d) *Supporting data.* If you determine the value of production under paragraph (c) of this section, you must retain all data relevant to determination of royalty value.	Burden covered under OMB Control Number 1012–0004.		
1206.174(f)	(f) *Value guidance.* You may ask ONRR for guidance in determining value. You may propose a valuation method to ONRR. Submit all available data related to your proposal and any additional information ONRR deems necessary. . .	40	1	40

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.175(d)(4)	**How do I determine quantities and qualities of production for computing royalties?** (d)(4) You may request ONRR approval of other methods for determining the quantity of residue gas and gas plant products allocable to each lease. . .	20	1	20
1206.176(b)	**How do I perform accounting for comparison?** (b) If you are required to account for comparison, you may elect to use the alternative dual accounting methodology provided for in § 1206.173 instead of the provisions in paragraph (a) of this section.	Burden covered under § 1206.173(a)(1).		
1206.176(c)	(c) . . . If you do not perform dual accounting, you must certify to ONRR that gas flows into such a pipeline before it is processed.	Burden covered under § 1206.172(b)(1)(ii).		
	Transportation Allowances			
1206.177(c)(2) and (c)(3).	**What general requirements regarding transportation allowances apply to me?** (c)(2) If you ask ONRR, ONRR may approve a transportation allowance deduction in excess of the limitation in paragraph (c)(1) of this section. . . (3) Your application for exception (using Form MMS–4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant and supporting documentation necessary for ONRR to make a determination.	Burden covered under § 1206.56(b)(2).		
1206.178(a)(1)(i)	**How do I determine a transportation allowance?** (a) *Determining a transportation allowance under an arm's-length contract.* (1)(i) . . . You are required to submit to ONRR a copy of your arm's-length transportation contract(s) and all subsequent amendments to the contract(s) within 2 months of the date ONRR receives your report which claims the allowance on the Form MMS–2014.	1	18	18
1206.178(a)(1)(iii)	(a) *Determining a transportation allowance under an arm's-length contract.* (1)(iii) If ONRR determines that the consideration paid under an arm's-length transportation contract does not reflect the value of the transportation because of misconduct by or between the contracting parties . . . In these circumstances, ONRR will notify you and give you an opportunity to provide written information justifying your transportation costs.	AUDIT PROCESS. See note.		
1206.178(a)(2)(i) and (ii).	(a) *Determining a transportation allowance under an arm's-length contract.* (2)(i) . . . you cannot take an allowance for the costs of transporting lease production that is not royalty bearing without ONRR approval, or without lessor approval on tribal leases. (ii) As an alternative to paragraph (a)(2)(i) of this section, you may propose to ONRR a cost allocation method based on the values of the products transported.	20	1	20
1206.178(a)(3)(i) and (ii).	(a) *Determining a transportation allowance under an arm's-length contract.* (3)(i) If your arm's-length transportation contract includes both gaseous and liquid products and the transportation costs attributable to each cannot be determined from the contract, you must propose an allocation procedure to ONRR. (ii) You are required to submit all relevant data to support your allocation proposal.	40	1	40
1206.178(b)(1)(ii)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (1)(ii) . . . You must submit the actual cost information to support the allowance to ONRR on Form MMS–4295, Gas Transportation Allowance Report, within 3 months after the end of the 12-month period to which the allowance applies.	15	5	75

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.178(b)(2)(iv)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (2)(iv) You may use either depreciation with a return on undepreciated capital investment or a return on depreciable capital investment. . . . you may not later elect to change to the other alternative without ONRR approval.	20	1	20
1206.178(b)(2)(iv)(A) ..	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (2)(iv)(A) . . . Once you make an election, you may not change methods without ONRR approval.	20	1	20
1206.178(b)(3)(i)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (3)(i) . . . Except as provided in this paragraph, you may not take an allowance for transporting a product that is not royalty bearing without ONRR approval.	40	1	40
1206.178(b)(3)(ii)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (3)(ii) As an alternative to the requirements of paragraph (b)(3)(i) of this section, you may propose to ONRR a cost allocation method based on the values of the products transported.	20	1	20
1206.178(b)(5)	(b) *Determining a transportation allowance under a non-arm's-length contract or no contract.* (5) If you transport both gaseous and liquid products through the same transportation system, you must propose a cost allocation procedure to ONRR. . . . You are required to submit all relevant data to support your proposal.	40	1	40
1206.178(d)(1)	(d) *Reporting your transportation allowance.* (1) If ONRR requests, you must submit all data used to determine your transportation allowance.	AUDIT PROCESS. See note.		
1206.178(d)(2), (e), and (f)(1).	(d) *Reporting your transportation allowance.* (2) You must report transportation allowances as a separate entry on Form MMS–2014. (e) *Adjusting incorrect allowances.* If for any month the transportation allowance you are entitled to is less than the amount you took on Form MMS–2014, you are required to report and pay additional royalties due, plus interest computed under 30 CFR 1218.54 from the first day of the first month you deducted the improper transportation allowance until the date you pay the royalties due. (f) *Determining allowable costs for transportation allowances.* (1) *Firm demand charges paid to pipelines.* . . . You must modify the Form MMS–2014 by the amount received or credited for the affected reporting period.	Burden covered under OMB Control Number 1012–0004. Burden covered under § 1210.52.		
	Processing Allowances			
1206.180(a)(1)(i)	**How do I determine an actual processing allowance?** *(a) Determining a processing allowance if you have an arm's-length processing contract.* (1)(i) . . . You have the burden of demonstrating that your contract is arm's-length. You are required to submit to ONRR a copy of your arm's-length contract(s) and all subsequent amendments to the contract(s) within 2 months of the date ONRR receives your first report that deducts the allowance on the Form MMS–2014.	1	2	2
1206.180(a)(1)(iii)	(a) *Determining a processing allowance if you have an arm's-length processing contract.* (1)(iii) If ONRR determines that the consideration paid under an arm's-length processing contract does not reflect the value of the processing because of misconduct by or between the contracting parties . . . In these circumstances, ONRR will notify you and give you an opportunity to provide written information justifying your processing costs.	AUDIT PROCESS. See note.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1206.180(a)(3)	(a) *Determining a processing allowance if you have an arm's-length processing contract.* (3) If your arm's-length processing contract includes more than one gas plant product and the processing costs attributable to each product cannot be determined from the contract, you must propose an allocation procedure to ONRR. . . . You are required to submit all relevant data to support your proposal.	40	1	40
1206.180(b)(1)(ii)	(b) *Determining a processing allowance if you have a non-arm's-length contract or no contract.* (1)(ii) . . . You must submit the actual cost information to support the allowance to ONRR on Form MMS–4109, Gas Processing Allowance Summary Report, within 3 months after the end of the 12-month period for which the allowance applies.	20	12	240
1206.180(b)(2)(iv)	(b) *Determining a processing allowance if you have a non-arm's-length contract or no contract.* (2)(iv) You may use either depreciation with a return on undepreciable capital investment or a return on depreciable capital investment. . . . you may not later elect to change to the other alternative without ONRR approval.	20	1	20
1206.180(b)(2)(iv)(A)	(b) *Determining a processing allowance if you have a non-arm's-length contract or no contract.* (2)(iv)(A) . . . Once you make an election, you may not change methods without ONRR approval.	20	1	20
1206.180(b)(3)	(b) *Determining a processing allowance if you have a non-arm's-length contract or no contract.* (3) Your processing allowance under this paragraph (b) must be determined based upon a calendar year or other period if you and ONRR agree to an alternative.	20	1	20
1206.180(c)(1)	(c) *Reporting your processing allowance.* (1) If ONRR requests, you must submit all data used to determine your processing allowance.	AUDIT PROCESS. See note.		
1206.180(c)(2) and (d)	(c) *Reporting your processing allowance.* (2) You must report gas processing allowances as a separate entry on the Form MMS–2014. (d) *Adjusting incorrect processing allowances.* If for any month the gas processing allowance you are entitled to is less than the amount you took on Form MMS–2014, you are required to pay additional royalties, plus interest computed under 30 CFR 1218.54 from the first day of the first month you deducted a processing allowance until the date you pay the royalties due.	Burden covered under OMB Control Number 1012–0004. Burden covered under § 1210.52.		
1206.181(c)	**How do I establish processing costs for dual accounting purposes when I do not process the gas?** (c) A proposed comparable processing fee submitted to either the tribe and ONRR (for tribal leases) or ONRR (for allotted leases) with your supporting documentation submitted to ONRR. If ONRR does not take action on your proposal within 120 days, the proposal will be deemed to be denied and subject to appeal to the ONRR Director under 30 CFR part 1290.	40	1	40
PART 1207—SALES AGREEMENTS OR CONTRACTS GOVERNING THE DISPOSAL OF LEASE PRODUCTS Subpart A—General Provisions				
1207.4(b)	Contracts made pursuant to old form leases. (b) The stipulation, the substance of which must be included in the contract, or be made the subject matter of a separate instrument properly identifying the leases affected thereby, is as follows.	AUDIT PROCESS. See note.		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1207.5	**Contract and sales agreement retention.** Copies of all sales contracts, posted price bulletins, etc., and copies of all agreements, other contracts, or other documents which are relevant to the valuation of production are to be maintained by the lessee and made available upon request during normal working hours to authorized ONRR, State or Indian representatives, other ONRR or BLM officials, auditors of the General Accounting Office, or other persons authorized to receive such documents, or shall be submitted to ONRR within a reasonable period of time, as determined by ONRR. Any oral sales arrangement negotiated by the lessee must be placed in written form and retained by the lessee. Records shall be retained in accordance with 30 CFR part 1212.	AUDIT PROCESS. See note.		
TOTAL BURDEN			148	1,309

Note: AUDIT PROCESS—The Office of Regulatory Affairs determined that the audit process is exempt from the Paperwork Reduction Act of 1995 because ONRR staff asks non-standard questions to resolve exceptions.

Estimated Annual Reporting and Recordkeeping ''Non-hour'' Cost Burden: We have identified no ''non-Hour'' cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that 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.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency to ''* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you without charge upon request. We also will post the ICR at *http://www.onrr.gov/Laws_R_D/FRNotices/FRInfColl.htm.*

Public Comment Policy: We will post all comments, including names and addresses of respondents, at *http://www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, be advised 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 from public view your personal identifying information, we cannot guarantee that we will be able to do so.

Office of the Secretary, Information Collection Clearance Officer: Laura Dorey (202) 208–2654.

Dated: December 12, 2011.

Gregory J. Gould,

Director, Office of Natural Resources Revenue

[FR Doc. 2011–32158 Filed 12–14–11; 8:45 am]

BILLING CODE 4310–T2–P

INTERNATIONAL TRADE COMMISSION

[DN 2864]

Certain Silicon Microphone Packages and Products Containing Same Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Silicon Microphone Packages and Products Containing Same,* DN 2864; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.)

in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Knowles Electronics LLC on December 7, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain silicon microphone packages and products containing same. The complaint names Analog Devices Inc. of Norwood, MA; Amkor Technology, Inc. of Chandler, AZ and Avnet, Inc. of Phoenix, AZ.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number (''Docket No. 2864'') in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf.* Persons with questions regarding electronic filing should contact the Secretary (202) 205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: December 6, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–32129 Filed 12–14–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc

Notice is hereby given that, on November 3, 2011, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Pistoia Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, PerkinElmer, Inc., Waltham, MA; Connected Discovery, London, UNITED KINGDOM; Fulcrum Direct Limited, CBTC, Cardiff, UNITED KINGDOM; The Hyve, Utrecht, THE NETHERLANDS; and Peter Boogaard (Individual), Moordrecht, THE NETHERLANDS, have been added as parties to this venture. Also, Allergan Sales LLC, Irvine, CA; and Cambridgesoft, Waltham, MA, have withdrawn as parties to this venture. In addition, Atlas Platform Corp. has changed its name to GeneStack Limited, Cambridge, UNITED KINGDOM.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on August 17, 2011. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 21, 2011 (76 FR 58540).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2011–32108 Filed 12–14–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Toyota Motor Corporation and Ford Motor Company Collaboration

Notice is hereby given that, on November 18, 2011, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993,

15 U.S.C. 4301 *et seq.* (''the Act''), Toyota Motor Corporation and Ford Motor Company Collaboration (''Toyota and Ford'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Toyota Motor Corporation, Toyota City, JAPAN; and Ford Motor Company, Dearborn, MI.

The general area of Toyota and Ford's planned activity is the research and development of (a) A hybrid system initially targeted for use in sport utility vehicles and light trucks, and (b) standards and/or enabling technologies for vehicle telematics. The parties may subsequently agree to expand the scope of the collaboration to include production.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2011–32113 Filed 12–14–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum

Notice is hereby given that, on November 1, 2011, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Petroleum Environmental Research Forum (''PERF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Nalco Environmental Solutions, LLC, Sugarland, TX, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PERF intends to file additional written notifications disclosing all changes in membership.

On February 10, 1986, PERF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on June 2, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 2, 2010 (75 FR 45156).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2011–32114 Filed 12–14–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA 358E]

Controlled Substances: Established Aggregate Production Quotas for 2012

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice.

SUMMARY: This notice establishes the initial 2012 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

DATES: *Effective Date:* December 15, 2011.

FOR FURTHER INFORMATION CONTACT: John W. Partridge, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, Telephone: (202) 307–4654.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by 28 CFR 0.100.

The 2012 aggregate production quotas represent those quantities of Schedule I and II controlled substances that may be produced in the United States in 2012 to provide adequate supplies of each substance for the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements, and the establishment and maintenance of reserve stocks. 21 U.S.C. 826(a) and 21 CFR 1303.11. These quotas do not include imports of controlled substances for use in industrial processes.

On October 21, 2011, a notice entitled ''Controlled Substances: Proposed Aggregate Production Quotas for 2012'' was published in the **Federal Register** (76 FR 65537). That notice proposed the 2012 aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. All interested persons were invited to comment on or object to the proposed aggregate production quotas on or before November 21, 2011.

Sixteen responses (eleven from DEA registered manufacturers, and five from other members of the public) were received within the published comment period, offering comments on a total of 37 Schedule I and II controlled substances. Several comments discussed the national prescription drug abuse epidemic and urged DEA to reduce quotas for prescription painkillers and opioids. Addressing prescription drug abuse requires a multi-faceted approach which includes education, treatment, and enforcement.

The quota system is specifically designed to operate within the statutory framework of the CSA, in conjunction with other controls to enable DEA to monitor the movement of controlled substances and certain chemicals into and through the closed system of distribution to help prevent diversion of such substances into the illicit market. Through the quota system, DEA limits the amount of those substances and chemicals manufactured each year to those quantities that will provide for the estimated medical, scientific, research, and industrial needs, lawful export requirements, and the establishment and maintenance of reserve stocks for the United States. All aspects of the closed system of distribution must work together to reduce or eliminate the diversion of controlled substances.

Other commenters stated that the proposed aggregate production quotas for alfentanil, amphetamine (for sale), codeine (for conversion), codeine (for sale), dihydrocodeine, dihydromorphine, diphenoxylate, hydrocodone (for sale), hydromorphinol, levorphanol, lisdexamfetamine, meperidine, meperidine intermediate A, meperidine intermediate B, meperidine intermediate C, methadone, methadone intermediate, methamphetamine, methylphenidate, morphine (for conversion), morphine (for sale), morphine-N-oxide, nabilone, noroxymorphone (for conversion), noroxymorphone (for sale), opium (tincture), oripavine, oxycodone (for conversion), oxycodone (for sale),

oxymorphone (for conversion), oxymorphone (for sale), pentobarbital, phenylacetone, properidine, sufentanil, tapentadol, and thebaine were insufficient to provide for the estimated medical, scientific, research, and industrial needs of the United States, export requirements, and the establishment and maintenance of reserve stocks.

In determining the aggregate production quotas, DEA has taken into consideration the above comments along with the factors set forth at 21 CFR 1303.11(b), in accordance with 21 U.S.C. 826(a) and other relevant factors, including the consideration of 2011 manufacturing quotas, current 2011 sales and inventories, 2012 export requirements, additional applications for quotas, as well as information on research and product development requirements. Based on this information, DEA determined that adjustments to the proposed aggregate production quotas for alfentanil, dihydrocodeine, diphenoxylate, hydromorphinol, lisdexamfetamine, meperidine, meperidine intermediate A, meperidine intermediate B, meperidine intermediate C, morphine-N-oxide, nabilone, pentobarbital, phenylacetone, properidine, and tapentadol are warranted. This notice reflects those adjustments.

When DEA published the Proposed Aggregate Production Quotas for 2012 on October 21, 2011, that notice proposed that all Schedule I and II controlled substances included in 21 CFR 1308.11 and 1308.21 but not specifically referenced in that notice be established at zero. That reference extended to the three synthetic cathinones (4-methyl-N-methylcathinone; 3,4-methylenedioxy-N-methylcathinone; and 3,4,methylenedioxypyrovalerone) that were temporarily placed in Schedule I pursuant to the final order also published on October 21, 2011, at 76 FR 65371. No comments were received within the published comment period regarding the proposed quota for the three synthetic cathinones, however, DEA has determined, based on the information described above, that an increase from the proposed quota of zero is warranted for all three substances. This notice reflects those adjustments.

Regarding amphetamine (for sale), codeine (for conversion), codeine (for sale), dihydromorphine, hydrocodone (for sale), levorphanol, methadone, methadone intermediate, methamphetamine, methylphenidate, morphine (for conversion), morphine (for sale), noroxymorphone (for conversion), noroxymorphone (for sale), opium (tincture), oripavine, oxycodone (for conversion), oxycodone (for sale), oxymorphone (for conversion), oxymorphone (for sale), sufentanil, and thebaine, DEA has determined that the proposed initial 2012 aggregate production quotas are sufficient to meet the current 2012 estimated medical, scientific, research, and industrial needs of the United States. This notice finalizes these aggregate production quotas at the same amounts as proposed.

In accordance with 21 U.S.C. 826 and 21 CFR 1303.11, the Administrator hereby determines that the 2012 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

	Established 2012 Quotas
Basic Class—Schedule I	
1-[2-(4–Morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH–200)	45 g
1–Butyl-3-(1-naphthoyl)indole (JWH–073)	45 g
1–Methyl-4-phenyl-4-propionoxypiperidine	2 g
1–Pentyl-3-(1-naphthoyl)indole (JWH–018)	45 g
2,5–Dimethoxyamphetamine	2 g
2,5–Dimethoxy-4-ethylamphetamine (DOET)	2 g
2,5–Dimethoxy-4-n-propylthiophenethylamine	2 g
3–Methylfentanyl	2 g
3–Methylthiofentanyl	2 g
3,4–Methylenedioxyamphetamine (MDA)	22 g
3,4–Methylenedioxy-N-ethylamphetamine (MDEA)	15 g
3,4–Methylenedioxy-N-methylcathinone (methylone)	8 g
3,4–Methylenedioxymethamphetamine (MDMA)	22 g
3,4–Methylenedioxypyrovalerone (MDPV)	8g
3,4,5–Trimethoxyamphetamine	2 g
4–Bromo-2,5-dimethoxyamphetamine (DOB)	2 g
4–Bromo-2,5-dimethoxyphenethylamine (2–CB)	2 g
4–Methoxyamphetamine	77 g
4–Methylaminorex	2 g
4–Methyl-2,5-dimethoxyamphetamine (DOM)	2 g
4–Methyl-N-methylcathinone (mephedrone)	8 g
5-(1,1–Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol	68 g
5-(1,1–Dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol	53 g
5–Methoxy-3,4-methylenedioxyamphetamine	2 g
5–Methoxy-N,N-diisopropyltryptamine	2 g
Acetyl-alpha-methylfentanyl	2 g
Acetyldihydrocodeine	2 g
Acetylmethadol	2 g
Allylprodine	2 g
Alphacetylmethadol	2 g
Alpha-ethyltryptamine	2 g
Alphameprodine	2 g
Alphamethadol	2 g
Alpha-methylfentanyl	2 g
Alpha-methylthiofentanyl	2 g
Alpha-methyltryptamine (AMT)	2 g

	Established 2012 Quotas
Aminorex	2 g
Benzylmorphine	2 g
Betacetylmethadol	2 g
Beta-hydroxy-3-methylfentanyl	2 g
Beta-hydroxyfentanyl	2 g
Betameprodine	2 g
Betamethadol	2 g
Betaprodine	2 g
Bufotenine	3 g
Cathinone	4 g
Codeine-N-oxide	602 g
Diethyltryptamine	2 g
Difenoxin	50 g
Dihydromorphine	3,608,000 g
Dimethyltryptamine	7 g
Gamma-hydroxybutyric acid	47,000,000 g
Heroin	20 g
Hydromorphinol	54 g
Hydroxypethidine	2 g
Ibogaine	5 g
Lysergic acid diethylamide (LSD)	16 g
Marihuana	21,000 g
Mescaline	5 g
Methaqualone	10 g
Methcathinone	4 g
Methyldihydromorphine	2 g
Morphine-N-oxide	655 g
N–Benzylpiperazine	2 g
N,N–Dimethylamphetamine	2 g
N–Ethylamphetamine	2 g
N–Hydroxy-3,4-methylenedioxyamphetamine	2 g
Noracymethadol	2 g
Norlevorphanol	52 g
Normethadone	2 g
Normorphine	18 g
Para-fluorofentanyl	2 g
Phenomorphan	2 g
Pholcodine	2 g
Properidine	2 g
Psilocybin	2 g
Psilocyn	2 g
Tetrahydrocannabinols	393,000 g
Thiofentanyl	2 g
Tilidine	10 g
Trimeperidine	2 g
Basic Class—Schedule II	
1–Phenylcyclohexylamine	2 g
1-piperdinocyclohexanecarbonitrile	2 g
4–Anilino-N-phenethyl-4-piperidine (ANPP)	1,800,000 g
Alfentanil	15,000 g
Alphaprodine	2 g
Amobarbital	40,007 g
Amphetamine (for conversion)	8,500,000 g
Amphetamine (for sale)	25,300,000 g
Cocaine	216,000 g
Codeine (for conversion)	65,000,000 g
Codeine (for sale)	39,605,000 g
Dextropropoxyphene	7 g
Dihydrocodeine	400,000 g
Diphenoxylate	900,000 g
Ecgonine	83,000 g
Ethylmorphine	2 g
Fentanyl	1,428,000 g
Glutethimide	2 g
Hydrocodone (for sale)	59,000,000 g
Hydromorphone	3,455,000 g
Isomethadone	4 g
Levo-alphacetylmethadol (LAAM)	3 g
Levomethorphan	5 g
Levorphanol	3,600 g
Lisdexamfetamine	12,000,000 g

	Established 2012 Quotas
Meperidine	5,500,000 g
Meperidine Intermediate-A	5 g
Meperidine Intermediate-B	9 g
Meperidine Intermediate-C	5 g
Metazocine	5 g
Methadone (for sale)	20,000,000 g
Methadone Intermediate	26,000,000 g
Methamphetamine	3,130,000 g
[750,000 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 2,331,000 grams for methamphetamine mostly for conversion to a Schedule III product; and 49,000 grams for methamphetamine (for sale)]	
Methylphenidate	56,000,000 g
Morphine (for conversion)	83,000,000 g
Morphine (for sale)	39,000,000 g
Nabilone	20,502 g
Noroxymorphone (for conversion)	7,200,000 g
Noroxymorphone (for sale)	401,000 g
Opium (powder)	63,000 g
Opium (tincture)	1,000,000 g
Oripavine	9,800,000 g
Oxycodone (for conversion)	5,600,000 g
Oxycodone (for sale)	98,000,000 g
Oxymorphone (for conversion)	12,800,000 g
Oxymorphone (for sale)	5,500,000 g
Pentobarbital	34,000,000 g
Phenazocine	5 g
Phencyclidine	24g
Phenmetrazine	2 g
Phenylacetone	16,000,000 g
Racemethorphan	2 g
Remifentanil	2,500 g
Secobarbital	336,002 g
Sufentanil	5,000 g
Tapentadol	5,400,000 g
Thebaine	116,000,000 g

The Administrator further determines that aggregate production quotas for all other Schedule I and II controlled substances included in 21 CFR 1308.11 and 1308.12 be established at zero. All aggregate production quotas are subject to adjustment pursuant to 21 CFR 1303.13.

Dated: December 8, 2011.

Michele M. Leonhart,

Administrator.

[FR Doc. 2011–32163 Filed 12–14–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement: Strategic Essentials for the Advancement of Women Executives in Corrections

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The National Institute of Corrections (NIC) is soliciting proposals from organizations, groups, or individuals to enter into an 18-month cooperative agreement to provide for the revision of Strategic Development of the Executive Woman, and to plan and deliver the program in 2012. NIC continues to build upon the success of its women's-only programming, where gender barriers are eliminated and acceleration of learning is possible. The award recipient will become familiar with the work currently being done at NIC that provides for an understanding of the history and future development goals for this series.

The award includes responsibility for the updated Instructional Theory into Practice (ITIP) formatted curriculum, and in collaboration with the NIC Research and Information Services Division, an evaluation of the initial program delivery using the NIC training evaluation protocol. This should represent a minimal cost to the award recipient. The project will also address strategies for additional learning and networking upon training completion.

DATES: Applications must be received by 2 p.m. EDT on Thursday, February 15, 2012.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street NW., Room 5002, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street NW., Washington, DC 20534. At the front desk, dial 73106, extension 0 for pickup.

Faxed applications will NOT be accepted. Electronic applications can be submitted only via *www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this announcement can be downloaded from the NIC Web page at *www.nicic.gov.*

All technical or programmatic questions concerning this announcement should be directed to Evelyn Bush, Correctional Program Specialist, National Institute of Corrections. She can be reached at *e1bush@bop.gov.*

SUPPLEMENTARY INFORMATION:

Curriculum Design: The curriculum design for Executive Leadership for Women was based on research done with corrections practitioners and women in senior positions in

correctional leadership. Several assessments were administered to these groups, and the findings formed the development of a set of 10 competencies essential to future leadership effectiveness in corrections. From these, a Correctional Leadership Competency Model was designed.

Over the last five years, NIC's Executive Leadership for Women in Corrections program has adapted to be current with recent trends such as those noted in the NIC Correctional Competencies publication.

Background: The National Institute of Corrections, Prisons Division, offered its first executive leadership training for women in 1994. The program was designed to address both the personal and professional aspects of women's leadership in a nontraditional profession such as corrections. Through a two-part series, NIC helped close the gap for women executives in their knowledge, their recognition of their value to the organization, and their self and observer perception.

Although the past three decades have witnessed a tremendous increase in the number of women working in corrections, the increasing numbers of women in the workforce have not been matched by corresponding advancement in executive and senior-level leadership positions. Women are underrepresented in senior and executive (CEO) leadership positions across all professions, but they are significantly underrepresented in the corrections field.

By 2012, women will comprise 47.5% of the workforce. With the anticipated rise of women in the ranks of senior-level positions, forward-looking organizations proactively seek ways to advance the leadership capacities of the women they promote, or intend to promote, to senior and executive administration.

Target Audience: Women who are senior- and upper-level correctional staff, serving in jails, prisons, and community corrections comprise the target audience for this program. They must be functioning at a senior or executive level.

Curriculum Revision: Revision of the curriculum will include review of the current Strategic Development of Executive Women training program and development of learning materials. Any approach to revising the curriculum must include the following:

Enhancements of the Existing Model: The revision should include a review and update of the current program/curriculum based on updated research on women's leadership, the NIC Senior-Level Leadership Competency, and recommendations gathered during the course of this cooperative agreement.

Introduction of a New Model: The revision should include a review and update of the current program/curriculum using a competency-based leadership education model that can be modified to be corrections-specific to women in senior management. It must also account for recommendations gathered during the course of this cooperative agreement.

Products and Deliverables: Expected deliverables from this award include a training curriculum designed using the ITIP model of instruction, which will contain an instructor/facilitator's guide with associated tools, materials, and resources with a final, agreed upon curriculum delivered to NIC no later than June 1, 2012; a participant resource guide to be used in conjunction with the training; instructional aides, including presentation slide shows, CDs, charts, handouts, case studies, assessments, and experiential activities, etc. to support instruction and learning; and delivery and facilitation of a 32-hour classroom training for 20 participants with blended learning tools.

Training Program Description: The training program will be announced on NIC's Web site with its list of other training courses.

Program Delivery: Delivery of the initial training program in 2012 is part of this agreement. To ensure adequate development time, the applicant should expect to deliver the training between July 1 and September 1, 2012, on dates agreeable to NIC. The delivery includes preparation of program materials, setting the agenda for and hosting a faculty planning meeting, the contracting and training of NIC-approved faculty, and the administration of onsite logistics. Participant travel is managed and funded separately by NIC. Participant lodging and meals are funded within this agreement based on government per diem.

Scope of Project: The recipient of this cooperative agreement award must, at a minimum, do the following within the scope of this project: In collaboration with the NIC, conduct a survey regarding critical leadership competencies or sets that organizations should be developing and conduct a survey to capture barriers that women and minorities face when seeking promotion to senior executive positions in corrections.

The narrative portion of the cooperative agreement application should include, at a minimum (1) A clear description of women's learning orientations and the methodology that will be used to take these into consideration as part of the curriculum; (2) a brief summary that indicates the applicant's understanding of the purpose and need of this cooperative agreement; (3) a brief paragraph that summarizes the project goals and objectives; (4) a clear description of the methodology that will be used to complete the project and achieve its goals; (5) a clearly developed work plan with measurable project milestones and timelines for the completion of each milestone; (6) a description of the qualifications of the applicant and each project staff. Experienced correctional professional(s) are expected to be on the project team. These person(s) can be project staff or consultants. The correctional experience cited as qualifications must be at the senior or executive level or above; (7) a description of the staffing plan, including the role and time commitment for each project staff member and an applicant certification that identified staff have been contacted and that they will be available to work on this project; and (8) a budget that details all costs for the project, shows consideration for all contingencies, and notes a commitment to work within the proposed budget. The application must also include a budget narrative that explains how all costs were determined.

Specific Requirements: The applicant will provide an example of several topics/modules that may be considered and their accompanying learning activity. Continuous consultation with the NIC Correctional Program Specialist (CPS) on both proposed curriculum content and training program strategies is necessary. The CPS will have final approval of both. The selected applicant will conduct a face-to-face training/planning meeting with the CPS and NIC-selected and approved trainers and/or faculty to deliver the program at least 60 days before the program start date. The awardee will be responsible for the preparation of all program training materials, negotiation, timely completion of faculty contracts, and coordination of all program site logistics. Participant/faculty lodging, meals, and administration of the associated logistics are to be funded within this agreement. Faculty travel must also be funded within this agreement. Knowledge and previous use of level-one and level-two evaluation methods is necessary. The use of blended learning tools, such as a live Web-based training environment or supplemental online information transfer, is expected.

Site Selection: The training site must be a mutually agreed upon site and fall

within budgetary constraints. It should acknowledge the necessity of an evidence-based learning environment.

Curriculum Specifications: The curriculum must be designed and developed while adhering to the following standards and specifications: The curriculum and training design must be consistent with and embrace the Instructional Theory into Practice (ITIP) model. A reference to this model can be found at *http://nicic.gov/Library/010714.* Written products are developed to support the training. The curriculum facilitation guide is written using a standard curriculum document format, which should include, at a minimum, modules/sections and titles, performance objectives/expectations, a learning activities guide, practice/application activities, evaluation methods, and resources needed to conduct training activities. Cited references should support the curriculum content and concepts. Copyright permissions should be secured for the use of copyright protected publications and materials with a minimum usage of three years. All documents must be delivered electronically in both MS Word 2003 or higher and hard copy; NIC will have final approval of the format, design, and organization of the curriculum documents.

Required Expertise: The successful applicant and/or project staff will possess knowledge, skills, and experience in the following areas: Program design, strategic processes, correctional organizational culture, team dynamics, and change management. Demonstrated knowledge and experience with the dynamics affecting women in corrections is necessary. The applicant will provide an example of recent involvement in leadership development programming specific to women and possess knowledge and experience in curriculum development based on adult learning theory and the Instructional Theory into Practice (ITIP) format. Knowledge and expertise in a variety of instructional delivery strategies should utilize, but are not limited to, 360 assessment certification, asynchronous computer/Web-based instructor led, synchronous Web-based, and social learning networks, etc. Skill in designing training curriculum linked to training objectives, knowledge of available training evaluation methods, and effective written and oral communication skills are necessary.

Review Considerations: Applications received under this announcement will be subject to the NIC Review Process. The criteria for the evaluation of each application will be as follows:

Programmatic (40%)

Are all the tasks adequately discussed? Is there a clear understanding of the problem to be addressed? Are the staffing, resources, and strategies to be employed sound and reasonable? Does the applicant have a track record for this work? Are there any innovative approaches, techniques, or design aspects proposed that will enhance the project? Are adequate examples supplied? Are there examples provided?

Organizational (30%)

Do the skills, knowledge, and expertise of the organization and the proposed project staff demonstrate a high level of competency to carry out the tasks? Does the applicant organization have the necessary experience in women's leadership development? Are the proposed project management and staffing plans realistic?

Project Management/Administration (20%)

Does the applicant identify reasonable objectives, milestones, and measures to track progress? If consultants and/or partnerships are proposed, is there a reasonable justification for their inclusion in the project and a clear structure to ensure effective coordination? Is sufficient background work done to support the approach?

Fiscal (10%)

Is the proposed budget realistic? Does it provide sufficient cost detail/narrative and represent good value relative to the anticipated results?

Application Requirements: Applications should be concisely written, typed double spaced and reference the ''NIC Funding Opportunity Number'' and Title provided in this announcement. The application package must include: OMB Standard Form 424, Application for Federal Assistance; a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (*e.g.,* July 1 through June 30), an outline of projected costs, and the following forms: OMB Standard Form 424A, Budget Information—Non Construction Programs, OMB Standard Form 424B, Assurances—Non Construction Programs (available at www.grants.gov), and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (available at *http://nicic.gov/Downloads/General/certif-frm.pdf*

Applications may be submitted in hard copy, or electronically via *www.grants.gov.* If submitted in hard copy, there needs to be an original and three copies of the full proposal (program and budget narratives, application forms and assurances). The original should have the applicant's signature in blue ink. The program narrative text must be limited to 15 double-spaced pages, exclusive of resumes and summaries of experience. Please do not submit full curriculum vitae.

Authority: Public law 93–415.

Funds Available: NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. Funds (up to $100,000) may be awarded and used only for the activities that are linked to the desired goals and outcome of the project.

This project will be a collaborative venture with the NIC Prisons Division.

Eligibility of Applicants: An eligible applicant is any private agency, educational institution, organization, individual or team with expertise in the areas described. Review Considerations: Applications received under this announcement will be subjected to a 3- to 5-person NIC Peer Review Process.

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry.

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–(800) 333–0505 (if you are a sole proprietor, you would dial 1–(866) 705–5711 and select option 1).

Registration in the CCR can be done online at the CCR Web site: *http://www.ccr.gov.* A CCR handbook and worksheet can also be reviewed at the Web site.

Number of Awards: One.

NIC Funding Opportunity Number: 12PR02. This number should appear as a reference line in the cover letter, where indicated on Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.601.

Executive Order 12372: This project is not subject to the provisions of Executive Order 12372.

Thomas J. Beauclair,

Deputy Director, National Institute of Corrections.

[FR Doc. 2011–32121 Filed 12–14–11; 8:45 am]

BILLING CODE 4410–36–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (11-118)]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed revisions to an existing Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the National Aeronautics and Space Administration is issuing public notice of its proposal to modify its previously noticed system of records NASA 10SECR Security Records System. This notice sets forth those modifications and cancels another NASA system of records NASA 10FNMS, as those records are now combined within NASA 10SECR. The system updates summarized below under the caption **SUPPLEMENTARY INFORMATION**.

DATES: Submit comments within 30 calendar days from the date of this publication.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, NASA–PAOfficer@nasa.gov.

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, NASA–PAOfficer@nasa.gov.

SUPPLEMENTARY INFORMATION: Modifications of the NASA systems of records include: addition of a system location, additional description of categories of individuals covered by and of records contained in the system, update of authorities for maintenance of the system, revision and addition of routine uses, update of retention and disposal citations, as well as the system locations, and practices for storing, retrieving, and safeguarding information.

Linda Y. Cureton,

NASA Chief Information Officer.

NASA 10SECR

SYSTEM NAME:

Security Records System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The centralized data system is located at Location 9. Records are also located at Locations 1 through 9 and Locations 11, 12, and 14. The locations are set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on Civil Servant Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, Intergovernmental Personnel Mobility Act (IPA) Employees, Grantees, Cooperative Employees, and Remote Users of NASA Non-Public Information Technology Resources. This system also maintains information on all non-U.S. citizens, to include Lawful Permanent Residents seeking access to NASA facilities, resources, laboratories, contractor sites, Federally Funded Research and Development Centers or NASA sponsored events for unclassified purposes to include employees of NASA or NASA contractors; prospective NASA or NASA contractor employees; employees of other U.S. Government agencies or their contractors; foreign students at U.S. institutions; officials or other persons employed by foreign governments or other foreign institutions who may or may not be involved in cooperation with NASA under international agreements; foreign media representatives; and representatives or agents of foreign national governments seeking access to NASA facilities, to include high-level protocol visits; or international relations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Security Records, Personal Identity Records including NASA visitor files, Emergency Data Records, Criminal Matters, Traffic Management Records, and Access Management Records. Specific records fields include, but are not limited to: Name, former names, date of birth, place of birth, social security number, home address, phone numbers, citizenship, traffic infraction, security violation, security incident, security violation discipline status and action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 793–799, Espionage and Information Control Statutes;

18 U.S.C. 2151–2157, Sabotage Statutes;

18 U.S.C. 202–208, Bribery, Graft, and Conflicts of Interest ;

18 U.S.C. 3056, Powers, authorities, and duties of United States Secret Service;

18 U.S.C. 371, Conspiracy Statute;

40 U.S.C. 1441, Responsibilities regarding efficiency, security, and privacy of Federal computer systems;

44 U.S.C. 3101, Records management by agency heads; general duties;

50 U.S.C., Internal Security Act of 1950;

51 U.S.C. 20101 National and Commercial Space Programs;

42 U.S.C., 2011 *et seq.,* Atomic Energy Act of 1954, as amended;

Executive Order 9397, as amended, Numbering System for Federal Accounts Relating to Individual Persons;

Executive Order 13526, as amended, Classified National Security Information;

Executive Order 12968, as amended, Access to Classified Information;

Executive Order 10865, Safeguarding Classified Information Within Industry;

Executive Order 10450, Security Requirements for Government Employees;

Pub. L. 81–733, Summary suspension of employment of civilian officers and employees;

Pub. L. 107–347, Federal Information Security Management Act 2002;

HSPD 12, Policy for a Common Identification Standard for Federal Employees and Contractors;

14 CFR parts 1203 through 1203b, NASA Information Security Program;

14 CFR 1213; NASA Release of Information to News and Information Media;

15 CFR 744; EAR Control Policy: End-user and End-use Based;

22 CFR 62, Exchange Visitor Program;

22 CFR 120–130; Foreign Relations Export Control;

41 CFR Chapter 101 Federal Property Management Regulation;

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The records and information in these records may be disclosed:

1. To the Department of Justice (DOJ) when: (a) The agency or any component thereof; (b) any employee of the agency in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the DOJ has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by DOJ is therefore deemed

by the agency to be for a purpose compatible with the purpose for which the agency collected the records.

2. To a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; (b) any employee of the agency in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

3. To an Agency in order to provide a basis for determining preliminary visa eligibility.

4. To a staff member of the Executive Office of the President in response to an inquiry from the White House.

5. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

6. To agency contractors, grantees, or volunteers who have been engaged to assist the agency in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

7. To other Federal agencies and relevant contractor facilities to determine eligibility of individuals to access classified National Security information.

8. To any official investigative or judicial source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

9. To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards.

10. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

11. In order to notify an employee's next-of-kin or contractor in the event of a mishap involving that employee or contractor.

12. To notify another Federal agency when, or verify whether, a PIV card is valid.

13. To provide relevant information to an internal or external organization or element thereof conducting audit activities of a NASA contractor or subcontractor.

14. To provide a NASA contractor, subcontractor, grantee, or other Government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or state statute or regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other Government organization.

15. A record from this system may be disclosed to foreign governments or international organizations if required by treaties, international conventions, or executive agreements.

16. A record from this system may be disclosed to members of a NASA Advisory Committee or Committees and interagency boards charged with responsibilities pertaining to international visits and assignments and/or national security when authorized by the individual or to the extent the committee(s) is so authorized and such disclosure is required by law.

17. A record from this system may be disclosed to the following individuals for the purpose of providing information on traffic accidents, personal injuries, or the loss or damage of property: (a) Individuals involved in such incidents; (b) persons injured in such incidents; (c) owners of property damaged, lost or stolen in such incidents; and/or (d) these individuals' duly verified insurance companies, personal representatives, employers, and/or attorneys. The release of information under these circumstances should only occur when it will not: (a) interfere with ongoing law enforcement proceedings, (b) risk the health or safety of an individual, or (c) reveal the identity of an informant or witness that has received an explicit assurance of confidentiality. Social security numbers should not be released under these circumstances unless the social security number belongs to the individual requester. The intent of this use is to facilitate information flow to parties who need the information to adjudicate a claim.

18. NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained on electronic media and hard-copy documents.

RETRIEVABILITY:

Records are retrieved from the system by individual's name, file number, badge number, decal number, payroll number, Agency-specific unique personal identification code, and/or Social Security Number.

SAFEGUARDS:

Access to system records is controlled by either Government personnel or selected personnel of NASA contractor guard/security force and contractor personnel. After presenting proper identification and requesting a file or record, a person with an official need to know and, if appropriate, a proper clearance may have access to a file or records only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment, and/or information technology systems employing security countermeasures.

RETENTION AND DISPOSAL:

The Personnel Security Records are maintained in Agency files and destroyed upon notification of the death or within 5 years after separation or transfer of employee or within 5 years after contract relationship expires, whichever is applicable in accordance with NASA Records Retention Schedules (NRRS), Schedule 1 Item 103. The foreign national files are maintained in Agency files and destroyed in accordance with NRRS, Schedule 1 Item 35.

The Personal Identity Records are maintained in Agency files and destroyed upon notification of the death or within 5 years after separation or transfer of employee or within 5 years after contract relationship expires, whichever is applicable in accordance with NRRS, Schedule 1 Item 103. Visitor files are maintained and destroyed in accordance with NRRS, Schedule 1 Item 114.

The Emergency Data Records are maintained in Agency files and

destroyed when superseded or obsolete in accordance with NRRS 1, Item 100B.

The Criminal Matter Records are maintained in Agency files and destroyed in accordance with Items A and B of National Archives and Records Administration Disposition Authorization N1–255–07–2 after its approval by the Archivist of the United States.

The Traffic Management Records are maintained in Agency files and destroyed in accordance with Item C of National Archives and Records Administration Disposition Authorization N1–255–07–2 after its approval by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator of the Office of Protective Services, Location 1. Subsystem Managers: The Chief of Security/Protective Services at each subsystem location at locations 1 through 9 and locations 11, 12, and 14. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: First, middle, and last name; date of birth; Social Security Number; period and place of employment with NASA, if applicable.

RECORD ACCESS PROCEDURES:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 552a(k)(5) from the access provisions of the Act.

Personal Identity Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

Emergency Data Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a(k)(2) from the access provision of the Act. Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

For Personnel Security Records and Criminal Matters Records, see Record Access Procedures, above. For Personal Identity Records, Emergency Data Records, and Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained from a variety of sources including the employee, contractor, or applicant via use of the Standard Form (SF) SF–85, SF–85P, or SF–86 and personal interviews; employers' and former employers' records; FBI criminal history records and other databases; financial institutions and credit reports; medical records and health care providers; educational institutions; interviews of witnesses such as neighbors, friends, coworkers, business associates, teachers, landlords, or family members; tax records; and other public records. Security violation information is obtained from a variety of sources, such as guard reports, security inspections, witnesses, supervisor's reports, audit reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a(c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt the Personnel Security Records portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(5) and Subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a(c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt the Criminal Matter Records portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(2) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Records subject to the provisions of 5 U.S.C. 552(b)(1) required by Executive Order to be kept secret in the interest of national defense or foreign policy are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:(c)(3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(1) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

[FR Doc. 2011–32120 Filed 12–14–11; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–29881; 812–13987]

Wells Fargo Bank, N.A., et al.; Notice of Application and Temporary Order

December 9, 2011.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 (''Act'').

SUMMARY: *Summary of Application:* Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to an injunction entered against Wells Fargo Bank, N.A. (''Wells Fargo Bank'') on December 9, 2011 by the United States District Court for the District of New Jersey (''Injunction'') until the Commission

takes final action on an application for a permanent order. Applicants also have applied for a permanent order.

Applicants: Wells Fargo Bank, First International Advisors, LLC (''First International''), Metropolitan West Capital Management, LLC (''Metropolitan West''), Golden Capital Management, LLC (''Golden Capital''), Alternative Strategies Brokerage Services, Inc. (''Alternative Strategies Brokerage''), Alternative Strategies Group, Inc. (''Alternative Strategies''), Wells Fargo Funds Management, LLC (''WF Funds Management''), Wells Capital Management Incorporated (''Wells Capital Management''), Peregrine Capital Management, Inc. (''Peregrine''), Galliard Capital Management, Inc. (''Galliard''), Nelson Capital Management (''Nelson''), and Wells Fargo Funds Distributor, LLC (''WF Funds Distributor'') (each an ''Applicant'' and collectively, the ''Applicants'').[1]

Filing Date: The application was filed on December 8, 2011 and two amendments were filed on December 9, 2011.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 3, 2012, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Wells Fargo Bank, 101 North Phillips Avenue, Sioux Falls, SD 57104; First International, 30 Fenchurch Street, London, England, UK EC3M 3BD; Metropolitan West, 610 Newport Center Drive, Suite 1000, Newport Beach, CA 92660; Golden Capital, 5 Resource Square, Suite 400, 10715 David Taylor Drive, Charlotte, NC 28262; Alternative Strategies Brokerage, 401 South Tryon Street, Charlotte, NC 28288; Alternative Strategies, 401 South Tryon Street, TH3, Charlotte, NC 28288; WF Funds Management and WF Funds Distributor, 525 Market Street, 12th Floor, San Francisco, CA 94105; Wells Capital Management, 525 Market Street, 10th Floor, San Francisco, CA 94105; Peregrine, 800 LaSalle Avenue, Suite 1850, Minneapolis, MN 55402; Galliard, 800 LaSalle Avenue, Suite 1100, Minneapolis, MN 55402; and Nelson, 1860 Embarcadero Road, #140, Palo Alto, CA 94303.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 551–6811 or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a temporary order and summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Applicants' Representations

1. Wells Fargo Bank is a national banking association. On March 20, 2010, Wachovia Bank, N.A. (''Wachovia Bank'') merged with and into Wells Fargo Bank. Wells Fargo Bank is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act'') and serves as an investment adviser to a Fund (as defined below). No existing company of which Wells Fargo Bank is an affiliated person (other than the Applicants) currently serves as investment adviser, sub-adviser, or depositor of any registered investment company or business development company (''BDC'') or principal underwriter for any registered open-end investment company, registered unit investment trust (''UIT''), or registered face amount certificate company, or investment adviser of any employees' securities company, as defined in section 2(a)(13) of the Act (''ESC'') (''Fund Service Activities''). ''Funds'' refers to the registered investment companies, BDCs or ESCs for which a Covered Person provides Fund Service Activities. Wells Fargo & Company (''Wells Fargo'') directly owns 37.51% of Wells Fargo Bank and indirectly owns the remainder. Through its direct and indirect subsidiaries, Wells Fargo, a registered financial holding company and bank holding company under the Bank Holding Company Act of 1956, as amended, offers banking, brokerage, advisory and other financial services to institutional and individual customers worldwide. Wells Fargo also is the ultimate parent of the other Applicants, who, as direct or indirect subsidiaries of the same ultimate parent, are under common control with Wells Fargo Bank.

2. First International, Metropolitan West, Golden Capital, Alternative Strategies, WF Funds Management, Wells Capital Management, Peregrine, Galliard and Nelson are registered as investment advisers under the Advisers Act and serve as investment advisers or sub-advisers to various Funds. Alternative Strategies Brokerage and WF Funds Distributor are registered as broker-dealers under the Securities Exchange Act of 1934, as amended and each serves as principal underwriter to various Funds.

3. On December 9, 2011, the United States District Court for the District of New Jersey entered a judgment, which included the Injunction, against Wells Fargo Bank (''Judgment'') in a matter brought by the Commission.[2] The Commission alleged in the complaint (''Complaint'') that from at least 1997 through at least 2005, Wachovia Bank engaged in fraudulent practices and made misrepresentations and omissions in connection with bidding on and sale of municipal reinvestment instruments. The Complaint alleged that these fraudulent practices, misrepresentations, and omissions affected the prices of certain reinvestment instruments, deprived certain municipalities of a presumption that their reinvestment instruments were purchased at fair market value, and/or jeopardized the tax-exempt status of certain securities. Based on the alleged misconduct described above, the Complaint alleged that Wachovia Bank violated section 17(a) of the Securities Act of 1933. Without admitting or denying any of the allegations in the Complaint (other than those relating to the jurisdiction of the District Court over it and the subject matter, solely for purposes of this action), Wells Fargo Bank consented to the entry of the Injunction and other relief, including disgorgement and civil monetary penalties.

Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of

[1] Applicants request that any relief granted pursuant to the application also apply to any existing company of which Wells Fargo Bank is or may become an affiliated person within the meaning of section 2(a)(3) of the Act (together with the Applicants, the ''Covered Persons'').

[2] *U.S. Securities and Exchange Commission* v. *Wells Fargo Bank, N.A.,* Case No. 2:11–cv–07135–WJM–MF (D.N.J. Dec. 9, 2011).

a security, or in connection with activities as an underwriter, broker or dealer, from acting, among other things, as an investment adviser or depositor of any registered investment company or BDC or a principal underwriter for any registered open-end investment company, registered UIT, or registered face-amount certificate company or as investment adviser of an ESC. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company, any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines ''affiliated person'' to include, among others, any person directly or indirectly controlling, controlled by, or under common control, with the other person. Applicants state that Wells Fargo Bank is an affiliated person of each of the other Applicants within the meaning of section 2(a)(3) of the Act. Applicants state that, as a result of the Injunction, they would be subject to the prohibitions of section 9(a) of the Act.

2. Section 9(c) of the Act provides that the Commission shall grant an application for exemption from the disqualification provisions of section 9(a) of the Act if it is established that these provisions, as applied to the Applicants, are unduly or disproportionately severe or that the conduct of the Applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption. Applicants have filed an application pursuant to section 9(c) seeking a temporary and permanent order exempting them and other Covered Persons from the disqualification provisions of section 9(a).

3. Applicants believe they meet the standard for exemption specified in section 9(c). Applicants state that the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe and that the conduct of the Applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a).

4. Applicants state that the alleged conduct giving rise to the Injunction did not involve any of the Applicants engaging in Fund Service Activities. Applicants also state (i) None of the current or former directors, officers, or employees of the Applicants (other than Wells Fargo Bank) had any knowledge of, or had any involvement in, the conduct alleged in the Complaint to have constituted the violations that provided a basis for the Injunction; (ii) the personnel at Wells Fargo Bank who were involved in the conduct that constituted the violations that provided a basis for the Injunction have had no, and will not have any future, involvement in providing Fund Service Activities to the Funds on behalf of the Applicants or other Covered Persons; and (iii) because the personnel of the Applicants (other than Wells Fargo Bank) did not have any involvement in the alleged misconduct, shareholders of Funds that received Fund Service Activities from the Applicants were not affected any differently than if those Funds had received services from any other non-affiliated investment adviser, depositor or principal underwriter.

5. Applicants state that the inability of the Applicants to engage in Fund Service Activities would result in potentially severe financial hardships for the Funds they serve and the Funds' shareholders. Applicants state that they will distribute written materials, including an offer to meet in person to discuss the materials, to the boards of directors of the Funds (the ''Boards''), including the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of such Funds, and their independent legal counsel as defined in rule 0–1(a)(6) under the Act, if any, describing the circumstances that led to the Injunction, any impact on the Funds, and the application. Applicants state that they will provide the Boards with the information concerning the Injunction and the application that is necessary for the Funds to fulfill their disclosure and other obligations under the federal securities laws.

6. Applicants also state that, if they were barred from providing Fund Service Activities to registered investment companies, BDCs and ESCs, the effect on their businesses and employees would be severe. Applicants state that they have committed substantial resources to establish an expertise in providing Fund Service Activities. Applicants further state that prohibiting them from providing Fund Service Activities would not only adversely affect their businesses, but would also adversely affect more than 1600 employees that are involved in those activities.

7. Applicants state that Applicants and certain other affiliated persons of the Applicants have previously received orders under section 9(c) of the Act, as the result of conduct that triggered section 9(a), as described in greater detail in the application.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

Temporary Order

The Commission has considered the matter and finds that the Applicants have made the necessary showing to justify granting a temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the Act, that Applicants and any other Covered Persons are granted a temporary exemption from the provisions of section 9(a), solely with respect to the Injunction, subject to the condition in the application, from December 9, 2011, until the Commission takes final action on their application for a permanent order.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–32169 Filed 12–14–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law. 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Monday, December 19, 2011 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items

listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Monday, December 19, 2011 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Other matters relating to enforcement proceedings; and

An adjudicatory matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: December 12, 2011.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32219 Filed 12–20–11; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65689A; File No. SR–Phlx–2011–142]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change To Modify Its Co-Location Fee Schedule Regarding Low Latency Network Connections; Correction

AGENCY: Securities And Exchange Commission.

ACTION: Notice; correction.

SUMMARY: The Securities and Exchange Commission published a document in the **Federal Register** of November 10, 2011 concerning a Proposed Rule Change by NASDAQ OMX PHLX LLC to Modify its Co-Location Fee Schedule Regarding Low Latency Network Connections; The document contained a typographical error in the heading.

FOR FURTHER INFORMATION CONTACT: Daniel T. Gien, Special Counsel, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, (202) 551–5747.

Correction:

In the **Federal Register** of November 10, 2011, in FR Doc. 2011–29110, on page 70187, correct the heading to read as noted above.

Dated: December 9, 2011.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32132 Filed 12–14–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65924; File No. SR–Phlx–2011–167]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Permit Fee

December 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on November 28, 2011, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Fee Schedule to waive Permit Fees for existing Exchange members or member organizations that were members on the Exchange prior to the initiation of PSX and have since determined to commence an equities business.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* at the principal office of the Exchange, on the Commission's Web site at *http://www.sec.gov* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the waiver of Permit Fees to Exchange members or member organizations that were members on the Exchange prior to the initiation of PSX and have since determined to commence an equities business. The Exchange continues to seek to encourage members to trade on NASDAQ OMX PSX (''PSX'') [3] under a market participant identifier (''MPID'') [4] registered to the member or member organization.

Currently, the Exchange assesses members and member organizations who are transacting business on the Exchange a Permit Fee of $1,100 per month.[5] A member or member organization is assessed the $1,100 monthly Permit Fee if that member or member organization: (1) Transacts its option orders in its assigned Phlx house account in a particular month; (2) is a clearing member of The Options Clearing Corporation or a Floor Broker; or (3) for those member organizations which are under common ownership, transacts at least one options trade in a Phlx house account that is assigned to one of the member organizations under common ownership.[6] Members who are not transacting business on the Exchange are assessed a Permit Fee of $7,500 per month. A member or member organization is assessed the $7,500 Permit Fee for not transacting business on the Exchange if that member is either: (i) Not a PSX Participant;[7] or not engaged in an options business at the Exchange in a particular month. In

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] PSX is the Exchange's cash equities market electronic trading platform.

[4] An MPID is a four-letter code used by a member to categorize its trading activity for a specific purpose.

[5] The Exchange recently filed to amend its Permit Fees to $2,000 for members transacting business on the Exchange. The rule text of Exhibit 5 reflects the text of that currently effective filing which will be operative on January 3, 2012, in part. *See* SR–Phlx–2011–166.

[6] For purposes of the Permit Fee, ''common ownership'' shall be defined as at least 75% common ownership between the member organizations.

[7] Applicants that apply for membership solely to participate in the NASDAQ OMX PSX equities market are not assessed a Permit Fee, Application Fee, Initiation Fee, or Account Fee. *See* Securities Exchange Act Release No. 61863 (April 7, 2010), *75 FR 20021* (April 16, 2010) (SR–Phlx–2010–54).

addition, a member or member organization that sponsors an options participant [8] would pay an additional Permit Fee for each sponsored options participant. If the Exchange member or member organization meets the exemption criteria related to the $7,500 Permit Fee, the member or member organization would be assessed the $1,100 Permit Fee or $2,000 as of January 3, 2012.

At the time PSX began operations in October 2010, the Exchange filed a rule change to waive the Application Fee, Initiation Fee, Permit Fee and Account Fee for applicants applying to participate in PSX (''October 2010 Rule Change'').[9] The October 2010 Rule Change applied the waivers to *new* Exchange members that solely participated in PSX.[10] Also, the October 2010 Rule Change did not apply the waivers to an applicant seeking approval to participate solely in the options market, or to an applicant seeking to participate in both the equities and the options markets.[11] Finally, the October 2010 Rule Change did not apply waivers to members or member organizations that cease their options operations, but remain as sole PSX Participants. The Exchange subsequently filed an amendment to allow existing members or member organizations that cease to conduct an options business on Phlx XL II,[12] but continue to conduct business PSX, to receive a waiver of Permit Fee.[13]

This filing proposes to apply the waiver of the Permit Fee [14] to those Exchange members and member organizations that were members of the Exchange before the initiation of PSX, but were not conducting an options business, and thereafter commenced conducting an equities business. These members and member organizations were not considered ''new'' members and were therefore not subject to the waiver. The Exchange proposes to allow these members and member organizations to receive a waiver of the Permit Fee. These members and member organizations must not be conducting an options business to receive the waiver, but would be considered PSX only.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [15] in general, and furthers the objectives of Section 6(b)(4) of the Act [16] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that it is reasonable to waive fees as an incentive for existing Exchange members and member organizations to continue to transact business on PSX.

The Exchange believes that the proposal is equitable and not unfairly discriminatory because the waiver applies uniformly to any members and member organizations that solely conduct an equities business on the Exchange. The fact that these members and member organizations were at the Exchange prior to the commencement of PSX should not prohibit them from receiving the same waiver as other equities members who are not conducting an options Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[17] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–Phlx–2011–167 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Phlx–2011–167. 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

[8] *See* Exchange Rule 1094 titled Sponsored Participants. A Sponsored Participant may obtain authorized access to the Exchange only if such access is authorized in advance by one or more Sponsoring Member Organizations. Sponsored Participants must enter into and maintain participant agreements with one or more Sponsoring Member Organizations establishing a proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Exchange.

[9] *See* Securities Exchange Act Release No. 63351 (November 19, 2010), 75 FR 73140 (November 29, 2010) (SR–Phlx–2010–54).

[10] *See* Securities Exchange Act Release No. 63351 (November 19, 2010), 75 FR 73140 (November 29, 2010) (SR–Phlx–2010–54).

[11] *See* Securities Exchange Act Release No. 63351 (November 19, 2010), 75 FR 73140 (November 29, 2010) (SR–Phlx–2010–54).

[12] Phlx XL II is the Exchange's electronic options trading platform.

[13] *See* Securities Exchange Act Release No. 64265 (April 8, 2011), 76 FR 21080 (April 14, 2011) (SR–Phlx–2011–43).

[14] These members and member organizations would not be assessed an Application Fee or Initiation Fee because they are already Exchange members or member organizations and have previously paid those fees. In addition, the monthly Account Fee would not be applicable to PSX Participants as MPIDs are used to identify member firms' participation, not account numbers.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4).

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2011–167 and should be submitted on or before January 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32139 Filed 12–14–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65926; File No. SR–Phlx–2011–141]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1, To Introduce the Minimum Life Order as a New Order Type

December 9, 2011.

On October 12, 2011, NASDAQ OMX PHLX LLC (''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to introduce the Minimum Life Order as new order type for use in the NASDAQ OMX PSX (''PSX'') system. The proposed rule change was published for comment in the **Federal Register** on October 28, 2011.[3] On October 26, 2011, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has received one comment letter on the proposed rule change.[5] The Exchange responded to the comment letter on November 28, 2011.[6] This order approves the proposed rule change, as modified by Amendment No. 1.

The Exchange proposes, by amending its rules to add Rule 3301(f)(11), to introduce the Minimum Life Order as a new order type for use on PSX. A Minimum Life Order may not be cancelled by the entering participant for 100 milliseconds following receipt by the Exchange. If a market participant entering a Minimum Life Order submits a cancel message with respect to a Minimum Life Order at the same time as the order, or at any point during the ''no cancel'' window, the cancel message will not be rejected, but will be effected only following the expiration of the window (assuming the order has not already been executed). All Minimum Life Orders must be designated as Displayed Orders.

The Commission received one comment letter, which was generally supportive of the proposed rule change.[7] The commenter, however, expressed concern that predatory traders will be able to know when an order has a minimum life because there will be a new flag in the data feed.[8] The commenter is concerned that predatory traders would be able to use such information to further model price behavior in the markets.[9] The Exchange stated in its response to the commenter that Minimum Life Orders will not be distinguished from other Displayed Orders in any data that will be disseminated to market participants.[10] The Exchange notes that the flag mentioned by the commenter will be used for order entry, but not for order display.[11]

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [12] and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[14] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange's new Minimum Life Displayed Order type, which cannot be cancelled until after a 100 millisecond window has expired, allows market participants to elect to commit to trade for that time period and thus, according to the Exchange, is designed to encourage removers of liquidity to route orders to the Exchange in anticipation of receiving higher fill rates.[15] The Commission believes that the Minimum Life Order could provide additional trading opportunities on the Exchange, consistent with just and equitable principles of trade, and is designed to encourage displayed liquidity and offer PSX market participants additional options when posting liquidity on PSX, consistent with removing impediments to and perfecting the mechanisms of a free and open market and a national market system, the protection of investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–Phlx–2011–141), as amended, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32141 Filed 12–14–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65929; File No. SR–NASDAQ–2011–171]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Post-Only Order

December 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 6, 2011, The NASDAQ Stock Market LLC (the ''Exchange'' or ''NASDAQ'')

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65610 (October 24, 2011), 76 FR 67012 (''Notice'').

[4] Amendment No. 1 to the proposed rule change reflects the October 19, 2011 approval of the proposed rule change by the Board of Directors of Phlx. This is a technical amendment and is not subject to notice and comment as it does not materially affect the substance of the filing.

[5] *See* Letter dated November 1, 2011, from Sal Arnuk and Joe Saluzzi, Themis Trading, LLC, to Elizabeth M. Murphy, Secretary, Commission.

[6] *See* Letter dated November 28, 2011, from John M. Yetter, Vice President & Deputy General Counsel, NASDAQ OMX, to Elizabeth M. Murphy, Secretary, Commission (''Comment Response'').

[7] *See supra* note 5. However, the commenter does believe that, in order for the minimum order live to be truly effective, that it cannot be a voluntary order offered by just one exchange, but should apply to all orders.

[8] *Id.*

[9] *Id.*

[10] *See* Comment Response, *supra* note 6.

[11] *Id.*

[12] 15 U.S.C. 78f.

[13] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Notice, *supra* note 3.

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is filing with the Securities and Exchange Commission (''Commission'') a proposal for the NASDAQ Options Market (''NOM'') to amend Chapter VI, Trading Systems, Section 1, Definitions, to change the definition of ''Post-Only Order,'' as described further below, and delay its implementation until February 2012.

The text of the proposed rule change is available at *http:/ nasdaq.cchwallstreet.com/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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 Statutory Basis for, Proposed Rule Change

1. Purpose

The Exchange recently adopted a new order type called Post-Only Order,[3] which is an order that will not remove liquidity from the System and is to be ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market.[4] Post-Only Orders may not have a time-in-force designation of Good Til Cancelled (''GTC'').[5]

At this time, the Exchange proposes to amend the definition in Chapter VI, Section 1(e)(11), to provide that, like the time-in-force designation of GTC, a Post-Only Order cannot have a time-in-force designation of Immediate or Cancel (or IOC). Immediate or Cancel, which is described in Chapter VI, Section 1(g)(2), means for orders so designated, that if after entry into the System a marketable order (or unexecuted portion thereof) becomes non-marketable, the order (or unexecuted portion thereof) shall be canceled and returned to the entering participant. Accordingly, IOC orders are available to trade immediately and, if not executed, are then cancelled back to the Participant.

The Exchange believes that the IOC time-in-force designation is not appropriate for Post-Only Orders, because IOC orders cannot post on the book and Post-Only Orders cannot remove liquidity, such that there would be no logical outcome for an IOC Post-Only Order. Accordingly, the Exchange is proposing to expressly state in its rules that such orders do not exist.

In addition, the Exchange proposes to delay the implementation of Post-Only Orders to take aforementioned change into account and delay implementation until February 2012. The Exchange will announce the specific date that these orders will become available to its membership via an Options Trader Alert.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest, because it better explains an additional order type on NOM, making clear that the IOC time-in-force is not available and the order type is not available until February 2012, which the Exchange believes is consistent with just and equitable principles of trade. Because the Post-Only Order is designed to encourage displayed liquidity and offer NOM market participants greater flexibility to post liquidity on NOM, limiting the time-in-force is consistent with removing impediments to and perfecting the mechanisms of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay in order to implement this proposal prior to December 8, 2011, because, without such a waiver, the Exchange's recent filing adopting the new Post-Only order type would become operative on December 8,

[3] *See* Securities Exchange Act Release No. 65761 (November 16, 2011), 76 FR 72230 (November 22, 2011)(SR–NASDAQ–2011–152).

[4] Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) If a Post-Only Order would lock or cross an order on the System, the order will be re-priced to $.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the national best bid or offer as reflected in the protected quotation of another market center, the order will be handled pursuant to Chapter VI, Section 7(b)(3)(C).

[5] *See* NOM Rules, Chapter VI, Section 1(g).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

2011.[11] The Exchange, however, will not be ready to implement the new order type until February 2012. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because it will allow the Exchange to immediately delay the implementation of Post-Only orders, preventing a gap between when the new order type is operative under the rules and when the new order type will be implemented and available for use in February 2012. For these reasons, the Commission designates that the proposed rule change become operative immediately upon filing.[12]

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–NASDAQ–2011–171 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.

All submissions should refer to File Number SR–NASDAQ–2011–171. 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 NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2011–171 and should be submitted on or before January 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32143 Filed 12–14–11; 8:45 am]

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[11] *See supra* note 3.

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65927; File No. SR–OCC–2011–15]

Self-Regulatory Organizations; Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Management of Liquidity Risk

December 9, 2011.

I. Introduction

On October 12, 2011, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2011–15 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on November 1, 2011.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description

The purpose of the proposed rule change is to amend OCC's by-laws and rules to clarify OCC's authority to use, and the manner in which OCC may use, a defaulting clearing member's margin deposits and contributions to the clearing fund and all other clearing members' clearing fund contributions[4] to obtain temporary liquidity for purposes of meeting liquidity needs arising from Default Obligations.[5]

An essential element of OCC's risk management regime is sound management of liquidity risk. OCC regularly examines its liquidity risk exposure to determine the optimal amount and form of available liquidity. OCC's largest potential liquidity needs are projected to occur in the case of a clearing member's default where OCC would be obligated to settle the defaulting clearing member's payment obligations with respect to option premiums, settlement of cash-settled option exercises, and mark-to-market payments. These are obligations that OCC must fund on time and potentially with only a few hours of advance notice—from notice of default until the payments are due.

One of the resources that OCC may use to meet its liquidity needs is its existing committed credit facility. The amount of funds available to OCC under the committed credit facility is limited not only by the overall size of the facility, but also by the amount of assets that OCC can pledge as collateral to lenders supporting the facility. OCC believes that, in addition to the authority it already has to pledge clearing fund assets to secure a loan to cover Default Obligations, it should also have the express power to pledge a suspended clearing member's margin deposits to secure loans for the purpose of meeting obligations arising out of the default and suspension of that clearing member or any action taken by OCC in connection therewith. OCC clearly has authority to pledge a suspended clearing member's clearing fund deposits for that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 65622 (October 28, 2011), 76 FR 67523.

[4] Margin deposits secure only the depositing clearing member's own obligations to OCC whereas clearing fund deposits of all clearing members may be applied by OCC not only to losses arising from the depositing clearing member's default, but also to losses resulting from defaults by other clearing members and specified other third parties such as settlement banks and other clearing organizations. *See generally* Article VIII, Sections 1 and 5 of OCC's by-laws and Rule 604 of OCC's rules.

[5] The specific language of the proposed changes can be found at *http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_11_15.pdf.*

purpose under Article VIII, Section 5(e) of the by-laws. OCC believes that it is not as clear that it has authority to pledge a suspended clearing member's margin deposits. Rule 1104(a) provides, among other things, that upon the suspension of a clearing member, OCC shall promptly ''convert to cash,'' in the most orderly manner practicable, all of the clearing member's margin deposits. Although this mandate might be construed to include the authority to pledge margin assets as collateral for borrowings under the committed credit facility, the phrase ''convert to cash'' has generally been used in the by-laws as synonymous with ''liquidate'' to refer to a final disposition of an asset. And even if OCC does have implied authority to pledge margin assets, that may not be transparent to all clearing members because it is not expressly stated in the rule. In order to eliminate any ambiguity, OCC proposed to (i) Amend Rule 1104 and Rule 1106 to replace the phrases ''convert to cash,'' '' conversion to cash'' and ''converted to cash'' with the words ''liquidate,'' ''liquidation'' and ''liquidated,'' respectively; and (ii) amend Rule 1104(b) to expressly give OCC the power to pledge a suspended clearing member's margin deposits as security for loans if designated executive officers of OCC determine that immediate liquidation of such assets for cash under then-existing circumstances would not be in the best interests of OCC, other clearing members, or the general public.

While OCC's $2 billion committed credit facility should normally be more than sufficient to meet OCC's liquidity needs, it is nevertheless possible that OCC could encounter a liquidity demand that exceeds the size of that facility. Moreover, it could be difficult to maintain the size of the facility under unfavorable market conditions (*i.e.,* if the credit markets tighten significantly). In addition, future regulatory requirements for clearinghouses could impose liquidity requirements that would be difficult to meet with a committed credit facility alone. In order to be better prepared to deal with such situations, OCC believes that it is necessary to actively explore a variety of means for raising and maintaining liquidity resources, including participation in securities lending or tri-party repo markets. Therefore, OCC proposed to amend both Article VIII, Section 5(e) of the by-laws and Rule 1104(b) to clarify that OCC's authority to use a suspended clearing member's margin and clearing fund deposits and other clearing members' clearing fund deposits to obtain temporary liquidity for purposes of meeting Default Obligations is not limited to pledging such assets under the committed credit facility. Rather, OCC would have express authority to use such assets to obtain liquidity through any reasonable means as determined by designated executive officers of OCC in their discretion. The addition of the language ''or otherwise obtain'' in Article VIII, Section 5(e) of the by-laws reflects that certain transactions by which OCC may obtain liquidity could be characterized as something other than a transaction in which funds are ''borrowed.'' For example, in a Master Repurchase Agreement, the Agreement states that the parties' intent is for the transactions to be ''sales'' and ''purchases,'' but also contains provisions if such transactions are deemed to be loans. Accordingly, the use of ''or otherwise obtain'' in the phrase ''borrow or otherwise obtain'' addresses the possibility that the transaction by which OCC obtains funds may not be deemed to be a ''borrowing'' and forestalls technical arguments that it would be necessary for the transaction to be a ''loan'' in order for OCC to borrow funds.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[6] The proposed rule change is designed to clarify OCC's authority to take action following a clearing member default in order to facilitate the settlement of the defaulting clearing member's payment obligations with respect to option premiums, settlement of cash-settled option exercises, and mark-to-market payments. The Commission believes that the express authority to obtain funds based on a suspended member's clearing fund deposits and margin deposits may facilitate OCC's ability to obtain the liquidity it needs to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control or for which OCC is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[7] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–OCC–2011–15) be, and hereby is, approved.[9]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32142 Filed 12–14–11; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78a–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(2).

[9] In approving this proposed rule change the Commission has considered the proposed rule's impact of efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65934; File No. SR–Phlx–2011–170]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change to Request Permanent Approval of the Pilot Program to Permit NASDAQ OMX PSX to Accept Inbound Orders that Nasdaq Execution Services, LLC Routes in its Capacity as a Facility of The NASDAQ Stock Market LLC

December 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2011, NASDAQ OMX PHLX LLC (''Phlx'' or the ''Exchange'') filed with the Securities and Exchange Commission (q''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

Phlx is filing this proposed rule change to request permanent approval of the Exchange's pilot program to permit the Exchange's NASDAQ OMX PSX system (''PSX'') to accept inbound orders that Nasdaq Execution Services, LLC (''NES'') routes in its capacity as a facility of The NASDAQ Stock Market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

LLC (''NASDAQ''). Phlx proposes to implement the rule change upon Commission approval. The text of the proposed rule change is available at *http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx,* at Phlx's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, NES is the approved outbound routing facility of NASDAQ for cash equities, providing outbound routing from NASDAQ to other market centers.[3] PSX also has been previously approved to receive inbound routes of cash equities orders by NES in its capacity as an order routing facility of NASDAQ on a pilot basis.[4] The Exchange hereby seeks permanent approval to permit PSX to accept inbound orders that NES routes in its capacity as a facility of NASDAQ (subject to the attendant obligations and conditions).

During the pilot period, the Exchange committed to the following conditions:

1. Pursuant to a regulatory services agreement (the ''FINRA RSA'') between the Exchange and Financial Industry Regulatory Authority, Inc. (''FINRA''), FINRA will review NES's compliance with the Exchange's rules through FINRA's examination program.[5] Pursuant to the FINRA RSA, however, the Exchange retains ultimate responsibility for enforcing its rules with respect to NES.

2. FINRA and the Exchange[6] will monitor NES for compliance with the Exchange's trading rules, and will collect and maintain certain related information.[7]

3. FINRA will provide a report to the Exchange's CRO, on a quarterly basis, that: (i) Quantifies all alerts (of which FINRA and the Exchange are aware) that identify NES as a participant that has potentially violated Commission or Exchange rules, and (ii) quantifies the number of all investigations that identify NES as a participant that has potentially violated Commission or Exchange rules.

4. The Exchange will adopt and maintain Rule 985(c)(2), which requires NASDAQ OMX, as the holding company owning both the Exchange and NES, to establish and maintain procedures and internal controls reasonably designed to ensure that NES does not develop or implement changes to its system, based on non-public information obtained regarding planned changes to the Exchange's systems as a result of its affiliation with the Exchange, until such information is available generally to similarly situated Exchange members, in connection with the provision of inbound order routing to the Exchange.

5. The routing of orders from NES to the Exchange, in NES's capacity as a facility of NASDAQ, will be authorized for a pilot period of twelve months (later extended for an additional six months).

The Exchange has met all the above-listed conditions. By meeting the above-conditions, the Exchange has set up mechanisms that protect the independence of the Exchange's regulatory responsibilities with respect to NES, as well as demonstrate that NES cannot use any information advantage it may have because of its affiliation with the Exchange. Since the Exchange has met all the above-listed conditions, it now seeks permanent approval of the PSX and NES inbound routing relationship. The Exchange will continue to comply with conditions 1–4 on an ongoing basis.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and with Section 6(b)(5) of the Act,[9] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the proposed rule change will allow the Exchange to continue receiving inbound routes of equities orders from NES acting in its capacity as a facility of NASDAQ, in a manner consistent with prior approvals and established protections. The Exchange believes that its having met the commitments established during the pilot program demonstrates that (i) The Exchange has mechanisms to protect the independence of the Exchange's regulatory responsibilities with respect to NES, and (ii) NES cannot use any information advantage it may have because of its affiliation with the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

[3] *See* NASDAQ Rule 4758. *See also* Securities Exchange Act Release Nos. 50311 (September 3, 2004), 69 FR 54818 (September 10, 2004) (Order Granting Application for a Temporary Conditional Exemption Pursuant To Section 36(a) of the Exchange Act by the National Association of Securities Dealers, Inc. Relating to the Acquisition of an ECN by The Nasdaq Stock Market, Inc.) and 52902 (December 7, 2005), 70 FR 73810 (December 13, 2005) (SR–NASD–2005–128) (Order Approving a Proposed Rule Change To Establish Rules Governing the Operation of the INET System).

[4] *See* Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR–Phlx–2010–79) (the ''PSX Approval Order''). *See also* Securities Exchange Act Release No. 65552 (October 13, 2011), 76 FR 64989 (October 19, 2011) (Sr–Phlx–2011–139) (extending pilot through April 8, 2012).

[5] In addition, NES is subject to independent oversight by FINRA, its Designated Examining Authority, for compliance with financial responsibility requirements.

[6] Personnel performing real-time oversight of equity trading on NASDAQ will also perform similar functions with respect to PSX pursuant to a regulatory services agreement among NASDAQ, the Exchange, NASDAQ OMX BX, Inc., and NASDAQ OMX (the ''Intercompany RSA'') under the direction, authority, and oversight of Phlx's Chief Regulatory Officer (''CRO'') and the Regulatory Oversight Committee (''ROC'') of its Board of Directors.

[7] Pursuant to the FINRA RSA, both FINRA and the Exchange will collect and maintain all alerts, complaints, investigations and enforcement actions in which NES (in its capacity as a facility of Nasdaq routing orders to the Exchange) is identified as a participant that has potentially violated applicable Commission or Exchange rules. The Exchange and FINRA will retain these records in an easily accessible manner in order to facilitate any potential review conducted by the Commission's Office of Compliance Inspections and Examinations.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission 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–2011–170 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–2011–170. 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–Phlx–2011–170 and should be submitted on or before January 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32167 Filed 12–14–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65933; File No. SR–NYSEAmex–2011–96]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule

December 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2011, NYSE Amex LLC (the ''Exchange'' or ''NYSE Amex'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to proposes to [sic] amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') to permit the Exchange to exclude data from the calculation of Excessive Bandwidth Utilization Fees and Cancellation Fees if one or more ATP Firms or the Exchange experiences a bona fide systems problem and make other technical changes. The proposed change will be operative on December 1, 2011. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to permit the Exchange to exclude data from the calculation of Excessive Bandwidth Utilization Fees and Cancellation Fees if one or more ATP Firms or the Exchange experiences a bona fide systems problem and make other technical changes.

The Exchange presently has three fees related to use of systems capacity: (1) The Cancellation Fee, (2) the Order To Trade Ratio Fee, and (3) the Messages To Contracts Traded Ratio Fee. The latter two fees are referred to as Excessive Bandwidth Utilization Fees. Under the current Fee Schedule, if an ATP Firm is liable for either or both of the Excessive Bandwidth Utilization Fees and/or for charges pursuant to the Cancellation Fee in a given month, that firm would only be charged the largest one of those three fees for the month.[3] The Exchange may exclude one or more days of data in calculating the Messages To Contracts Traded Ratio Fee for an ATP Firm if the Exchange determines, in its sole discretion, that one or more ATP Firms or the Exchange experienced a bona fide systems problem. The Exchange proposes to amend the Fee Schedule to extend its discretion to exclude data in the event of a bona fide systems problem to the calculation of the Order To Trade Ratio Fee and the Cancellation Fee as well as the Messages To Contracts Traded Ratio Fee and to move the relevant text to proposed endnote 12.[4]

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* current Fee Schedule at n. 13.

[4] An ATP Firm seeking relief as a result of a systems problem will be required to notify the Exchange via email with a description of the

The Exchange also proposes to the move the placement of the Cancellation Fee in the Fee Schedule to a more logical location and renumber the endnotes accordingly.

The proposed change will be operative on December 1, 2011.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [5] of the Securities Exchange Act of 1934 (the ''Act''), in general, and Section 6(b)(4) [6] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that the proposed change is equitable because it will apply to all ATP Firms equally. The Exchange believes that a bona fide systems problem is just as likely to cause an unfair result in the calculation of the Order To Trade Ratio Fee and the Cancellation Fee as it would in the calculation of the Messages To Contracts Traded Ratio Fee. Extending the Exchange's discretion to adjust such fees in such an event would help to prevent the imposition of an unreasonable fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [7] of the Act and subparagraph (f)(2) of Rule 19b–4 [8] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2011–96 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2011–96. 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 NW., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2011–96 and should be submitted on or before January 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

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systems problem and the Exchange will keep a record of all such requests. The Exchange will keep records of its determinations as to whether one or more ATP Firms or the Exchange experienced a bona fide systems problem and any exclusion of that day's activity from the calculation of an Excessive Bandwidth Utilization Fee or Cancellation Fee.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65928; File No. SR–NYSEAmex–2011–94]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule

December 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2011, NYSE Amex LLC (the ''Exchange'' or ''NYSE Amex'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') to exclude Strategy Executions from the monthly Firm fee cap. The proposed change will be operative on December 1, 2011. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to exclude Strategy Executions from the monthly Firm fee cap.

Strategy Executions include reversals and conversions, dividend spreads, box spreads, short stock interest spreads, merger spreads, and jelly rolls. Under the current Fee Schedule, fees for Strategy Executions are capped at $750 per transaction and $25,000 per month. Under the proposed change, Firms would continue to benefit from those two fee caps, but fees for Strategy Executions would be excluded from the calculation of the monthly Firm fee cap of $100,000.[3] The Exchange notes that such treatment would be consistent with the exclusion of Strategy Executions from the calculation of the Market Maker monthly fee cap and volume threshold.[4]

The proposed changes will be operative on December 1, 2011.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[5] of the Securities Exchange Act of 1934 (the ''Act''), in general, and Section 6(b)(4)[6] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that the proposed change is equitably allocated and not unfairly discriminatory because it will apply equally to all Firms and treat them in a manner that is more consistent with other capped participants, *i.e.,* Market Makers. The Exchange believes that the proposed change is reasonable because Firms will still be able to avail themselves of the reduced rates for Strategy Trade Executions.

[3] *See* Fee Schedule at n. 6.

[4] *See* Fee Schedule at n. 5.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[7] of the Act and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAmex–2011–94 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2011–94. 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 NW., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2011–94 and should be submitted on or before January 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32165 Filed 12–14–11; 8:45 am]

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[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65925; File No. SR–Phlx–2011–166]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Permit Fees

December 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on November 28, 2011, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Permit Fee in Section VI of its Fee Schedule.

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the amendments entitled ''Permit Fees'' to be operative on January 3, 2012.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* at the principal office of the Exchange, on the Commission's Web site at *http://www.sec.gov* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Permit Fee in Section VI, entitled ''Access Service, Cancellation, Membership, Regulatory and Other Fees'' to recoup costs associated with the administration of its members. The Exchange also proposes a clarifying amendment to the applicability of the Permit Fees to both Clearing Members of The Options Clearing Corporation (''OCC Clearing Members'')[3] and Floor Brokers.

The Exchange assesses two different Permit Fees based on whether a member is transacting business on the Exchange. The Exchange assesses members who are transacting business on the Exchange a Permit Fee of $1,100 per month. A member or member organization is assessed the $1,100 monthly Permit Fee if that member or member organization: (1) Transacts its option orders in its assigned Phlx house account in a particular month; or (2) for those member organizations which are under common ownership, transacts at least one options trade in a Phlx house account that is assigned to one of the member organizations under common ownership.[4] Members who are not transacting business on the Exchange are assessed a Permit Fee of $7,500 per month. A member or member organization is assessed the $7,500 Permit Fee for not transacting business on the Exchange if that member is either: (i) Not a PSX Participant;[5] or not engaged in an options business at the Exchange in a particular month. In addition, a member or member organization that sponsors an options participant[6] would pay an additional Permit Fee for each sponsored options participant.

Permit Fees

The Exchange is proposing to increase the $1,100 monthly Permit Fee for members transacting business on the Exchange to $2,000. The Exchange is seeking to recoup costs incurred from the membership administration function.[7] While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated this amendment entitled ''Permit Fees'' to be operative on January 3, 2012.

Application of Permit Fees

The Exchange is proposing a clarifying amendment regarding the applicability of the $1,100 Permit Fee to certain types of members, namely OCC Clearing Members and Floor Brokers.[8] Both OCC Clearing Members and Floor Brokers conduct business on an agency basis, in other words they enter trades on behalf of another person or entity and not for their own account. OCC Clearing Members may never trade, but are required to be a member of the Exchange in order to clear for a Phlx member.[9] As both these members are not transacting options for their own account, they are not conducting business in an assigned house account and therefore would not be eligible for the $1,100 Permit Fee. The Exchange proposes to amend its Fee Schedule to indicate that both OCC Clearing Members and Floor Brokers would be assessed the $1,100 Permit Fee. It was not the intent of the Exchange in requiring members to transact business in their house account to prevent OCC Clearing Members and Floor Brokers from being eligible for the $1,100 Permit Fee. The Exchange amended its Rules to require trading in the house account in order that the Exchange may automate its billing process.[10] With respect to OCC Clearing Members and Floor Brokers, the Exchange is able to identify these members and member organizations and, through its automated billing, assess them the $1,100 Permit Fee. The Exchange intends that this section entitled ''Clarifying Amendment'' will be effective upon filing.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[11] in general, and furthers the objectives of Section 6(b)(4) of the Act[12] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that proposed amendment to the Permit Fee is reasonable because the Exchange is seeking to recoup costs related to membership administration. The proposed fee is in the range of similar fees at other exchanges and less than other fees.[13] In addition, the Exchange

[3] These OCC Clearing Members are also Phlx Members.

[4] For purposes of the Permit Fee, ''common ownership'' shall be defined as at least 75% common ownership between the member organizations.

[5] Applicants that apply for membership solely to participate in the NASDAQ OMX PSX equities market are not assessed a Permit Fee, Application Fee, Initiation Fee, or Account Fee. *See* Securities Exchange Act Release No. 61863 (April 7, 2010), 75 FR 20021 (April 16, 2010) (SR–Phlx–2010–54).

[6] *See* Exchange Rule 1094 titled Sponsored Participants. A Sponsored Participant may obtain authorized access to the Exchange only if such access is authorized in advance by one or more Sponsoring Member Organizations. Sponsored Participants must enter into and maintain participant agreements with one or more Sponsoring Member Organizations establishing a proper relationship(s) and account(s) through which the Sponsored Participant may trade on the Exchange.

[7] The Exchange is not amending the Permit Fee for members who are not transacting business on the Exchange.

[8] The Exchange is able to verify OCC Clearing Members from information provided by OCC. Pursuant to Rule 1061, entitled ''Registration of Floor Brokers'', Floor Brokers are required to register with the Exchange.

[9] *See* Exchange Rules 911 entitled ''Member and Member Organization Participation'' and ''Rule 1052 entitled Responsibility of Clearing Options Members For Exchange Options Transactions.''

[10] *See* Securities Exchange Act Release No. 65574 (October 14, 2011), 76 FR 65228 (October 20, 2011) (SR–Phlx–2011–134).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] *See* the Chicago Board of Trade, Incorporated's Fees Schedule. Per month a Market Maker Trading Permit is $6,000, a SPX Tier Appointment is $3,000, a VIX Tier Appointment if $1,000, Floor Broker

Continued

believes that the Permit Fee is equitable and not unfairly discriminatory, because unlike other exchanges, Phlx's Permit Fees are the same for every options permit holder that is conducting business at the Exchange.

The Exchange believes that its clarifying amendment is reasonable the Exchange recognizes that the members and member organizations that are registered as OCC Clearing Members and Floor Brokers facilitate transactions for others at the Exchange and are therefore unable to utilize the house account in the same way as other members. In addition, the Exchange believes that it is reasonable to assess a $1,100 Permit Fee for OCC Clearing Members and Floor Brokers that are transacting business at the Exchange in a capacity that facilitates trading.

The Exchange believes that it is equitable and not unfairly discriminatory to assess OCC Clearing Members and Floor Brokers the $1,100 as compared to other members who may not transact business, because the OCC Clearing Member and Floor Broker are trading for others as compared to the member who chooses whether to transact business in his/her own account. Other members are only required to transact one trade in their house account in order to be assessed the lower Permit Fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–Phlx–2011–166 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Phlx–2011–166. 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 No. SR–Phlx–2011–166 and should be submitted on or before January 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32140 Filed 12–14–11; 8:45 am]

BILLING CODE 8011–01–P

Trading Permit is $6,000, Electronic Access Permit is $1,600 and there is no access fee for a CBSX Trading Permit. *See also* the International Securities Exchange LLC's Schedule of Fees. Per month a EAM is $500.00 and a market maker ranges from $2,000 to $4,000. *See also* C2, Inc.'s Fee Schedule. Per month, a market-maker permit is $5,000, an Electronic Access Permit is $1,000 and a SPXM Tier appointment is $4,000 after November 30, 2011. *See also* NYSE Arca, Inc.'s Fee Schedule. Per month, a Floor Broker, Office and Clearing Firm is $1,000 and a market maker is $4,000. *See also* NYSE Amex, LLC's Fee Schedule. Per month, Per month, a Floor Broker, Order Routing and Clearing Firm is $500 and a market maker is $5,000.

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65922; File No. SR–NYSEArca–2011–91]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule Relating to Manual Orders

December 9, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 1, 2011, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') with respect to manual orders. The Exchange proposes to make the rule change operative on December 1, 2011. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to manual orders.

Electronic orders and quotes resting on the Consolidated Book currently have priority over equal-priced bids or offers in the Trading Crowd.[3] In this regard, a Floor Broker, after negotiating a price with the Trading Crowd, may be required to trade against resting interest on the Consolidated Book (''clear the Book'') before trading against interest in the Trading Crowd. Currently, if a Floor Broker clears the Book before trading against interest in the Trading Crowd, the Exchange charges the portion of the order executed against the Consolidated Book an electronic transaction fee and charges any remaining order size that trades against interest in the Trading Crowd a manual transaction fee.[4]

The Exchange proposes to amend endnote 5 of the Fee Schedule to reflect that a manual order that executes in part against an electronic order or quote resting on the Consolidated Book prior to executing against interest in the Trading Crowd would be assessed the applicable manual transaction fee for the entire order. As is the case today, the contra-side electronic order or quote would be assessed the applicable electronic transaction fee or credit. However, if a manual order executes completely against an electronic order or quote, and therefore does not execute against interest in the Trading Crowd, then both sides of the transaction would continue to be charged only the applicable electronic transaction fee. In order to be eligible for the manual transaction fee, all manual orders must be entered into the Exchange's Electronic Order Capture System.

The Exchange proposes to make the rule change operative on December 1, 2011.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and Section 6(b)(4) of the Act,[6] in particular, because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. In addition, the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Under the proposed change a manual order that executes partially against an electronic order or quote resting on the Consolidated Book prior to executing against interest in the Trading Crowd would be assessed the applicable manual transaction fee for the entire order. The Exchange believes that this is reasonable, equitable, and not unfairly discriminatory because a customer who sends an order to the Floor for execution has no control over whether a portion of the manual order will execute against the Consolidated Book and therefore has significant uncertainty about the transaction fees applicable to such order, whereas a customer that submits an electronic order has certainty that only electronic transaction fees will apply. The Exchange also believes it is reasonable, equitable, and not unfairly discriminatory to charge the electronic transaction fee for manual orders that are executed entirely against one or more electronic orders or quotes resting on the Consolidated Book. Manual transaction fees are lower than electronic transaction fees and the proposed rule change will reduce the incentive for customers to submit manual orders to obtain the lower fee even though there is sufficient liquidity in the Consolidated Book to fill the order. When both sides of the order execute fully on the Consolidated Book, the Exchange believes it is equitable and not unfairly discriminatory to charge both sides of the trade the same category of transaction fee. The Exchange expects that by providing more certainty about the applicable transaction fees, customers will be encouraged to submit manual orders to the Exchange and that the additional order flow will benefit all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2011–91 on the subject line.

[3] *See* NYSE Arca Options Rule 6.75(a) and (b).

[4] For example, a Broker-Dealer manual order is currently charged a standard execution fee of $0.25 per contract. However, if a portion of the Broker-Dealer manual order executes against resting interest on the Consolidated Book, then that portion of the manual order is instead charged the $0.50 per-contract rate for a Broker-Dealer electronic order. Similarly, if the Broker-Dealer manual order is in a Penny Pilot class and executes against resting interest on the Consolidated Book, then that portion of the manual order is considered to ''Take Liquidity'' and is instead charged the $0.45 per-contract rate for a Broker-Dealer electronic order. The Exchange notes that, at the time of the adoption of Post-Take pricing for electronic executions in Penny Pilot classes, the Exchange determined that any execution in Penny Pilot issues against resting orders in the Consolidated Book would be charged a ''take liquidity'' fee. *See* Securities Exchange Act Release No. 55223 (February 1, 2007), 72 FR 6306 (February 9, 2007) (SR–NYSEArca–2007–07).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

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–NYSEArca–2011–91. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2011–91 and should be submitted on or before January 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–32138 Filed 12–14–11; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions to OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, *Fax:* (202) 395–6974, *Email address: OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCRDP, Attn: Reports Clearance Officer, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, *Fax No.:* (410) 966–2830, *Email address: OPLM.RCO@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than *February 13, 2012.* Individuals can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at (410) 965–8783 or by writing to the above email address.

1. Application for Mother's or Father's Insurance Benefits—20 CFR 404.339–404.342, 20 CFR 404.601–404.603—0960–0003. Section 202(g) of the Social Security Act (Act) provides for the payment of monthly benefits to the widow or widower of an insured individual if the surviving spouse is caring for the deceased worker's child (who is entitled to Social Security benefits). SSA uses the information on Form SSA–5–F6 to determine an individual's eligibility for mother's or father's insurance benefits. The respondents are individuals caring for a child of the deceased worker who is applying for mother's or father's insurance benefits under the Old Age, Survivors, and Disability Insurance (OASDI) program.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–5–F6 (paper)	1,611	1	15	403
MCS	26,045	1	15	6,511
MCS/Signature Proxy	26,044	1	15	6,511
Total	53,700			13,425

2. Letter to Employer Requesting Information About Wages Earned by Beneficiary—20 CFR 416.703 & 404.801—0960–0034. SSA uses information from Form SSA–L725 to verify a beneficiary's wages when SSA has incomplete or questionable wage data. SSA uses the information to calculate the correct amount of benefits payable, and to maintain an accurate record of earnings for the beneficiary. Respondents are employers who provide information SSA needs to establish specific monthly earnings.

Type of Request: Extension of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–L725	150,000	1	40	100,000

[9] 17 CFR 200.30–3(a)(12).

3. Student Reporting Form—20 CFR 404.367 & 20 CFR 404.368—0960–0088. Sections 20 CFR 404.367 and 20 CFR 404.368 mandate that a student beneficiary be in full-time attendance at an educational institution to qualify for student Social Security benefits. SSA requires beneficiaries to report events that may cause a reduction, termination, or suspension of their benefits. Using the information from Form SSA–1383, SSA determines if the change or event reported affects continuing entitlement to SSA benefits. In addition, SSA uses the information to determine the correct benefit amounts for student beneficiaries. The respondents are Social Security student beneficiaries.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1383	74,887	1	6	7,489
SSA–1383–FC	113	1	6	11
Total	75,000			7,500

4. Letter to Employer Requesting Wage Information—20 CFR 404.726—0960–0138. SSA must establish and verify wage information for Supplemental Security Income (SSI) applicants and recipients when determining SSI eligibility and payment amounts. SSA uses Form SSA–L4201 to collect this information. SSA uses the information to determine eligibility and proper payment amounts for SSI applicants and recipients. The respondents are employers of SSI applicants and recipients.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–L4201	133,000	1	30	66,500

5. Claimant's Recent Medical Treatment—20 CFR 404.1512 and 416.912—0960–0292. When Disability Determination Services deny a claim at the reconsideration level, the claimant has a right to request a hearing before an administrative law judge (ALJ). For the hearing, SSA asks the claimant to complete and return the HA–4631 if the claimant's file does not reflect a current, complete medical history as the claimant proceeds through the appeals process. ALJs must obtain the information to update and complete the record and to verify the accuracy of the information. Through this process, ALJs can ascertain whether the claimant's situation has changed. The ALJs and hearing office staff use the response to make arrangements for consultative examination(s) and the attendance of an expert witness(es), if appropriate. During the hearing, the ALJs offer any completed questionnaires as exhibits and may use them to refresh the claimant's memory and to shape their questions. The respondents are claimants requesting hearings on entitlement to Old Age, Survivors, and Disability Insurance (OASDI) benefits or SSI payments.

Type of Request: Extension of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–4631	200,000	1	10	33,333

6. You Can Make Your Payment by Credit Card—0960–0462. Using information from Form SSA–4588 and its electronic application, form SSA–4589, SSA updates individuals' Social Security records to reflect payments made on their overpayments. In addition, SSA uses this information to process payments through the appropriate credit card company. SSA provides the SSA–4588 when we inform an individual that we detected an overpayment. Individuals may choose to make a one-time payment or recurring monthly payments by completing and submitting the SSA–4588.

SSA uses the SSA–4589 electronic intranet application only when individuals choose to telephone the Program Service Centers to make a one-time payment in lieu of completing Form SSA–4588. An SSA debtor contact representative completes the SSA–4589 electronic intranet application. Respondents are OASDI beneficiaries and SSI recipients who owe outstanding overpayments to SSA.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4588 Paper Form	13,200	1	10	2,200
SSA–4589 Electronic Intranet Application	171,320	1	5	14,277
Total	184,520			16,477

7. Request for Internet Services—Password Authentication—20 CFR 401.45—0960–0632. SSA uses a password infrastructure and process to verify the identity of individuals who choose to use the Internet to conduct personal business with SSA electronically. To obtain a password from SSA's Individual Password Services, we ask an individual for certain information prescribed by SSA. SSA uses the information to authenticate individuals prior to issuing a temporary password. Once SSA authenticates individuals, and these individuals create a permanent password, they may use SSA's password protected services, *e.g.,* account status, change of address, direct deposit elections, or changes. The respondents are individuals electing to do personal business with SSA electronically.

Type of Request: Extension of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Internet Requestors	3,092,069	1	10	515,345

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than January 17, 2012. Individuals can obtain copies of the OMB clearance packages by calling the SSA Reports Clearance Officer at (410) 965–8783 or by writing to the above email address.

1. Coverage of Employees of State and Local Governments—20 CFR 404, Subpart M—0960–0425. Regulation section 20 CFR 404, Subpart M, prescribes the rules for states submitting reports of deposits and recordkeeping to SSA. SSA requires states (and interstate instrumentalities) to provide wage and deposit contribution information for pre-1987 periods. Not all states have completely satisfied their pending wage report and contribution liability with SSA for pre-1987 tax years. SSA needs these regulations until all pending items with all states are closed out, and to provide for collection of this information in the future, if necessary. The respondents are state and local governments or interstate instrumentalities.

Type of Request: Revision of an OMB-approved information collection.

Regulation section	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
404.1204(a) & (b)	52	1	30	26
404.1215	52	1	60	52
404.1216(a) & (b)	52	1	60	52
Total	156			130

2. SSI Notice of Interim Assistance Reimbursement (IAR)—0960–0546. Section 1631(g) of the Act authorizes SSA to reimburse an IAR agency from an individual's retroactive SSI payment for assistance the IAR agency gave the individual for meeting basic needs while an SSI claim was pending or SSI payments were suspended or terminated. The State or local agency needs an IAR agreement with SSA to participate in the IAR program. The individual receiving the IAR payment signs an authorization form with an IAR agency to allow SSA to repay the IAR agency for funds paid in advance prior to SSA's determination on the individual's claim. The authorization represents the individual's intent to file for SSI, if they did not file an application prior to SSA receiving the authorization. Agencies who wish to enter into an IAR agreement with SSA need to meet the following requirements:

(a) *Reporting Requirements*—Each IAR agency agrees to:

(1) Notify SSA of receipt of an authorization for initial claims or cases they are appealing, and submit a copy of that authorization either through a manual or electronic process;

(2) Inform SSA of the amount of reimbursement;

(3) Submit a written request for dispute resolution on a determination;

(4) Notify SSA of interim assistance paid (using the SSA–8125 or the SSA–L8125–F6);

(5) Inform SSA of any deceased claimants who participated in the IAR program and;

(6) Review and sign an agreement with SSA.

(b) *Recordkeeping Requirements*—The IAR agencies agree to retain all notices, agreement, authorizations, and accounting forms for the period defined in the IAR agreement for the purposes of SSA verifying transactions covered under the agreement.

(c) *Third Party Disclosure Requirements*—Each participating IAR agency agrees to send written notices from the IAR agency to the recipient regarding payment amounts and appeal rights.

(d) *Periodic Review of Agency Accounting Process*—The IAR agency makes the IAR accounting records of paid cases available for SSA review and verification. SSA conducts reviews either onsite or through the mail of the authorization forms, notices to the claimant, and accounting forms. Upon completion of the review, SSA provides a written report of findings to the IAR agency director.

The respondents are State IAR officers.

Type of Request: Revision of an OMB-approved information collection.

Type of request	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
Reporting Requirements					
(a) State notification of receipt of authorization (electronic process).	11	Once per SSI Claimant	97,330	1	1,622
(b) State submission of copy of authorization (manual process).	27	Once per SSI Claimant	68,405	3	3,420
(c) State submission of amount of IA paid to recipients (using eIAR).	38	Once per SSI Claimant	101,352	8	13,514
(d) State request for determination—dispute resolution.	Average is about 2 States per year.	As needed	2	30	1
(e) State computation of reimbursement due form SSA using paper Form SSA-L8125–F6.	38	Once per SSI Claimant	1,524	30	762
(f) State notification to SSA of deceased claimant.	20	As needed when SSI claimant dies while claim is pending.	40	15	10
(g) State reviewing/signing of IAR Agreement.	38	Once during life of the IAR agreement.	38	12	456
Recordkeeping Requirements					
(h) Maintenance of authorization forms.	38	One form per SSI claimant.	165,735 (includes both denied and approved SSI claims).	3	8,287
(i) Maintenance of accounting forms and notices.	38	One set per SSI claimant.	101,352	3	5,068
Third Party Disclosure Requirements					
(j) Written notice from State to recipient regarding amount of payment.	38	Once per SSI claimant	101,352	7	11,824
Periodic Review of Agency Accounting Process					
(k) Retrieve and consolidate authorization and accounting forms.	12	One set of forms per SSI claimant for review by SSA once every 2 to 3 years.	12	3 hours	36
(l) Participate in periodic review	12	For review by SSA once every 2 to 3 years.	12	16 hours	192
(m) Correct administrative and accounting discrepancies.	6	To correct errors discovered by SSA in periodic review.	6	4 hours	24
Total Administrative Burden					
Total	38	varies	637,160	varies	45,216

3. Redetermination of Eligibility for Help with Medicare Prescription Drug Plan Costs—0960–0723. As per the requirements of the Medicare Modernization Act of 2003 (Pub. L. 108–173), SSA conducts low-income subsidy eligibility redeterminations for Medicare beneficiaries who currently receive the Medicare Part D subsidy and who meet certain criteria. Respondents complete Form SSA–1026–REDE under the following circumstances: (1) When individuals became entitled to the Medicare Part D subsidy during the past 12 months; (2) if they were eligible for the Part D subsidy for more than 12 months; or (3) if they reported a change in income, resources, or household size. Part D beneficiaries complete the SSA–1026–SCE when they need to report a potentially subsidy-changing event, including the following: (1) Marriage, (2) spousal separation, (3) divorce, (4) annulment of a marriage, (5) spousal death, or (6) moving back in with one's spouse following a separation. The respondents are current recipients of the Medicare Part D low-income subsidy who will undergo an eligibility redetermination for one of the reasons mentioned above.

Note: This is a correction notice. SSA published this information collection as an extension on September 23, 2011 at 76 FR 59180. Since we are revising the Privacy Act Statement, this is now a revision of an OMB-approved information collection. Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1026–OCR–MS–SCE	11,400	1	18	3,420
SSA–1026–OCR–SM–REDE	225,000	1	18	67,500
Total	236,400			70,920

Dated: December 12, 2011.

Faye Lipsky,

Reports Clearance Officer, Center for Reports Clearance, Social Security Administration.

[FR Doc. 2011–32145 Filed 12–14–11; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 7729]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals (RFGP): International Sports Programming Initiative (ISPI)

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/SU–12–15.

Catalog of Federal Domestic Assistance Number: 19.415.

DATES: *Key Dates:*

Application Deadline: Friday, February 3, 2012.

Executive Summary: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for the International Sports Programming Initiative. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals for projects designed to reach out to youth and promote mutual understanding by increasing the professional capacity of those who design and manage youth sports programs in select countries in Africa, East Asia and the Pacific, the Near East and North Africa, South and Central Asia, Europe, and the Western Hemisphere. The focus of all programs must be on reaching out to both male and female youth ages 7–17 and/or their coaches/administrators. Programs designed to train elite athletes or coaches will not be considered. Eligible countries and territories in each region are:

Africa: Botswana, Cote d'Ivoire, Kenya, Mali, and Nigeria;

East Asia and the Pacific: China, Malaysia, or a multi-country program that MUST include AT LEAST TWO of the following—Cambodia, Laos, Thailand, and/or Vietnam;

Near East and North Africa: Egypt, Tunisia, or a program that MUST include both Israel and West Bank/Gaza;

South and Central Asia: Bangladesh, Nepal, Sri Lanka, and Turkmenistan;

Europe: Bosnia and Turkey; and the

Western Hemisphere: Belize, Brazil, Mexico, Nicaragua, Panama, and Uruguay.

Proposals may address multiple countries, but all the countries must then be in the same region. Please see Section III.3. Other Eligibility Requirements for more information on eligibility requirements. *Funding Under this Competition is pending the availability of FY 2012* funds.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: The Office of Citizen Exchanges welcomes proposals for two-way exchanges (one component in the United States and the other in the chosen country) that directly respond to the thematic areas outlined below. Projects for themes not listed below will not be eligible for consideration under the FY 2012 International Sports Program Initiative Competition, and will be deemed technically ineligible and receive no further consideration in the review process.

Themes:

(1) Youth Sports Engagement

Exchanges funded under this theme will focus on effective ways that sport can play a role in youth development at the grassroots level, while promoting technical proficiency among the youth sport coaches, sport administrators, and/or sport officials participating in the program. The role that sports can play in the long-term well-being of underserved youth should also be emphasized. Through exchanges between youth sport coaches, sport administrators, and/or sport officials, programs should encourage participants to share experiences in managing, organizing, and developing programs for youth sports activities with the aim of exposing young people to the ideas of teamwork and self-discipline that can lead to success in other aspects of their lives.

(2) Sport and Health

Exchanges funded under this theme will focus on increasing awareness among young people of the importance of following a healthy lifestyle. Project goals should aim to avoid substance abuse, enhance physical fitness in order to prevent illness, and raise the overall quality of life through sports. Emphasis should be on the responsibility of the broader community to support healthy behaviors, and to educate young people how to prevent and manage non-communicable or infectious diseases, such as HIV/AIDS, through sports programs.

(3) Sport and Disability

Exchanges funded under this theme are designed to promote and sponsor sport, recreation, and fitness programs for persons with disabilities. Project goals should include improving the quality of life for persons with disabilities by providing affordable, inclusive sports experiences that build self-esteem and confidence, enhancing active participation in community life, and making a significant contribution to the physical and psychological health of people with disabilities. Proposals under this theme aim to demonstrate that persons with disabilities can be included in sports opportunities in their communities, and will develop opportunities for them to do so. In addition, projects should aim to raise the awareness of non-disabled people about contributions that persons with disabilities make to society.

(4) Sport for Social Change

Exchanges funded under this theme will focus on effective ways that sport can play a role in promoting more stable and inclusive communities, and as an alternative to anti-social behavior. Project goals should include the importance of leadership, responsibility, teamwork, healthy living, and self-discipline to demonstrate how organized sports can encourage youth to stay in school, avoid substance abuse, prevent violence, and mitigate extremist voices. In addition, projects should aim to include the use of sport as a tool to promote tolerance and understanding through organized activities that appeal to youth and youth influencers, and that focus on conflict prevention/resolution.

The pursuit of academic degrees from U.S. institutions is not an acceptable focus of this program. Proposals that have only an academic focus will be deemed technically ineligible and will receive no further consideration in the review process.

No guarantee is made or implied that grants will be awarded in all themes or for all countries listed.

Audience: The intended audience is non-elite youth, coaches, community leaders, and non-governmental organizations.

Ideal Program Model: The following are suggested program structures:

- A U.S. grantee identifies U.S. citizens to conduct a multi-location, in-country program overseas that includes clinics and training sessions for: male and female athletes; government officials (Ministry of Sports and Ministry of Education); coaches (adult and youth); NGO representatives (including representatives from relevant sports federations); community officials (including local authorities associated with recreational facilities); youth audiences (equal numbers of boys and girls); and sports management professionals to support one of the themes listed.
- An in-country partner overseas (a local university, government agency or other appropriate organization, such as a relevant sports federation) co-hosts an activity with the U.S. grantee institution, and participates in the selection of participants for a U.S. program.
- A U.S. program that includes site visits designed to provide participants with exposure to American youth and coaches, sports education in the United States, background information on U.S. approaches to the themes listed in the announcement, relevant cultural activities, and a debriefing and evaluation.
- U.S. experts who worked with participants from overseas implement an in-country program.
- Participants in the U.S. program design in-country projects and serve as co-presenters.
- Materials are translated into the relevant language for use in future projects.
- Small grants are dispersed for projects designed to expand the exchange experience.
- All participants are encouraged to enroll in the Bureau of Education and Cultural Affairs' alumni Web site *https://alumni.state.gov.*

U.S. Embassy Involvement: Applicants are *strongly encouraged* to consult with Public Affairs Officers at U.S. Embassies in relevant countries as they develop proposals responding to this RFGP. It is important that the proposal narrative clearly state the applicant's commitment to consult closely with the Public Affairs Section of the U.S. Embassy in the relevant country/countries to develop plans for project implementation, to select project participants, and to publicize the program through the media. Proposals should acknowledge U.S. Embassy involvement in the final selection of all participants.

Media: Proposals should include specific strategies for publicizing the project, both in the United States and overseas, as applicable. Sample materials can be included in the appendix. In any contact with the media (print, television, web, *etc.*) applicants must acknowledge funding from the Bureau of Educational and Cultural Affairs of the U.S. Department of State for the program. Prior to information being released to the media, the ECA Program Office(r) must approve the document. All grantees are required to submit photos, highlights, and/or media clips for posting on the ECA Web site: *http://exchanges.state.gov/sports/.*

Participant Selection: Proposals should clearly describe the types of persons that will participate in the program, as well as the participant recruitment and selection processes. It is a priority of the Bureau to include female participants in all of its programs. In the selection of foreign participants, the Bureau would like the U.S. Embassies (when possible) to be involved in the recruitment and selection processes and the proposal should state how the grantee intends to incorporate this. The Bureau and U.S. Embassies retain the right to review all participant nominations and to accept or refuse participants recommended by grantee institutions. When U.S. participants are selected, grantee institutions must provide their names and biographical data to the ECA Program Officer. Priority in two-way exchange proposals will be given to foreign participants who have not previously traveled to the United States.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2012.

Approximate Total Funding: $1,800,000.

Approximate Number of Awards: 8–10.

Approximate Average Award: $225,000.

Ceiling of Award Range: $225,000.

Floor of Award Range: $60,000.

Anticipated Award Date: Pending availability of funds, August 31, 2012.

Anticipated Project Completion Date: September 30, 2013–June 30, 2015.

Projects under this competition may range in length from one to three years depending on the number of project components, the country/region targeted and the extent of the evaluation plan proposed by the applicant. The Office of Citizen Exchanges strongly encourages applicant organizations to plan enough time after project activities are completed to measure project outcomes. Please refer to the Program Monitoring and Evaluation section, item IV.3d.3 below, for further guidance on evaluation.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not

provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements:

(a.) Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. Organizations that only qualify for the $60,000 level may choose to conduct a one-way exchange, but must explain how the objectives of Americans interacting with foreign participants will still be achieved.

(b.) Technical Eligibility: It is imperative that all proposals follow the requirements outlined in the Proposal Submission Instructions (PSI) technical format and instructions document. Additionally, all proposals must comply with the following or they will result in your proposal being declared technically ineligible and will not receive further consideration in the review process:

- Applicants may not submit more than one (1) Proposal for this competition. Organizations that submit proposals that exceed these limits will result in having all of their proposals declared technically ineligible.
- Proposals for countries that are not designated in the RFGP, that address more than one region, or address themes outside of those listed in the RFGP, will be deemed technically ineligible.
- The Office of Citizen Exchanges does not support proposals limited to conferences or seminars (i.e., one- to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only when they are a small part of a larger project in duration that is receiving Bureau funding from this competition. No funding is available exclusively to send U.S. citizens to conferences or conference type seminars overseas; nor is funding available to support the attendance of foreign nationals at conferences or at routine professional association meetings in the United States.
- The Office of Citizen Exchanges does not support academic research, or faculty or student fellowships.
- If your organization is a private non-profit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received non-profit status from the IRS within the past four years, you must submit the necessary documentation to verify non-profit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.
- Printed applications shipped after the established deadlines are ineligible for consideration under this competition.
- Electronic applications uploaded to the Grants.gov Web site after midnight of the application deadline date will be automatically rejected by the Grants.gov system, and will be technically ineligible.

IV. Application and Submission Information

Before submitting a proposal, all applicants are strongly encouraged to consult with the Washington, DC-based Department of State contact for the themes/regions listed in this solicitation.

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package: Please contact: Ryan Murphy, U.S. Department of State, Bureau of Educational and Cultural Affairs, SportsUnited Division, ECA/PE/C/SU, SA–5, Floor 3, 2200 C Street, NW., Washington, DC 20037, tel: (202) 632–6058, fax: (202) 632–6492, *MurphyRM@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/SU–12–15 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from *http://www.grants.gov.* Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Ryan Murphy and refer to the Funding Opportunity Number ECA/PE/C/SU–12–15 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at: *http://exchanges.state.gov/grants/open2.html*, or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1 (866) 705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative, detailed timeline and detailed budget. Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You *must* have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, ''Return of Organization Exempt From Income Tax,'' must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private non-profit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization

received non-profit status from the IRS within the past four years, you must submit the necessary documentation to verify non-profit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to All Regulations Governing the J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of recipient organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR 62 *et seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from:

Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street NW, Washington, DC 20037.

IV.3d.2. Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior,* concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-

term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes. Overall, the quality of your monitoring and evaluation plan will be judged on how well it: (1) Specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria).

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

Department of State Acknowledgement

All recipients of ECA grants or cooperative agreements should be prepared to state in any announcement or publicity where it is not inappropriate that activities are assisted financially by the Bureau of Educational and Cultural Affairs of the U.S. Department of State under the authority of the Fulbright-Hays Act of 1961, as amended.

In any contact with the media (print, television, web, *etc.*) applicants must acknowledge funding from the Bureau of Educational and Cultural Affairs of the U.S. Department of State for the program. Prior to information being released to the media, the ECA Program Office(r) must approve the document.

Alumni Outreach/Follow-on Programming and Engagement

Please refer to the Proposal Submissions Instruction (PSI) document for additional guidance.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—''Budget Information—Non-Construction Programs'' along with a comprehensive budget for the entire program. For this competition, requests should not exceed $225,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Please note that the Bureau of Educational and Cultural Affairs does not fund programs that involve building of structures of any kind, including playing fields, recreation centers, or stadiums.

IV.3e.2. Allowable costs for the program include the following:

1. Travel. International and domestic airfare; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs.

2. Per Diem. For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. Domestic per diem rates may be accessed at: *http://www.gsa.gov/perdiem.* ECA requests applicants to budget realistic costs that reflect the local economy and do not exceed Federal per diem rates. Foreign per diem rates can be accessed at: *http://aoprals.state.gov/content.asp?content_id=184&menu_id=78.*

3. Interpreters. For U.S.-based activities, ECA strongly encourages applicants to hire their own locally based interpreters. One interpreter is typically needed for every four participants who require interpretation. When an applicant proposes to use interpreters, the following expenses should be included in the budget: Published Federal per diem rates (both ''lodging'' and ''M&IE'') and transportation costs per interpreter. Bureau funds cannot support interpreters who accompany delegations from their home country or travel internationally.

4. Book and Cultural Allowances. Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers or participants are not eligible to receive these benefits.

5. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Honoraria rates should not exceed $250 per day. Organizations are encouraged to cost-share rates that would exceed that figure. Subcontracting organizations may also be employed, in which case the written agreement between the prospective grantee and sub-grantee should be included in the proposal. Such sub-grants should detail the division of responsibilities and proposed costs, and subcontracts should be itemized in the budget.

6. Room Rental. The rental of meeting space should not exceed $250 per day. Any rates that exceed this amount should be cost shared.

7. Materials. Proposals may contain costs to purchase, develop and translate materials for participants. Costs for high quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to ECA, and ECA support should be acknowledged on all materials developed with its funding.

8. Equipment. Applicants may propose to use grant funds to purchase equipment, such as computers and printers; these costs should be justified in the budget narrative. Costs for furniture are not allowed.

9. Working Meal. A maximum of one working meal may be authorized per project unless extenuating circumstances exist, in which case prior approval must be obtained from a DOS Grants Officer. Unless additional working meals are approved, the Recipient agrees to reduce the participants' per diem to cover the cost of any additional working meals. In addition, per capita costs may not exceed $45 excluding room rental. The number of invited guests shall not exceed participants by more than a factor of two-to-one.

10. Return Travel Allowance. A return travel allowance of $70 for each foreign participant may be included in the budget. This allowance would cover incidental expenses incurred during international travel.

11. Health Insurance. Foreign participants will be covered during their participation in the U.S. program by the ECA-sponsored Accident and Sickness Program for Exchanges (ASPE). The grantee must notify the program office to enroll them. Details of that policy can be provided by the contact officers identified in this solicitation. The premium is paid by ECA and should not be included in the grant proposal budget. However, applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

12. Wire Transfer Fees. When necessary, applicants may include costs to transfer funds to partner organizations overseas. Grantees are urged to research applicable taxes that may be imposed on these transfers by host governments.

13. In-country Travel Costs for Visa Processing Purposes. Given the requirements associated with obtaining J–1 visas for ECA-supported participants, applicants should include costs for any travel associated with visa interviews or DS–2019 pick-up.

14. Administrative Costs. Costs necessary for the effective administration of the program may

include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, proposals in which the administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive under the cost effectiveness and cost sharing criterion, per item V.1 below. Proposals should show strong administrative cost sharing contributions from the applicant, the in-country partner and other sources.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: Friday, February 3, 2012.

Reference Number: ECA/PE/C/SU–12–15.

Methods of Submission: Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and eight (8) copies of the application should be sent to:

U.S. Department of State, Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/PE/C/SU–12–15, SA–5, Floor 4, Department of State, 2200 C Street NW., Washington, DC 20037.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) or Microsoft Word format on CD–ROM. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. Embassy/ies for their review.

IV.3f.2. Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system.

Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the ''For Applicants'' section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to:

Grants.gov Customer Support

Contact Center Phone: (800) 518–4726,

Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time

Email: support@grants.gov.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the Grants.gov system, and will be technically ineligible. Please refer to the Grants.gov Web site for definitions of various ''application statuses'' and the difference between a submission receipt and a submission validation.

Applicants will receive a validation email from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. *Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.* ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section of the relevant Embassy, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural

Affairs. Final technical authority for grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Program Planning and Ability to Achieve Objectives: Program objectives should be stated clearly and should reflect the applicant's expertise in the subject area and region. Objectives should respond to the topics in this announcement and should relate to the current conditions in the target country/countries. A detailed agenda and relevant work plan should explain how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars and/or consulting should be described in detail. Sample training schedules should be outlined. Responsibilities of proposed in-country partners should be clearly described. A discussion of how the applicant intends to address language issues should be included, if needed.

2. Multiplier Effect/Impact: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

3. *Institutional Capacity:* Proposals should include: (1) The institution's mission and date of establishment; (2) detailed information about proposed in-country partner(s) and the history of the partnership; (3) an outline of prior awards—U.S. government and/or private support received for the target theme/country/region; and (4) descriptions of experienced staff members who will implement the program. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/countries. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau grants staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The Bureau strongly encourages applicants to submit letters of support from proposed in-country partners.

4. Cost Effectiveness and Cost Sharing: Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. *Proposals whose administrative costs are less than twenty-five (25) percent of the total funds requested from the Bureau will be deemed more competitive under this criterion.* Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be included in the budget request. Proposal budgets that do not reflect cost sharing will be deemed not competitive in this category.

5. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the PSI and the Diversity, Freedom and Democracy Guidelines section, Item IV.3d.2, above for additional guidance.

6. Post-Grant Activities: Applicants should provide a plan to conduct activities after the Bureau-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of the Bureau. Costs for these activities must not appear in the proposal budget, but should be outlined in the narrative.

7. Program Monitoring and Evaluation: Proposals should include a detailed plan to monitor and evaluate the program. Program objectives should target clearly defined results in quantitative terms. Competitive evaluation plans will describe how applicant organizations would measure these results, and proposals should include draft data collection instruments (surveys, questionnaires, etc.) in Tab E. See the ''Program Monitoring/Evaluation'' section, item IV.3d.3 above for more information on the components of a competitive evaluation plan. Successful applicants (grantee institutions) will be expected to submit a report after each program component concludes or on a quarterly basis, whichever is less frequent. The Bureau also requires that grantee institutions submit a final narrative and financial report no more than 90 days after the expiration of a grant. Please refer to the ''Program Management/Evaluation'' section, item IV.3d.3 above for more guidance.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

For assistance awards involving the Palestinian Authority, West Bank, and Gaza: All awards made under this competition must be executed according to all relevant U.S. laws and policies regarding assistance to the Palestinian Authority, and to the West Bank and Gaza. Organizations must consult with relevant Public Affairs Offices before entering into any formal arrangements or agreements with Palestinian organizations or institutions.

Note: To assure that planning for the inclusion of the Palestinian Authority complies with requirements, please contact (Ryan Murphy, ECA/PE/C/SU, tel: (202) 632–6058, *MurphyRM@state.gov)* for additional information.

VI.2. Administrative and National Policy Requirements: Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments''.

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information:

http://www.whitehouse.gov/omb/grants.
http://fa.statebuy.state.gov

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus two copies of the following reports:

(1.) A final program and financial report no more than 90 days after the expiration of the award;

(2.) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3.) A SF–PPR, ''Performance Progress Report'' Cover Sheet with all program reports.

(4.) Quarterly program and financial reports which should include the activities completed during that quarter, information about any participants of the activities, and any adjustments in the program timeline.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

Program Data Requirements:

Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three weeks prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Ryan Murphy, U.S. Department of State, Bureau of Educational and Cultural Affairs, SportsUnited Division, ECA/PE/C/SU, SA–5, Floor 3, 2200 C Street NW., Washington, DC 20037, tel: (202) 632–6058, fax: (202) 632–6492, *MurphyRM@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and reference number ECA/PE/C/SU–12–15.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: December 8, 2011.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2011–32105 Filed 12–14–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7712]

Overseas Schools Advisory Council Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Executive Committee Meeting on Thursday, January 19, 2012, at 9:30 a.m. in Conference Room 1107, Department of State Building, 2201 C Street NW., Washington, DC. The meeting is open to the public and will last until approximately 12 p.m.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas that are assisted by the Department of State and attended by dependents of U.S. Government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. In addition there will be a presentation on a Council-sponsored project that developed a training center for principals of overseas schools.

Members of the public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for all attendees. Persons who plan to attend should advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, Room H328, SA–1, Washington, DC 20522–0132, telephone (202) 261–8200, prior to January 9, 2012. Each visitor will be asked to provide his/her date of birth and either driver's license or passport number at the time of registration and attendance, and must carry a valid photo ID to the meeting.

Personal data is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Privacy Impact Assessment for VACS–D at:*http://www.state.gov/documents/organization/100305.pdf* for additional information.

Any requests for reasonable accommodation should be made at the time of registration. All such requests will be considered, however, requests made after January 10th might not be possible to fill. All attendees must use the C Street entrance to the building.

Dated: December 9, 2011.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 2011–32187 Filed 12–14–11; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 29, 2011, and comments were due by August 29, 2011. No comments were received.

DATES: Comments must be submitted on or before January 17, 2012.

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzgerald, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. *Telephone:* (202) 366–2279; *Fax:* (202) 366–7901; or *Email: edmond.j.fitzgerald@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Seamen's Claims—Administrative Action and Litigation.

OMB Control Number: 2133–0522.

Type of Request: Extension of currently approved collection.

Affected Public: Officers or members of a crew who suffered death, injury, or illness while employed on vessels owned or operated by the United States through the Maritime Administration. Also included are surviving dependents, beneficiaries, and legal representatives of officers or crew members.

Forms: None.

Abstract: The collection consists of information obtained from claimants for death, injury, or illness suffered while serving as officers or members of a crew on board a vessel owned or operated by the United States through the Maritime Administration. The Maritime Administration reviews the information and makes a determination regarding the issues of agency and vessel liability and the reasonableness of the recovery demand.

Annual Estimated Burden Hours: 750 hours.

Addresses: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, *Attention:* MARAD Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira.submissions@omb.eop.gov.*

Comments Are Invited On: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

(Authority: 49 CFR 1.66.)

By order of the Maritime Administrator.

Dated: December 9, 2011.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2011–32119 Filed 12–14–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35573]

Watco Holdings, Inc. and Watco Transportation Services, L.L.C.—Acquisition of Control Exemption—Wisconsin & Southern Railroad, L.L.C.

Watco Holdings, Inc. (Watco Holdings) and Watco Transportation Services, L.L.C. (Watco Services) (collectively, Watco), both noncarriers, have filed a verified notice of exemption for Watco Holdings to acquire indirect control, and for Watco Services to acquire direct control, of the Wisconsin & Southern Railroad, L.L.C., a Class II railroad. Watco intends to consummate the transaction on or shortly after December 29, 2011, the effective date of the exemption (30 days after the verified notice was filed).

Watco Holdings, a Kansas corporation, controls Watco Services. Watco Holdings indirectly controls 23 Class III railroads operating in 18 states. For a complete list of these Class III carriers and the states within which they operate, see Watco's notice of exemption filed on November 29, 2011. The notice is available on the Board's Web site at ''*http://www.stb.dot.gov.*''

Prior to consummation of the transaction, Wisconsin & Southern Railroad Co., a Wisconsin corporation, will convert from a corporation to a Wisconsin limited liability company known as Wisconsin & Southern Railroad, L.L.C. (WSOR). As a result of the transaction, Watco Services will acquire, pursuant to a Purchase Agreement, 90 percent of all the issued and outstanding ownership and membership interests of WSOR, and Watco Holdings thus will indirectly control WSOR.[1] WSOR will remain a Class II carrier.

Applicants represent that: (1) The rail lines operated by WSOR do not connect with any of the rail lines operated by the carriers in the Watco corporate family;[2] (2) the transaction is not part of a series of anticipated transactions that would connect the rail lines operated by WSOR with any railroad in the Watco corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2). Watco states that the purpose of the transaction is to permit Watco Holdings to acquire control of WSOR as an investment in order to reduce overhead expenses and coordinate billing, maintenance, mechanical and personnel policies and practices of its rail carrier subsidiaries and thereby improve the overall efficiency of rail service provided by the railroads in the Watco corporate family.

Under 49 U.S.C 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves the control of one Class II and one or more Class III rail carriers, the transaction is subject to the labor protection requirements of 49 U.S.C. 11326(b) and *Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad,* 2 S.T.B. 218 (1997).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d)

[1] A redacted version of the draft Purchase Agreement was filed with the notice of exemption. The applicant concurrently filed a motion for protective order pursuant to 49 CFR 1104.14(b) to allow the filing under seal of the unredacted Purchase Agreement. That motion will be addressed in a separate decision.

[2] According to the notice, the rail lines operated by WSOR are located in Wisconsin and Illinois, and none of the Watco railroads own or operate a rail line in Wisconsin or Illinois.

may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than December 22, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35573, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Ball Janik LLP, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: December 12, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2011–32161 Filed 12–14–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 12, 2011.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before January 17, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 11020, Washington, DC 20220, or on-line at *http://www.PRAComment.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *http://www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–0014.

Type of Review: Extension without change of a currently approved collection.

Title: Application for Registration For Certain Excise Tax Activities.

Form: 637.

Abstract: Form 637 is used to apply for excise tax registration. The registration applies to a person required to be registered under IRC section 4101 for purposes of the federal excise tax on taxable fuel imposed by IRC 4041 and 4081; and to certain manufacturers or sellers and purchasers that must register under IRC 4222 to be exempt from the excise tax on taxable articles. The data is used to determine if the applicant qualifies for exemption. Taxable fuel producers are required by IRC 4101 to register with the Service before incurring any tax liability.*Affected Public:* Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 27,020.

OMB Number: 1545–0094.

Type of Review: Extension without change of a currently approved collection.

Title: U.S. Information Return-Trust Accumulation of Charitable Amounts.

Form: 1041–A.

Abstract: Form 1041–A is used to report the information required in 26 USC 6034 concerning accumulation and distribution of charitable amounts. The data is used to verify that amounts for which a charitable deduction was allowed are used for charitable purposes.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 4,396,854.

OMB Number: 1545–0714.

Type of Review: Extension without change of a currently approved collection.

Title: Employers Annual Information Return of Tip Income and Allocated Tips (Form 8027); Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips (Form 8027–T).

Forms: 8027, 8027–T.

Abstract: To help IRS in its examination of returns filed by tipped employees large food or beverage establishments are required to report annually information concerning food or beverage operations receipts, tips, reported by employees, and in certain cases, the employer must allocate tips to certain employees.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 488,161.

OMB Number: 1545–0928.

Type of Review: Extension without change of a currently approved collection.

Title: T.D. 9099—Disclosure of Relative Values of Optional Forms of Benefit.

Abstract: This document contains final regulations that consolidate the content requirements applicable to explanations of qualified joint and survivor annuities and qualified pre-retirement survivor annuities payable under certain retirement plans, and specify requirements for disclosing the relative value of optional forms of benefit that are payable from certain retirement plans in lieu of a qualified joint and survivor annuity. These regulations affect plan sponsors and administrators, and participants in and beneficiaries of, certain retirement plans.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 385,000.

OMB Number: 1545–1209.

Type of Review: Extension without change of a currently approved collection.

Title: IA–83—90 (TD 8383 -Final) Disclosure of Tax Return Information for Purposes of Quality or Peer Reviews; Due to Incapacity or Death of Tax Return Preparer.

Abstract: These regulations govern the circumstances under which tax return information may be disclosed for purposes of conducting quality or peer reviews, and disclosures that are necessary because of the tax return preparer's death or incapacity.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 250,000.

OMB Number: 1545–1275.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8529—Limitations on Corporate Net Operating Loss Carryforwards (CO–45–91 Final).

Abstract: Section 1.382–9(d)(2)(iii) and (d)(4)(iv) allow a loss corporation to rely on a statement by beneficial owners of indebtedness in determining whether the loss corporation qualifies under section 382(l)(1)(5). Section 1.382–9(d)(6)(ii) requires a loss corporation to file an election if it wants to apply the regulations retroactively, or revoke a prior section 382(l)(1)(6) election.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 200.

OMB Number: 1545–1421.

Type of Review: Extension without change of a currently approved collection.

Title: IA–62–93 (Final) Certain Elections Under the Omnibus Budget Reconciliation Act of 1993.

Abstract: These regulations establish various elections enacted by the Omnibus Budget Reconciliation Act of 1993 (Act). The regulations provide guidance that enable taxpayers to take advantage of various benefits provided by the Act and the Internal Revenue Code.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 202,500.

OMB Number: 1545–1519.

Type of Review: Extension without change of a currently approved collection.

Title: Long-Term Care and Accelerated Death Benefits.

Forms: 1099–LTC.

Abstract: Under the terms of IRC sections 7702B and 101g, qualified long-term care and accelerated death benefits paid to chronically ill individuals are treated as amounts received for expenses incurred for medical care. Amounts received on a per diem basis in excess of $175 per day are taxable. Section 6050Q requires all such amounts to be reported.

Affected Pubic: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 18,181.

OMB Number: 1545–1662.

Type of Review: Extension without change of a currently approved collection.

Title: REG–121063–97 (TD 8972—Final) Averaging of Farm Income.

Abstract: Code section 1301 allows an individual engaged in a farming business to elect to reduce his or her regular tax liability by treating all or a portion of the current year's farming income as if it had been earned in equal proportions over the prior three years. The regulation provides that the election for averaging farm income is made by filing Schedule J of Form 1040, which is also used to record and total the amount of tax for each year of the four year calculation.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1.

OMB Number: 1545–1943.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2005–38—Section 965—Limitations on Dividends Received Deduction and Other Guidance.

Abstract: This document provides guidance under new section 965, which was enacted by the American Jobs Creation Act of 2004 (Pub. L. 108–357). In general, and subject to limitations and conditions, section 965(a) provides that a corporation that is a U.S. shareholder of a controlled foreign corporation (CFC) may elect, for one taxable year, an 85 percent dividends received deduction (DRD) with respect to certain cash dividends it receives from its CFCs. This document addresses limitations imposed on the maximum amount of section 965(a) DRD under section 965(b)(1) under which the maximum amount of an eligible dividends is the greatest of $500 million, or earnings permanently reinvested outside the United States), section 965(b)(2) (regarding certain base-period repatriations), section 965(b)(3) (regarding certain increases in related party indebtedness), and certain miscellaneous limitations (related to the foreign tax credit).

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1,250,000.

OMB Number: 1545–2210.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2011–47, Relief from Certain Low-Income Housing Credit Requirements Due to Severe Storms, Tornadoes and Flooding in Missouri.

Abstract: The Internal Revenue Service is suspending certain requirements under § 42 of the Internal Revenue Code for low-income housing credit projects in the United States to provide emergency housing relief needed as a result of the devastation caused by severe storms, tornadoes and flooding in Missouri beginning on April 19, 2011.

Affected Public: Individuals and households.

Estimated Total Burden Hours: 125.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2011–32176 Filed 12–14–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of five individuals and one entity whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, ''Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers''.

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (''SDN List'') of the five individuals and one entity identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on December 8, 2011.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the ''Order''). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The foreign persons listed in an Annex

to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and the Secretary of State: (a) To play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On December 8, 2011, the Director of OFAC removed from the SDN List the five individuals and one entity listed below, whose property and interests in property were blocked pursuant to the Order:

Individuals

1. JIMENEZ, Isabel Cristina, c/o INVERSIONES Y CONSTRUCCIONES ATLAS LTDA, Cali, Colombia; c/o CONTACTEL COMUNICACIONES S.A., Cali, Colombia; c/o COMERCIALIZADORA INTERTEL S.A., Cali, Colombia; DOB 1 Jan 1973; Cedula No. 66852533 (Colombia); Passport 66852533 (Colombia) (individual) [SDNT].

2. LOPEZ VALENCIA, Oscar Alberto, c/o FLEXOEMPAQUES LTDA., Cali, Colombia; Carrera 6A No. 11–43 501–2, Cali, Colombia; c/o PLASTICOS CONDOR LTDA., Cali, Colombia; c/o MEGAPLAST S.A., Palmira, Valle, Colombia; DOB 30 Aug 1960; Cedula No. 10537943 (Colombia) (individual) [SDNT].

3. MENDEZ DIAZ, Marlen, c/o COOPDISAN, Bucaramanga, Colombia; c/o DROGAS LA REBAJA BUCARAMANGA S.A., Bucaramanga, Colombia; Cedula No. 37813841 (Colombia); Passport 37813841 (Colombia) (individual) [SDNT].

4. SARMIENTO MARTINEZ, Diana, c/o TAURA S.A., Cali, Colombia; Cedula No. 65698369 (Colombia) (individual) [SDNT].

5. TRUJILLO CAICEDO, Francisco Javiar (a.k.a. ''PACHO''), Calle 13C No. 75–95 piso 2, Cali, Colombia; Calle 8 Oeste No. 24C–75 apt. 1501, Cali, Colombia; c/o COLOR 89.5 FM STEREO, Cali, Colombia; Carrera 76A No. 6–34 apt. 107, Cali, Colombia; DOB 23 Nov 1960; Cedula No. 16264395 (Colombia) (individual) [SDNT].

Entity

1. OBURSATILES S.A. (a.k.a. OPERACIONES BURSATILES S.A. COMISIONISTA DE BOLSA), Avenida 4N No. 4N–30, Cali, Colombia; Avenida 68 No. 75A–50 Local 230, Bogota, Colombia; Calle 10 No. 4–40 of. 312, Cali, Colombia; Calle 19 No. 5–48 Local 226, Pereira, Colombia; Carrera 7 No. 74–56 of. 909, Bogota, Colombia; Carrera 15 No. 87–32, Bogota, Colombia; Carrera 22 No. 18–65 Local 28, Manizales, Colombia; Carrera 28 No. 29–06 Local 104, Palmira, Colombia; Carrera 49 No. 52–81 L–9923, Medellin, Colombia; Carrera 52 No. 72–65 Local 106, Barranquilla, Colombia; Carrera 66B No. 34A–76 Local 227, Medellin, Colombia; Centro Comercial Cosmocentro Local 103, Cali, Colombia; Transversal 71D No. 26–94 Sur Local 3504, Bogota, Colombia; NIT # 800012425–0 (Colombia) [SDNT].

Dated: December 8, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2011–32117 Filed 12–14–11; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0085]

Agency Information Collection (Appeal to Board of Veterans' Appeals) Activities Under OMB Review

AGENCY: Board of Veterans' Appeals, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Board of Veterans' Appeals (BVA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 17, 2012.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0085'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7479, FAX (202) 273–0487 or email *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–0085.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Appeal to Board of Veterans' Appeals, VA Form 9.

b. Withdrawal of Services by a Representative.

c. Request for Changes in Hearing Date.

d. Motions for Reconsideration.

OMB Control Number: 2900–0085.

Type of Review: Extension of a currently approved collection.

Abstract:

a. Appeal to Board of Veterans' Appeals, VA Form 9, may be used by appellants to complete their appeal to the Board of Veterans' Appeals (BVA) from a denial of VA benefits. The information is used by BVA to identify the issues in dispute and prepare a decision responsive to the appellant's contentions and the legal and factual issues raised.

b. Withdrawal of Services by a Representative: When the appellant's representative withdraws from a case, both the appellant and the BVA must be informed so that the appellant's rights may be adequately protected and so that the BVA may meet its statutory obligations to provide notice to the current representative.

c. Request for Changes in Hearing Date: VA provides hearings to appellants and their representatives, as required by basic Constitutional due-process and by Title 38 U.S.C. 7107(b). From time to time, hearing dates and/or times are changed, hearing requests withdrawn and new hearings requested after failure to appear at a scheduled hearing. The information is used to comply with the appellants' or their representatives' requests.

d. Motions for Reconsideration: Decisions by BVA are final unless the Chairman orders reconsideration of the decision either on the Chairman's initiative, or upon motion of a claimant. The Board Chairman, or his designee, uses the information provided in deciding whether reconsideration of a Board decision should be granted.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection

of information was published on September 28, 2011, at pages 60135–60136.

Affected Public: Individuals or households, Business or other for profit, and Not for profit institutions.

Estimated Total Annual Burden:

a. Appeal to Board of Veterans' Appeals, VA Form 9—45,850 hours.

b. Withdrawal of Services by a Representative—183 hours.

c. Request for Changes in Hearing Date—1,212 hours.

d. Motions for Reconsideration—846 hours.

Estimated Average Burden Per Respondent:

a. Appeal to Board of Veterans' Appeals, VA Form 9—1 hour.

b. Withdrawal of Services by a Representative—20 minutes.

c. Request for Changes in Hearing Date—15 minutes (hearing date change), 15 minutes (request to withdraw a hearing),—1 hour (requests change a motion).

d. Motions for Reconsideration—1 hour.

Frequency of Response: On occasion.

Estimated Total Number of Respondents:

a. Appeal to Board of Veterans' Appeals, VA Form 9—45,850.

b. Withdrawal of Services by a Representative—550.

c. Request for Changes in Hearing Date—2,733.

d. Motions for Reconsideration—846.

Dated: December 9, 2011.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–32122 Filed 12–14–11; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 76 Thursday,

No. 241 December 15, 2011

Part II

Federal Deposit Insurance Corporation

12 CFR Part 362

Permissible Investments for Federal and State Savings Associations: Corporate Debt Securities; Guidance on Due Diligence Requirements for Savings Associations in Determining Whether a Corporate Debt Security Is Eligible for Investment; Proposed Rules

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 362

RIN 3064–AD88

Permissible Investments for Federal and State Savings Associations: Corporate Debt Securities

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is seeking public comment to amend the FDIC's regulations in accordance with the requirements of Federal Deposit Insurance Act (FDI Act). Specifically, to prohibit any insured savings association from acquiring and retaining a corporate debt security unless it determines, prior to acquiring such security and periodically thereafter, that the issuer has adequate capacity to meet all financial commitments under the security for the projected life of the investment. For purposes of the Proposed Rule, an issuer would satisfy this requirement if, based on the assessment of the savings association, the issuer presents a low risk of default and is likely to make full and timely repayment of principal and interest. As proposed, this standard is consistent with alternative creditworthiness standards proposed by other Federal agencies under the Dodd-Frank Act and existing guidance regarding securities investments and credit classifications of banks and savings associations. In connection with this NPR, the FDIC is also seeking public comment on proposed guidance, published elsewhere in today's **Federal Register**, that sets forth supervisory expectations for savings associations conducting due diligence to determine whether a corporate debt security is eligible for investment under this proposed rule.

DATES: Comments must be received by February 13, 2012.

ADDRESSES: You may submit comments, identified by RIN [3064–AD88], by any of the following methods:

- *Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on the Agency Web site.
- *Email: Comments@fdic.gov.* Include the RIN [3064–AD88] on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, 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 must include the agency name and RIN [3064–AD88] for this rulemaking. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html,* including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226 by telephone at 1 (877) 275–3342 or 1 (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Kyle Hadley, Chief, Examination Support Section, (202) 898–6532, Division of Risk Management Supervision; Eric Reither, Capital Markets Specialist, (202) 898–3707, Division of Risk Management Supervision; Mark Handzlik, Counsel, Bank Activities Section, (202) 898–3990; Michael Phillips, Counsel, Bank Activities Section, (202) 898–3581; or Rachel Jones, Honors Attorney, Legal Division, (202) 898–6858.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 28(d)(1) of the FDI Act, Federal and state savings associations generally are prohibited from acquiring or retaining, either directly or through a financial subsidiary, a corporate debt security that is not ''of investment grade.'' [1] Section 28(d)(4) defines investment grade as follows: ''Any corporate debt security is not of 'investment grade' unless that security, when acquired by the savings association or subsidiary, was rated in one of the four highest ratings categories by at least one nationally recognized statistical rating organization'' (each, an ''NRSRO'').[2]

Consistent with the requirements of Section 28(d), § 362.11(b)(1) of the FDIC's regulations generally prohibits a state savings association from acquiring or retaining a corporate debt security that is not of investment grade.[3] Under 12 CFR 362.10(b), the term ''corporate debt securities that are not of investment grade'' is defined, in a manner consistent with Section 28(d), as, ''any corporate security that when acquired was not rated among the four highest rating categories by at least one nationally recognized statistical rating organization.'' [4]

The FDIC currently may require a state savings association to take corrective measures in the event a corporate debt security experiences a downgrade (to non-investment grade status) following acquisition. For example, a savings association may be required to reduce the level of non-investment grade corporate debt security investments as a percentage of tier 1 or total capital, write-down the value of the security to reflect an impairment, or divest the security. The FDIC addresses nonconforming investments on a case-by-case basis through the examination process, and in view of the risk profile of the savings association and size and composition of its investment portfolio.

Section 939(a)(2) of the Dodd-Frank Act amends Section 28(d) by (a) removing references to NRSRO credit ratings, including the investment-grade standard under paragraph (1) and the definition of ''investment grade'' under paragraph (4); and (b) inserting in paragraph (1) a reference to ''standards of creditworthiness established by the [FDIC]''. Section 939(a) is effective on July 21, 2012, and, therefore, as of this date federal and state savings associations will be permitted to invest only in corporate debt securities that satisfy creditworthiness standards established by the FDIC.[5]

II. Description of the Proposed Rule and Consistency With Other Federal Regulations

In accordance with the requirements of Section 939(a), the Proposed Rule would amend §§ 362.09, 362.10, and 362.11(b)(1) of the FDIC's regulations. Section 362.10 would be amended by deleting the definition of corporate debt securities not of investment grade. Section 362.11(b)(1) would be amended by replacing the investment-grade standard, applicable to permissible

[1] Section 28(d)(1) of the FDI Act, 12 U.S.C. 1831e(d)(1). Regulations governing permissible investment activities for federal savings associations are found in 12 CFR part 160, and regulations governing permissible investment activities for state savings associations are found in 12 CFR 390.260–262.

[2] *Id.* Under Section 28(d)(2), the investment-grade requirement does not apply to a corporate debt security acquired or retained by a ''qualified affiliate'' of a savings association, defined as, (i) In the case of a stock savings association, an affiliate other than a subsidiary or an insured depository institution; and (ii) in the case of a mutual savings association, a subsidiary other than an insured depository institution, so long as all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the capital of the savings association.

[3] 12 CFR 362.11(b).

[4] *Id.* at § 362.10(b). Under section 28(d)(4)(C) of the FDI Act, however, this term does not include any obligation issued or guaranteed by a corporation that may be held by a federal savings association without limitation as a percentage of assets under section 5(c)(1)(D), (E), or (F) of the Home Owners Loan Act (''HOLA'').

[5] *See* section 939(g) of the Dodd-Frank Act.

corporate debt securities investments of a state savings association, with a requirement, applicable to federal and state savings associations, that prior to acquiring a corporate debt security, and periodically thereafter, the savings association must determine that the issuer has adequate capacity to meet all financial commitments under the security for the projected life of the investment. For purposes of the Proposed Rule, an issuer would satisfy this requirement if the savings association appropriately determines that the obligor presents low default risk and is likely to make timely payments of principal and interest. The FDIC notes that, in addition to the requirements of the Proposed Rule, any savings association investment in a corporate debt security must be conducted in a manner that is consistent with safety and soundness principles.

In determining whether an issuer has an adequate financial capacity to satisfy all financial commitments under a security for the projected life of the investment, the FDIC would expect savings associations to consider a number of factors commensurate with the risk profile and nature of the issuer. Although savings associations would be permitted to consider an external credit assessment for purposes of such determination, they must supplement any external credit assessment with due diligence processes and analyses that are appropriate for the size and complexity of the investment.

If promulgated in final form, the Proposed Rule would be effective on July 21, 2012, in accordance with the requirements of section 939(g) of the Dodd-Frank Act. The Proposed Rule would not grandfather any corporate debt securities acquired before the effective date and, therefore, federal and state savings associations would be permitted to retain only those securities for which the savings association determines that (as of the effective date and periodically thereafter) the issuer has adequate capacity to satisfy all financial commitments under the security for the expected life of the investment. This proposed treatment for previously acquired securities is consistent with the requirements of Section 28(d) and the Proposed Rule, which prohibit a savings association from acquiring or retaining any corporate debt security that does not satisfy the creditworthiness standard described in this proposal. Accordingly, savings associations will be required to periodically review and update the analysis required to make such determination.

The FDIC is not revising its current supervisory practice with respect to nonconforming corporate debt securities investments. That is, if a security acquired in compliance with the Proposed Rule experiences credit impairment or other deterioration following its acquisition, the appropriate federal regulator may require a state savings association to take corrective measures on a case-by-case basis.

In addition to the revisions described above, the Proposed Rule would make conforming, technical amendments to § 362.9 of the FDIC's regulations to expand the scope of the rule to federal savings associations [6] and reflect the abolishment of the Office of Thrift Supervision under section 313 of the Dodd-Frank Act.

In connection with this NPR, the FDIC is seeking public comment on proposed guidance, published elsewhere in today's **Federal Register**, that sets forth supervisory expectations for due diligence conducted by a savings association in determining whether a corporate debt security is eligible for investment under this proposal. The proposed guidance describes the factors savings associations should consider in evaluating the creditworthiness of an issuer and, in particular, determining whether the issuer has adequate capacity to satisfy all financial commitments under the security for the expected life of the investment. The FDIC encourages commenters to review and comment on the proposed guidance in connection with their review of the Proposed Rule.

Consideration of Potential Alternative Creditworthiness Standards

In developing the Proposed Rule, the FDIC considered various alternatives to the proposed creditworthiness standard, that is, that the issuer has adequate capacity to satisfy all financial commitments under the security for the expected life of the investment. One option for assessing the creditworthiness of a corporate debt security would be to differentiate the credit risk of the security based on financial and economic measures appropriate to the issuer. For example, the FDIC could require the savings association to demonstrate that the issuer satisfies certain metrics based on balance sheet or cash flow ratios such as current assets to current liabilities, debt to equity, or some form of debt service to cash flow ratio. Alternatively, for publicly traded issuers, the FDIC could require the savings association to demonstrate that the issuer satisfies certain market-based measures, such as credit spreads, market-implied risk, and measures of capital adequacy and liquidity.

The Proposed Rule would require a savings association to determine that the issuer has adequate capacity to satisfy all financial commitments under the security for the projected life of the investment. The FDIC believes that the proposed standard provides a flexible, straightforward measure of creditworthiness that is generally consistent with existing policy [7] and supervisory guidance for classifying exposures as substandard, doubtful, or loss.[8] Although the alternatives present certain advantages, including the potential for identical or similar creditworthiness assessments across institutions, the FDIC believes the Proposed Rule would foster prudent risk management; be transparent, replicable, and well-defined; allow different savings associations to make a similar creditworthiness assessment with respect to the same credit exposure; allow for supervisory review; differentiate among investments in the same asset class with different credit risk; and provide for the timely and accurate measurement of negative and positive changes in investment quality. In addition, as described below, the FDIC believes that the Proposed Rule is consistent with the requirements of section 939A (''Section 939A'') of the Dodd-Frank Act, which requires the federal agencies, to the extent feasible, to establish uniform standards of creditworthiness. Section 939A also directs the agencies to consider the differences among their regulated entities and the purposes of which these entities would rely on such standards.

Consistency With Other Federal Regulations

As discussed above, in accordance with the requirements of Section 939A, the FDIC reviewed standards of creditworthiness proposed by other federal agencies to ensure, to the extent feasible, that the FDIC adopts a consistent creditworthiness standard. The FDIC reviewed proposed rules from the Department of Treasury (''Treasury''), the Securities and Exchange Commission (''SEC''), and the Commodity Futures Trading Commission (''CFTC'').

[6] Currently, § 362.11(b) applies only to insured state savings associations.

[7] *See Supervisory Policy Statement on Investment Securities and End-User Derivatives* (April 23, 1998).

[8] *See Uniform Agreement on the Classification of Assets and Appraisal of Securities Held by Banks and Thrifts* (June 15, 2004).

On September 27, 2011, the Treasury issued a proposed rule that would implement Section 939A with respect to its liquid capital rule, which prescribes the minimum capital requirements for registered government securities brokers and dealers.[9] Currently, if a government securities broker or dealer invests in commercial paper, the investment could qualify for a more favorable haircut if the issuer is rated by at least two NRSROs in one of the three highest categories. As a substitute standard of creditworthiness, the Treasury is proposing that commercial paper with a ''minimal amount of credit risk,'' as determined by the broker or dealer, receive the favorable haircut. Similarly, under the FDIC's Proposed Rule, instead of relying solely on an NRSRO credit rating, a savings association would be required to determine the credit risk of a corporate debt security by considering various factors. Additionally, the Treasury would require security brokers and dealers to establish and maintain written policies and procedures on how they assess credit risk. The Treasury would not mandate any particular evaluation criteria, but would provide recommendations. For example, the Treasury recommends considering the following factors: Credit spreads, liquidity, securities-related research, internal or external credit risk assessments (which includes rating agencies), default statistics, inclusion on an index, price and/or yield, and factors specific to the commercial paper market (*e.g.,* general liquidity conditions). Also similar to the FDIC's Proposed Rule, brokers and dealers would be required to periodically review their creditworthiness determination. The frequency of the review would depend on the characteristics of the underlying commercial paper instrument.

On March 9, 2011, the SEC published a notice of proposed rulemaking to implement Section 939A with respect to Rule 5b–3. SEC Rule 5b–3 permits funds under the Investment Company Act to treat certain repurchase agreements as an acquisition of the securities collateralizing the repurchase agreement instead of an interest in the counterparty.[10] A repurchase agreement may qualify for the favorable treatment only if, in part, the underlying collateral is comprised of securities that are rated investment grade by at least two NRSROs at the time the repurchase agreement is entered into. This provision ensures that the collateral can be easily liquidated in the event of default. In accordance with Section 939A, the SEC proposed to define a security as fully collateralized if, in part, the collateral (1) Is issued by an issuer that has the highest capacity to meet its financial obligations; and (2) is sufficiently liquid that the securities can be sold at approximately their carrying value in the ordinary course of business within seven calendar days. Similar to the FDIC's proposal, the responsibility for making the creditworthiness determination is placed with the regulated institution. However, in contrast to the FDIC's Proposed Rule, the SEC proposed rules would require that funds determine the issuer has the highest capacity to meet its financial obligations.[11]

On May 12, 2011, the CFTC published a notice of proposed rulemaking to implement Section 939A with respect to regulations governing capital requirements for over-the-counter (''OTC'') derivatives.[12] The new statutory framework provided under the Commodity Exchange Act, added by the Dodd-Frank Act, requires the CFTC to adopt capital requirements for certain swap dealers and major swap participants. The proposed regulation would require swap dealers and major swap participants to calculate current and potential future exposure to counterparties in determining their capital requirements. This exposure would be subject to a credit-risk factor of 50 percent regardless of the counterparty's credit rating. The swap dealer or major swap participant would be able to apply to the CFTC for approval to assign internal ratings to counterparties. If the internal credit-risk management system of the swap dealer or major swap participant is strong, the CFTC may approve the application to use internal ratings. The swap dealer and major swap participants would have to regularly update the internal rating, similar to the FDIC's Proposed Rule.

IV. Request for Comment

The FDIC seeks comment on all aspects of this NPR and the proposed creditworthiness standard for permissible corporate debt securities investments of federal and state savings associations. In addition, the FDIC strongly encourages commenters to provide comment on the proposed guidance, published elsewhere in today's **Federal Register**, released in connection with this NPR. Specifically, the FDIC seeks comment on the specific questions set forth below.

1. Does the proposed creditworthiness standard for corporate debt securities investments of federal and state savings associations satisfy the following criteria?

- Fosters prudent risk management;
- Is transparent, replicable, and well defined;
- Allows different banks or savings associations to assign the same or similar assessment of credit quality to the same or similar credit exposures;
- Allows for supervisory review;
- Differentiates among investments in the same asset class with different credit risk; and
- Provides for the timely and accurate measurement of negative and positive changes in investment quality, to the extent practicable?

2. Would the proposed creditworthiness standard for corporate debt securities investments of federal and state savings associations avoid concerns regarding regulatory arbitrage and oversimplified measures; dampen systemic risk; appropriately consider market complexities; identify appropriate time horizons; and, allow for accurate and timely reassessments? What changes could the FDIC make to the Proposed Rule to more appropriately address these objectives?

3. Does the proposed revised definition strike an appropriate balance between the measurement of credit risk and the implementation burden in considering alternative measures of creditworthiness? Are there other alternatives that strike a more appropriate balance between these objectives?

V. Regulatory Analyses

A. Paperwork Reduction Act (PRA)

No new collection of information pursuant to the PRA (44 U.S.C. 3501 *et seq.*) is contained in this NPR.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to $175 million).[13] However, a regulatory flexibility analysis is not required if the agency

[9] 76 FR 59592 (September 27, 2011).

[10] 76 FR 12896 (March 9, 2011).

[11] As discussed previously in Section II, the FDIC's Proposed Rule only requires an adequate capacity to meet its financial commitments.

[12] 76 FR 27802 (May 12, 2011).

[13] 5 U.S.C. 601 *et seq.*

certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the rule. For the reasons provided below, the FDIC certifies that the Proposed Rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

As discussed in this NPR, Section 28(d) of the FDI Act, as amended by Section 939(a) of the Dodd-Frank Act, prohibits federal and state savings associations from acquiring or retaining a corporate debt security that does not meet FDIC's standards of creditworthiness. In accordance with the requirements of amended Section 28(d), this NPR proposes that savings associations cannot invest in a corporate debt security unless the savings association determines that the issuer has adequate capacity to meet all financial commitments under the security for the projected life of the investment. Consequently, this Proposed Rule only impacts savings associations that hold corporate debt security investments.

In determining whether this Proposed Rule would have a significant economic impact on a substantial number of small savings associations, the FDIC reviewed June 2011 Thrift Financial Report (TFR) data to evaluate the number of savings associations with corporate debt securities. There are 708 insured state and federal savings associations. Of these 708 insured savings associations, 204 reported investments in the Other Investment Securities line of their TFR.[14] Even assuming the entire amount listed in the Other Investment Securities line of the TFR represents investment in corporate debt securities, Other Investment Securities represents only 2.40 percent of the aggregate total assets of the 708 applicable savings associations.

Moreover, only savings associations with total assets of $175 million or less apply for purposes of the RFA analysis. When applying this additional size criterion, only 61 institutions list Other Investment Securities in their TFR. For these smaller savings institutions, the total amount listed as investment in Other Investment Securities represents only .45 percent of the total assets. And only seven of these smaller thrifts have concentrations in Other Investment Securities that exceeds 50 percent of their tier 1 capital. Due to the small investment in corporate debt securities on small savings associations' balance sheets and due to the existing need to do due diligence relating to any investment in order to assure that a savings association is operating in a safe and sound manner, the additional compliance burden would not result in a significant economic impact on a substantial number of small savings associations.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act required the agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies invite comment on how to make this Proposed Rule easier to understand. For example:

- Have the agencies organized the material to suit your needs? If not, how could they present the rule more clearly?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the agencies incorporate to make the regulation easier to understand?

List of Subjects in 12 CFR Part 362

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Investments, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend part 362 of chapter III of Title 12, Code of Federal Regulations as follows:

PART 362—ACTIVITIES OF INSURED STATE BANKS AND INSURED SAVINGS ASSOCIATIONS

1. The authority citation for part 362 continues to read as follows:

Authority: 12 U.S.C. 1816, 1818, 1819(a) (Tenth), 1828(j), 1828(m), 1828a, 1831a, 1831e, 1831w, 1843(l).

2. Amend § 362.9, by revising paragraph (a) to read as follows:

§ 362.9 Purpose and scope.

(a) This subpart, along with the notice and application procedures in subpart H of part 303 of this chapter, implements the provisions of section 28(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831e(a)) that restrict and prohibit insured state savings associations and their service corporations from engaging in activities and investments of a type that are not permissible for a Federal savings association and their service corporations. This subpart also implements the provision of section 28(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831e(d)) that restricts state and federal savings associations from investing in certain corporate debt securities. The term ''activity permissible for a Federal savings association'' means any activity authorized for a Federal savings association under any statute including the Home Owners' Loan Act (HOLA) (12 U.S.C. 1464 *et seq.*), as well as activities recognized as permissible for a Federal savings association in regulations issued by the Office of the Comptroller of the Currency (OCC) or in bulletins, orders or written interpretations issued by the OCC, or by the former Office of Thrift Supervision until modified, terminated, set aside, or superseded by the OCC.

* * * * *

§ 362.10 [Amended]

3. Amend § 362.10 by removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d).

4. Amend § 362.11 by revising the section heading and the last sentence of paragraph (b)(1) to read as follows:

§ 362.11 Activities of insured savings associations.

* * * * *

(b) * * *

(1) * * * After July 21, 2012, an insured savings association directly or through a subsidiary (other than, in the case of a mutual savings association, a subsidiary that is a qualified affiliate), shall not acquire or retain a corporate debt security unless the savings association, prior to acquiring the security and periodically thereafter, determines that the issuer of the security has adequate capacity to meet all financial commitments under the

[14] This line item is where the dollar exposure to corporate debt securities, along with other forms of investment, should be slotted according to the TFR instructions. This line may also include investments in instruments other than corporate debt securities, this limited granularity does not permit a precise understanding of the exposure to corporate debt securities.

security for the projected life of the investment.

* * * * *

Dated at Washington, DC, this 7th day of December 2011.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–31883 Filed 12–13–11; 11:15 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 362

Guidance on Due Diligence Requirements for Savings Associations in Determining Whether a Corporate Debt Security Is Eligible for Investment

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed guidance with request for comment.

SUMMARY: The FDIC is seeking comment on proposed guidance that would assist savings associations in conducting due diligence to determine whether a corporate debt security is eligible for investment under a proposed rule published elsewhere in this issue of the **Federal Register**.

DATES: Comments must be received by February 13, 2012.

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

- *Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on the Agency Web Site.
- *Email: Comments@fdic.gov.*
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, 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 must include the agency name. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html,* including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226 by telephone at 1–(877) 275–3342 or 1–(703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Kyle Hadley, Section Chief, Examination Support, (202) 898–6532, Division of Risk Management Supervision; Eric Reither, Capital Markets Specialist, (202) 898–3707, Division of Risk Management Supervision; Mark Handzlik, Counsel, Bank Activities Section, (202) 898–3990; Michael Phillips, Counsel, Bank Activities Section, (202) 898–3581; Rachel Jones, Honors Attorney, Legal Division (202) 898–6858.

SUPPLEMENTARY INFORMATION:

Background

Section 939(a) (''Section 939(a)'') of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') amends section 28(d) (''Section 28(d)'') of the Federal Deposit Insurance Act (''FDI Act'') to prohibit a savings association from acquiring or retaining a corporate debt security that does not satisfy creditworthiness standards established by the Federal Deposit Insurance Corporation (''FDIC''). Elsewhere in today's **Federal Register**, the FDIC has published for public comment a proposed rule (''Proposed Rule'') to implement the requirements of Section 939(a). Under the Proposed Rule, an insured savings association would be prohibited from acquiring or retaining a corporate debt security unless it determines, prior to acquiring the security and periodically thereafter, that the issuer has adequate capacity to satisfy all financial commitments under the security for the projected life of the investment.

Under Section 28(d) of the FDI Act, Federal and state savings associations generally are prohibited from acquiring or retaining, either directly or indirectly through a subsidiary, a corporate debt security that is rated below investment grade. Section 939(a) amends Section 28(d) by replacing the investment-grade standard with a requirement that any corporate debt security investment by a savings association satisfy standards of creditworthiness established by the FDIC. This amendment is effective for all savings associations two years after the date of enactment of the Dodd-Frank Act, or as of July 21, 2012.

Elsewhere in today's **Federal Register**, the FDIC is seeking comment on the Proposed Rule to amend the FDIC's regulations in accordance with the requirements of Section 28(d), as amended by Section 939(a). Specifically, the Proposed Rule would amend section 362.11(b) of the FDIC's regulations to prohibit an insured savings association from acquiring or retaining a corporate debt security unless it determines, prior to acquisition and periodically thereafter, that the issuer has adequate capacity to satisfy all financial commitments under the security for the projected life of the investment. For purposes of the Proposed Rule, an issuer would satisfy this requirement if, based on the assessment of the savings association, the issuer presents a low risk of default and is likely to make full and timely repayment of principal and interest. The FDIC does not expect the Proposed Rule to change the scope of permissible corporate debt securities investments for insured savings associations. In accordance with the requirements of the Dodd-Frank Act, if promulgated in final form, the Proposed Rule would be effective as of July 21, 2012.

Proposed Guidance

The proposed guidance would provide supervisory expectations for savings associations conducting due diligence to determine whether a corporate debt securities investment satisfies the creditworthiness requirements of the Proposed Rule—that is, whether the issuer has adequate capacity to satisfy all financial commitments under the security for the projected life of the investment. The FDIC expects savings associations to conduct appropriate ongoing reviews of their corporate debt investment portfolios to ensure that the composition of the portfolio is consistent with safety and soundness principles and appropriate for the risk profile of the institution as well as the size and complexity of the portfolio.

Text of Proposed Guidance

The text of the proposed supervisory guidance regarding the FDIC's expectations for insured savings associations conducting due diligence to assess the credit risk of a corporate debt security, in accordance with the requirements of 12 CFR 362.11(b), follows.

Purpose

The Federal Deposit Insurance Corporation (''FDIC'') is issuing this guidance document (''Guidance'') to establish supervisory expectations for savings associations conducting due diligence to determine whether a corporate debt security is eligible for investment under 12 CFR part 362. Section 362.11(b) of the FDIC's regulations implements Section 28(d) of the FDI Act (as amended by section 939(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act), and prohibits an insured savings association from acquiring or retaining a corporate debt security unless it

determines, prior to acquiring the security and periodically thereafter, that the issuer has adequate capacity to satisfy all financial commitments under the security for the projected life of the investment. An issuer satisfies this requirement if, based on the assessment of the savings association, the issuer presents a low risk of default and is likely to make full and timely repayment of principal and interest. The investment also must be consistent with safe and sound banking practices.

Background

Part 362 of the FDIC's regulations sets forth the requirements for determining whether securities have appropriate credit quality and marketability characteristics to be purchased and held by insured savings associations. Under section 362.11(b), a savings association may acquire or retain a corporate debt security only if the issuer has adequate capacity to satisfy all financial commitments under the security for the projected life of the investment. An issuer satisfies this requirement if, based on the assessment of the savings association, the issuer presents a low risk of default and is likely to make full and timely repayment of principal and interest.

Savings associations must be able to demonstrate that their investment securities meet applicable credit quality standards. This Guidance sets forth criteria that savings associations should consider when conducting due diligence to determine whether a security is eligible for investment under part 362.

The federal banking agencies have maintained long-standing supervisory guidance that banks and savings associations implement a risk management process to ensure that credit risk, including the credit risk of an investment portfolio, is effectively identified, measured, monitored, and controlled. The 1998 *Interagency Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities* (Policy Statement) provides risk management standards for the securities investment activities of banks and savings associations.[1] The Policy Statement emphasizes the importance of an institution conducting a thorough credit risk analysis before and periodically after the acquisition of a security. Such analysis would allow an institution to understand and effectively manage the risks within its investment portfolio, including credit risk, and is an essential element of a sound investment portfolio risk management framework. The Policy Statement is generally consistent with the agencies' *Uniform Agreement on the Classification of Assets and Appraisal of Securities Held by Banks and Thrifts,* which describes the importance of management's credit risk analysis and its use in examiner decisions concerning investment security risk ratings and classifications.[2]

Determining Whether Securities Are Permissible Prior To Purchase

The FDIC expects savings associations to conduct an appropriate level of due diligence in determining whether a corporate debt security is eligible for investment under 12 CFR 362.11(b). This may include consideration of internal analyses, third-party research and analytics including internal risk ratings, external credit ratings default statistics, and other sources of information appropriate for the particular security. The depth of the due diligence should be a function of the security's credit quality, the complexity of the issuer's financial structure, and the size of the investment. As an issuer's financial structure becomes more complex, the more credit-related due diligence an institution should perform, even when the credit quality is perceived to be very high. Management should ensure they understand the security's structure and how the security will perform in various scenarios throughout the business cycle. The FDIC expects savings associations to consider a variety of factors relevant to the particular security when determining whether a security is a permissible and sound investment. The range and type of specific factors an institution should consider will vary depending on the particular type and nature of the security. As a general matter, a savings association will have a greater burden to support its determination if one factor is contradicted by a finding under another factor.

Although part 362 does not provide specific investment quality requirements, savings associations should conduct an appropriate level of due diligence prior to purchasing a corporate debt security to ensure that it is eligible for investment under part 362. A savings association should review and update this analysis periodically, as appropriate for size and risk profile of the security. By way of example, appropriate factors a savings association should consider include, but should not be limited to, the following:

- Confirm spread to U.S. Treasuries is consistent with bonds of similar credit quality;
- Confirm risk of default is low and consistent with bonds of similar credit quality;
- Confirm capacity to pay through internal credit analysis that can be supplemented with other third-party analytics;
- Understand applicable market demographics/economics; and
- Understand current levels and trends in operating margins, operating efficiency, profitability, return on assets and return on equity.

Maintaining an Appropriate and Effective Portfolio Risk Management Framework

Savings associations should have in place an appropriate risk management framework for the level of risk in their corporate debt investment portfolios. Failure to maintain an adequate investment portfolio risk management process, which includes understanding key portfolio risks, is considered an unsafe and unsound practice. Savings associations should conform to safe and sound banking practices and, similarly, should consider appropriate investment portfolio risks in connection with the acquisition of a corporate debt security.[3]

Having a strong and robust risk management framework appropriate for the level of risk of a savings association's investment portfolio is particularly critical for managing portfolio credit risk. A key role for management in the oversight process is to translate the risk tolerance levels established by the board of directors into a set of internal operating policies and procedures that govern the institution's investment activities. Specifically, investment policies should provide credit risk concentration limits. Such limits may apply to concentrations relating to a single or related issuer, a geographical area, and obligations with similar characteristics. Savings associations with investment portfolios that lack diversification in one of the aforementioned areas should enhance their monitoring and reporting systems. Safety and soundness principles warrant effective concentration risk management programs to ensure that credit exposures do not reach an excessive level.

[1] On April 23, 1998, the FDIC, together with the Federal Reserve Board, National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision, issued the "*Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities.*" As issued by the OTS, the Policy Statement applied to both state and Federal savings associations.

[2] *See,* FDIC Financial Institution Letter, 70–2004 (June 15, 2004).

[3] *See supra* footnote 1.

Savings associations should identify and measure the risks of their investments periodically after acquisition. Such analyses allow an institution to understand and effectively manage the risks of its investment portfolio, including credit risk, and are an essential element of a sound investment portfolio risk management framework. Exposure to each type of risk for each security should be measured and aggregated with similar exposures on an institution-wide basis. Risk measurement should be obtained from sources independent of sellers or counterparties and should be periodically validated. Irrespective of any contractual or other arrangements, savings associations are responsible for understanding and managing the risks of all of their investments.

Request for Comment

The FDIC requests comment on all aspects of this proposed guidance. Specifically, the FDIC is seeking commenters' views on the following:

1. Does the proposed guidance sufficiently assist savings associations in meeting their due diligence requirements? How could the guidance be improved?

2. Should the guidance provide differentiation based on the size and scope of operations of a savings associations, specifically with respect to the factors a savings association should consider in conducting due diligence to determine the credit quality of a corporate debt security?

By order of the Board of Directors.

Dated at Washington, DC, this 7th day of December 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–31884 Filed 12–13–11; 11:15 am]

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H.R. 394/P.L. 112–63
Federal Courts Jurisdiction and Venue Clarification Act of 2011 (Dec. 7, 2011; 125 Stat. 758)

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