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Contents

Federal Register

Vol. 77, No. 7

Wednesday, January 11, 2012

Administration on Aging
See Aging Administration

Aging Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State Annual Long-Term Care Ombudsman Report and Instructions for Older Americans Act Title VII, 1693–1694

Agriculture Department
See Animal and Plant Health Inspection Service
See Food and Nutrition Service
See Forest Service

Animal and Plant Health Inspection Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Importation of Baby Corn and Baby Carrots From Zambia, 1665

Antitrust Division
NOTICES
Pursuant To The National Cooperative Research And Production Act Of 1993:
Connected Media Experience, Inc., 1727

Broadcasting Board of Governors
NOTICES
Meetings; Sunshine Act, 1665

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 1694–1695

Coast Guard
NOTICES
Cooperative Research and Development Agreements:
Technology to Provide Wireless Precise Time; Alternatives to Global Positioning Systems, 1708–1710
Meetings:
National Maritime Security Advisory Committee; Correction, 1710

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Defense Department
RULES
Federal Acquisition Regulations:
Public Access to the Federal Awardee Performance and Integrity Information System; Correction, 1640–1641
NOTICES
Meetings:
Threat Reduction Advisory Committee, 1672

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 1672–1674

Energy Department
See Federal Energy Regulatory Commission
RULES
Energy Conservation Program:
Test Procedure for Automatic Commercial Ice Makers, 1591–1614
PROPOSED RULES
Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment:
Determination of Residential Central Air Conditioner Split-System Condensing Units and Residential Heat Pump Split-System Outdoor Units as a Covered Consumer Product, 1649–1654

Environmental Protection Agency
RULES
Exemptions from Requirement of a Tolerance:
Bacillus subtilis strain CX–9060, 1633–1637
NOTICES
Meetings:
FIFRA Scientific Advisory Panel, 1677–1679
Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations, 1679–1682
Registration Review Final Decisions; Availability:
Butylate, Fenoxycarb, Sodium Tetrathiocarbonate, and Temephos, 1682–1684
Requests to Voluntarily Amend Pesticide Registrations to Terminate Certain Uses:
Imidacloprid, Oxamyl, and Methomyl, 1684–1687
Workshops on Achieving Water Quality Through Integrated Municipal Stormwater and Wastewater Plans under the Clean Water Act, 1687–1688

Executive Office of the President
See Management and Budget Office
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness Directives:
Schempp–Hirth Flugzeugbau GmbH Gliders, 1624–1626
SOCATA Airplanes, 1622–1624
Various Aircraft Equipped with Rotax Aircraft Engines 912 A Series Engine, 1626–1628
Authorization to Use Lower Than Standard Takeoff, Approach and Landing Minimums at Military and Foreign Airports, 1629–1632
Harmonization of Airworthiness Standards for Transport Category Airplanes:
Landing Gear Retracting Mechanisms and Pilot Compartment View, 1614–1618
Special Conditions:
The Boeing Company, Model 767–300; Seats with Inflatable Lapbelts, 1618–1622
PROPOSED RULES
Airworthiness Directives:
Agusta S.p.A. Helicopters, 1654–1656

Proposed Establishment of Restricted Areas R–5402, R–5403A, et al., Devils Lake, ND, 1656–1657
NOTICES
Emergency Locator Transmitters, 1779–1780
Passenger Facility Charge Approvals and Disapprovals, 1780–1782
Petitions for Exemption:
Summary of Petition Received, 1782

Federal Communications Commission
RULES
Connect America Fund:
Developing an Unified Intercarrier Compensation Regime; Lifeline and Link Up, 1637–1640
PROPOSED RULES
Private Land Mobile Radio Service Regulations, 1661–1664
NOTICES
Debarments:
Tyrone D. Pipkin, 1688–1689

Federal Energy Regulatory Commission
NOTICES
Environmental Assessments; Availability, etc.:
MPP Project, Tennessee Gas Pipeline Co., L.L.C., 1674–1676
Proposed Cobscook Bay Tidal Energy Project, Ocean Renewable Power Company Maine, LLC, 1674
Extensions:
EasTrans, LLC, 1676
Technical Conferences:
Paiute Pipeline Co., 1676–1677

Federal Highway Administration
NOTICES
Final Federal Agency Actions on Proposed Bridge Replacement in Massachusetts, 1782–1783

Federal Labor Relations Authority
NOTICES
Federal Labor Relations Authority FY 2011 Service Contract Inventory, 1689

Federal Maritime Commission
PROPOSED RULES
Adjustment of Amount for Optional Rider for Proof of NVOCC Financial Responsibility for Trade With the People's Republic of China, 1658–1661
NOTICES
Agreements Filed, 1689–1690

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 1690

Federal Trade Commission
NOTICES
Requests for Early Termination of Waiting Period Under the Premerger Notification Rules, 1690–1693

Federal Transit Administration
NOTICES
Fiscal Year 2012 Apportionments, Allocations and Program Information, 1786–1856

Fish and Wildlife Service
NOTICES
Conservation Plans and Environmental Assessments; Availability, etc.:
James River National Wildlife Refuge, Prince George County, VA, 1716–1717
Draft Springfield Plateau Regional Restoration Plan and Environmental Assessment, 1717–1718
Meetings:
Migratory Bird Hunting; Service Regulations Committee, 1718–1719

Food and Drug Administration
NOTICES
Determinations That Drugs Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness:
AVALIDE (Hydrochlorothiazide and Irbesartan), Oral Tablets, 25 Milligrams/300 Milligrams and 12.5 Milligrams/75 Milligrams, 1695–1696
Meetings:
Advisory Committee for Pharmaceutical Science and Clinical Pharmacology, 1696–1697
Arthritis Advisory Committee, 1697

Food and Nutrition Service
PROPOSED RULES
Food Distribution Program on Indian Reservations:
Income Deductions and Resource Eligibility, 1642–1649

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Huron–Manistee National Forests, Michigan, USA and State South Branch 1–8 Well, 1665

General Services Administration
RULES
Federal Acquisition Regulations:
Public Access to the Federal Awardee Performance and Integrity Information System; Correction, 1640–1641

Health and Human Services Department
See Aging Administration
See Children and Families Administration
See Food and Drug Administration
See Indian Health Service
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Homeland Security Department
See Coast Guard
See U.S. Citizenship and Immigration Services

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Tribal Colleges and University Programs, 1715–1716

Indian Health Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery; IHS Website Customer Service Satisfaction Survey, 1697–1699

Industry and Security Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Statement by Ultimate Consignee and Purchaser, 1666

Meetings:
Information Systems Technical Advisory Committee, 1666–1667
Order:
Nelson S. Galgoul, 1667–1668

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

International Trade Administration
NOTICES
Countervailing Duty Administrative Reviews; Results, Extensions, Amendments, etc.:
Polyethylene Terephthalate Film, Sheet and Strip from India, 1668

International Trade Commission
NOTICES
Investigations:
Certain Blu-Ray Disc Players, Components Thereof and Products Containing Same, 1725–1726
Certain Video Game Systems and Controllers, 1726

Justice Department
See Antitrust Division
See Justice Programs Office
NOTICES
Lodging of Proposed Consent Decrees, 1726–1727

Justice Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Motor Vehicle Title Information System, 1727–1728

Labor Department
NOTICES
Privacy Act; Systems of Records:
Publication of Five New Systems of Records; Amendments to Five Existing Systems of Records, 1728–1742

Land Management Bureau
NOTICES
Filing of Plats of Survey:
California, 1719–1720
Montana, 1719
Meetings:
Las Cruces District Resource Advisory Council, 1720

Management and Budget Office
NOTICES
Discount Rates for Cost-Effectiveness Analysis of Federal Programs, 1743

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulations:
Public Access to the Federal Awardee Performance and Integrity Information System; Correction, 1640–1641
PROPOSED RULES
Profit and Fee Under Federal Financial Assistance Awards, 1657–1658

National Institutes of Health
NOTICES
Meetings:
Center For Scientific Review, 1699–1702, 1704–1707
Eunice Kennedy Shriver National Institute Of Child Health and Human Development, 1705
Fogarty International Center, 1705–1706
National Cancer Institute, 1703–1704, 1707
National Heart, Lung, and Blood Institute, 1702–1703
National Institute Of Arthritis And Musculoskeletal And Skin Diseases, 1702
National Institute of Neurological Disorders and Stroke, 1702
National Institute On Alcohol Abuse And Alcoholism, 1706
Office Of The Director, National Institutes Of Health, 1699
National Toxicology Program Final Process for Preparation of the Report on Carcinogens, 1707

National Oceanic and Atmospheric Administration
NOTICES
Endangered and Threatened Species:
Finding on Petition to Delist the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon, 1668–1669
Recovery Plan for the Southern California Steelhead Distinct Population Segment, 1669–1670
Meetings:
Gulf of Mexico Fishery Management Council, 1670–1671
Permits:
Endangered Species, 1671–1672

National Park Service
NOTICES
Environmental Impact Statements; Availability, etc.:
White-Tailed Deer Management Plan, Rock Creek Park, 1720–1721
Meetings:
Acadia National Park Advisory Commission, 1721
Paterson Great Falls National Historical Park Federal Advisory Commission, 1721–1722
National Register of Historic Places:
Pending Nominations and Related Actions, 1722–1723
Potomac Heritage National Scenic Trail; Availability, 1723
Proposed Concession Contracts:
Shenandoah National Park – Alternative Formula for Calculating Leasehold Surrender Interest, 1723–1725

National Science Foundation
NOTICES
Meetings:
U.S. Antarctic Program Blue Ribbon Panel, 1743

Nuclear Regulatory Commission
NOTICES
Facility Operating License Amendment from Florida Power Corporation:
Crystal River Nuclear Generating Plant, 1743–1748
Meetings:
Atomic Safety And Licensing Board, 1748–1749
Preliminary Amendment Request Review Process, 1749–1750

Office of Management and Budget
See Management and Budget Office

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Regulatory Commission
NOTICES
Post Office Closings, 1750–1757

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Mercantile Exchange, Inc., 1775–1777
Financial Industry Regulatory Authority, Inc., 1773–1775
International Securities Exchange, LLC, 1757–1758
NASDAQ OMX PHLX LLC, 1764–1766
New York Stock Exchange LLC, 1759–1761, 1768–1771
NYSE Amex LLC, 1758–1759, 1771–1772
NYSE Arca, Inc., 1761–1764, 1766–1767

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
DS–260, Electronic Application for Immigration Visa and Alien Registration, 1405–0185, 1777
DS–261, Electronic Choice of Address and Agent, 1777–1778

Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
Center for Substance Abuse Prevention Drug Testing Advisory Board, 1708

Tennessee Valley Authority
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 1778

Trade Representative, Office of United States
NOTICES
U.S.–EU High Level Working Group on Jobs and Growth, 1778–1779

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Transit Administration
NOTICES
Meetings:
Intelligent Transportation System Joint Program Office; Integrated Dynamic Transit Operations, 1779

Treasury Department
RULES
Privacy Act of 1974; Implementation, 1632–1633

U.S. Citizenship and Immigration Services
NOTICES
Extensions of Designation for Temporary Protected Status:
El Salvador; Automatic Extension of Employment Authorization Documentation for TPS Beneficiaries, 1710–1715

Separate Parts In This Issue

Part II
Transportation Department, Federal Transit Administration, 1786–1856

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR

Proposed Rules:

253 1642

10 CFR

431 1591

Proposed Rules:

430 1649

14 CFR

25 (2 documents) 1614, 1618
39 (3 documents) ...1622, 1624, 1626
135 1629

Proposed Rules:

39 1654
71 1656
1260 1657

31 CFR

1 1632

40 CFR

180 1633

46 CFR

Proposed Rules:

515 1658

47 CFR

20 1637
54 1637

Proposed Rules:

90 1661

48 CFR

1 1640
9 1640
12 1640
42 1640
52 1640

Rules and Regulations

Federal Register

Vol. 77, No. 7

Wednesday, January 11, 2012

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

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DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2010–BT–TP–0036]

RIN 1904–AC38

Energy Conservation Program: Test Procedure for Automatic Commercial Ice Makers

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

ACTION: Final rule.

SUMMARY: On April 4, 2011, the U.S. Department of Energy (DOE or the Department) issued a notice of proposed rulemaking (NOPR) to amend the test procedure for automatic commercial ice makers (ACIM). That NOPR serves as the basis for today's action. This final rule amends the current test procedure for automatic commercial ice makers. The changes include updating the incorporation by reference of industry test procedures to the most current published versions, expanding coverage of the test procedure to all batch type and continuous type ice makers with capacities between 50 and 4,000 pounds of ice per 24 hours, standardizing test results based on ice hardness for continuous type ice makers, clarifying the test methods and reporting requirements for automatic ice makers designed to be connected to a remote compressor rack, and discontinuing the use of a clarified energy use equation.

DATES: The effective date of this rule is February 10, 2012. The final rule changes will be mandatory for equipment testing starting January 7, 2013. Representations either in writing or in any broadcast advertisement respecting energy consumption of automatic commercial ice makers must also be made using the revised DOE test procedure on January 7, 2013.

The incorporation by reference of certain publications listed in this final rule is approved by the Director of the Office of the **Federal Register** as of February 10, 2012.

ADDRESSES: The docket is available for review at regulations.gov, including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the 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/automatic_ice_making_equipment.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. For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Charles Llenza, 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) 586–2192. Email: *Charles.Llenza@ee.doe.gov.*

Mr. Ari Altman, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6307. Email: *Ari.Altman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference into Part 431 the following industry standards:

(1) Air Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 810–2007 with Addendum 1, ''Performance Rating of Automatic Commercial Ice-Makers,'' March 2011; and

(2) American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 29–2009, ''Method of Testing Automatic Ice Makers,'' (including Errata Sheets 1 and 2, issued April 8, 2010 and April 12, 2011), approved January 28, 2009.

Copies of AHRI standards can be obtained from the Air-Conditioning, Heating, and Refrigeration Institute, 2111 Wilson Blvd., Suite 500, Arlington, VA 22201, (703) 524–8800, *ahri@ahrinet.org,* or *http://www.ahrinet.org.*

Copies of ASHRAE standards can be purchased from the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle NE., Atlanta, GA 30329, (404) 636–8400, *ashrae@ashrae.org,* or *http://www.ashrae.org.*

Table of Contents

I. Authority and Background
A. Authority
B. Background
II. Summary of the Final Rule
III. Discussion
A. Amendments to the Test Procedure
1. Update References to Industry Standards to Most Current Versions
2. Expand Capacity Range to Larger Capacity Equipment
3. Include Test Methods for Continuous Type Ice Makers
a. Definitions and Referenced Industry Test Methods
b. Standardize Ice Hardness for Continuous Type Ice Makers
c. Ice Hardness Versus Ice Quality
d. Sub-Cooled Ice
e. Ice Hardness Testing of Batch Type Ice Makers
f. Variability of the Ice Hardness Measurement
g. Perforated Containers for Continuous Type Ice Makers
4. Clarify the Test Method and Reporting Requirements for Remote Condensing Automatic Commercial Ice Makers
5. Discontinue Use of a Clarified Energy Rate Calculation
6. Test Procedure Compliance Date
B. Notice of Proposed Rulemaking Comment Summary and DOE Responses
1. Test Method for Modulating Capacity Automatic Commercial Ice Makers
2. Treatment of Tube Type Ice Machines
3. Quantification of Auxiliary Energy Use
4. Measurement of Storage Bin Effectiveness
5. Establishment of a Metric for Potable Water Used to Produce Ice
6. Standardization of Water Hardness for Measurement of Potable Water Used in Making Ice
7. Testing of Batch Type Ice Makers at the Highest Purge Setting
8. Consideration of Space Conditioning Loads
9. Burden Due to Cost of Testing
IV. Procedural Issues and Regulatory Review
A. Review Under Executive Order 12866

B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act of 1995
D. Review Under the National Environmental Policy Act of 1969
E. Review Under Executive Order 13132
F. Review Under Executive Order 12988
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 12630
J. Review Under Treasury and General Government Appropriations Act, 2001
K. Review Under Executive Order 13211
L. Review Under Section 32 of the Federal Energy Administration Act of 1974
M. Congressional Notification
V. Approval of the Office of the Secretary

I. Authority and Background

A. Authority

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291, *et seq.;* ''EPCA'') 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 C of Title III, which was subsequently redesignated as Part A–1 in the U.S. Code for editorial reasons (42 U.S.C. 6311–6317), establishes an energy conservation program for certain industrial equipment. This includes automatic commercial ice makers, the subject of today's rulemaking.

DOE's energy conservation program, established under EPCA, consists essentially of four parts: (1) Testing; (2) labeling; (3) Federal energy conservation standards; and (4) certification and enforcement procedures. 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; and (2) for making representations about the efficiency of those pieces of equipment. Similarly, DOE must use these test requirements to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6315(b), 6295(s), and 6316(a)) The current test procedure for automatic commercial ice makers appears under title 10 of the Code of Federal Regulations (CFR) part 431, subpart H.

EPCA prescribes that the test procedure for automatic commercial ice makers shall be the Air-Conditioning and Refrigeration Institute (ARI) Standard 810–2003, ''Performance Rating of Automatic Commercial Ice-Makers.'' (42 U.S.C. 6314(a)(7)(A)) EPCA also provides that if ARI Standard 810–2003 is revised, the Secretary of Energy (Secretary) shall amend the DOE test procedure as necessary to be consistent with the amended ARI Standard unless the Secretary determines, by rule, that to do so would not meet the requirements for test procedures set forth in EPCA. (42 U.S.C. 6314(a)(7)(B)) Because ARI Standard 810 has been updated from the 2003 version, DOE must amend the DOE test procedure to reflect these updates, unless doing so would not meet the requirements for a test procedure, as set forth in EPCA. (42 U.S.C. 6314(a)(7)(B)(i))

In addition, EPCA prescribes energy conservation standards for automatic commercial ice makers that produce cube type ice with capacities between 50 and 2,500 pounds of ice per 24-hour period. (42 U.S.C. 6313(d)(1)) EPCA also requires the Secretary to review these standards and determine, by January 1, 2015, whether amending the applicable standards is technically feasible and economically justified. (42 U.S.C. 6313(d)(3)) DOE is currently undertaking a standards rulemaking (Docket No. EERE–2010–BT–STD–0037), concurrent with this test procedure rulemaking, to determine if amended standards are technically feasible and economically justified for automatic commercial ice makers covered by the standards set in the Energy Policy Act of 2005 (EPACT 2005). In the energy conservation standards rulemaking, DOE is also proposing, under 42 U.S.C. 6313(d)(2), to adopt standards for other types of ice makers that are not covered in 42 U.S.C. 6313(d)(1) and to expand the covered capacity range to ice makers with capacities up to 4,000 pounds of ice per 24 hours. In this final rule, DOE is amending the test procedure for automatic commercial ice makers to be consistent with the expanded scope being considered in the ACIM energy conservation standards rulemaking.

In addition, EPCA requires DOE to conduct an evaluation of each class of covered equipment at least once every 7 years to determine whether, among other things, to amend the test procedure for such equipment. (42 U.S.C. 6314(a)(1)(A)) The review and amendment of the test procedure for automatic commercial ice makers in this final rule notice fulfills DOE's obligation under EPCA to evaluate the test procedure for automatic commercial ice makers every 7 years. EPCA also requires that if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6314(b))

B. Background

EPCA, as amended by EPACT 2005, prescribes that the test procedure for automatic commercial ice makers shall be the ARI Standard 810–2003, ''Performance Rating of Automatic Commercial Ice-Makers.'' (42 U.S.C. 6314(a)(7)(A)) Pursuant to EPCA, on December 8, 2006, DOE published a final rule (the 2006 en masse final rule) that, among other things, adopted the test procedure specified in ARI Standard 810–2003, with a revised method for calculating energy use. DOE adopted a clarified energy use rate equation to specify that the energy use be calculated using the entire mass of ice produced during the testing period, normalized to 100 pounds of ice produced. 71 FR 71340, 71350 (Dec. 8, 2006). The DOE test procedure also incorporated by reference the ANSI/ASHRAE Standard 29–1988 (Reaffirmed 2005) (ASHRAE Standard 29–1988 (RA 2005)), ''Method of Testing Automatic Ice Makers,'' as the method of test.

Since the publication of the 2006 en masse final rule, ARI merged with the Gas Appliance Manufacturers Association (GAMA) to form the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) and updated its ice maker test procedure to reflect changes in the industry. The new test procedure, AHRI Standard 810–2007, amends the previous test procedure, ARI Standard 810–2003, to:

1. Expand the capacity range of covered equipment to between 50 and 4,000 pounds of ice per 24 hours at standard rating conditions;
2. Provide definitions and specific test procedures for batch type and continuous type ice makers; and
3. Provide a definition for ice hardness factor, which is the fraction of frozen ice in the ice product of continuous type ice machines.

The industry test procedure being considered in this rulemaking, AHRI Standard 810–2007, references the previous ANSI/ASHRAE Standard 29–1988 (RA 2005). The current DOE test procedure also references ANSI/ASHRAE Standard 29–1988 (RA 2005). However, ASHRAE updated its test procedure in 2009 to ANSI/ASHRAE Standard 29–2009 to include provisions for measuring the performance of batch type and continuous type ice makers.[1]

[1] ASHRAE has also issued two errata sheets to ANSI/ASHRAE Standard 29–2009, issued April 8, 2010 and April 12, 2010, respectively. These errata serve only to clarify equations that are part of the ice hardness calculation described in normative annex A, Table A1; they do not change the content

In March 2011, AHRI published an addendum to AHRI Standard 810–2007, AHRI Standard 810 with Addendum 1. This addendum revised the definition of ''potable water use rate'' and added new definitions of ''purge or dump water'' and ''harvest water'' that more accurately describe the water consumption of automatic commercial ice makers. This change only affects measurement of the potable water use of automatic commercial ice makers. Because the amended DOE test procedure adopted in this final rule does not require the measurement of potable water, this change does not impact the DOE test procedure for automatic commercial ice makers.

EPCA requires that if DOE determines that a test procedure amendment is warranted, DOE must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6314(b)) In accordance with this requirement, DOE published the proposed test procedure amendments in the ACIM test procedure NOPR, which was published in the **Federal Register** on April 4, 2011. 76 FR 18428 (April 2011 NOPR). On April 29, 2011, DOE held a public meeting (April 2011 NOPR public meeting) to discuss the amendments proposed in the April 2011 NOPR and provide an opportunity for interested parties to comment. DOE also received written comments from interested parties regarding the proposed amendments to the test procedure for automatic commercial ice makers and has considered both the oral comments received at the public meeting and the written comments, to the extent possible, when finalizing this final rule. These comments and DOE's responses are presented in section III, Discussion.

II. Summary of the Final Rule

This final rule amends the existing test procedure for automatic commercial ice makers. Specifically, DOE is incorporating revisions to the DOE test procedure that:

1. Update the industry test procedure references to AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009;
2. Expand the scope of the test procedure to include equipment with capacities from 50 to 4,000 pounds of ice per 24 hours;
3. Provide test methods for continuous type ice makers and standardize the measurement of energy and water use for continuous type ice makers with respect to ice hardness;
4. Clarify the test method and reporting requirements for remote condensing automatic commercial ice makers designed for connection to remote compressor racks; and
5. Discontinue the use of a clarified energy use rate calculation and instead calculate energy use per 100 pounds of ice as specified in ANSI/ASHRAE Standard 29–2009.

These amendments make changes to the definitions set forth in 10 CFR 431.132 and to the current test procedures in 10 CFR 431.134.

The amended test procedure established in today's final rule will become effective 30 days after publication in the **Federal Register.** DOE believes the test procedure amendments adopted in today's final rule will not alter the measured energy consumption and condenser water consumption of any covered equipment. As such, for automatic commercial ice makers for which energy conservation standards were set in EPACT 2005, use of the revised test procedure for showing compliance with DOE's energy conservation standards will be required starting 360 days after publication in the **Federal Register.** For equipment not covered by the standards set forth in EPACT 2005, use of the amended test procedure to show compliance with energy conservation standards will be required on the compliance date of any energy conservation standards established for that equipment. Consistent with EPCA, representations either in writing or in any broadcast advertisement respecting energy consumption of any automatic commercial ice makers covered under this test procedure final rule will be required to be made based on the amended test procedure starting 360 days after publication of this final rule in the **Federal Register.** (42 U.S.C. 6314(d)(1)) For more specific information on DOE's conclusion that the amended test procedure will not affect the measured energy or water consumption of covered equipment and further discussion of compliance dates, see the **DATES** section and section III.A.6 of this document.

III. Discussion

Section III.A discusses all the revisions to the test procedure incorporated in this final rule and discusses the test procedure compliance date. This section also presents the comments received on these topics during the April 2011 NOPR public meeting and in the associated comment period and DOE's responses to them.

Responses to comments addressing topics other than test procedure revisions adopted in this final rule appear in section III.B, which provides responses to comments in the following subject areas:

1. Test Method for Modulating Capacity Automatic Commercial Ice Makers
2. Treatment of Tube Type Ice Machines
3. Quantification of Auxiliary Energy Use
4. Measurement of Storage Bin Effectiveness
5. Establishment of a Metric for Potable Water Used in Making Ice
6. Standardization of Water Hardness for Measurement of Potable Water Used in Making Ice
7. Testing of Batch Type Ice Makers at the Highest Purge Setting
8. Consideration of Space Conditioning Loads
9. Burden Due to Cost of Testing

A. Amendments to the Test Procedure

Today's final rule contains the following amendments to the test procedure in 10 CFR 431, subpart H.

1. Update References to Industry Standards to Most Current Versions

The current DOE test procedure for automatic commercial ice makers, established in the 2006 en masse final rule, adopts ARI Standard 810–2003 as the test procedure used to measure the energy consumption of a piece of equipment to establish compliance with energy conservation standards set in EPACT 2005. 71 FR at 71350 (Dec. 8, 2006). The DOE test procedure also references ANSI/ASHRAE Standard 29–1988 (RA 2005).

Since publication of the 2006 en masse final rule, AHRI and ASHRAE have published revised standards, namely AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009 (including Errata Sheets 1 and 2). AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009 amend the previous test procedures by expanding the capacity range to 4,000 pounds per day and providing for the testing of continuous type ice makers. AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009 are designed to be used together to test automatic commercial ice makers. AHRI Standard 810–2007 with Addendum 1 specifies the standard rating conditions and provides relevant definitions of equipment, scope, and calculated or measured values. ANSI/ASHRAE Standard 29 specifies how to conduct the test procedure, including the technical requirements and calculations.

or results of the test procedure. In this document, all subsequent references to ''ANSI/ASHRAE Standard 29–2009'' will refer to ANSI/ASHRAE Standard 29–2009, including all errata presented in Errata Sheets 1 and 2.

In the April 2011 NOPR, DOE proposed to adopt AHRI Standard 810–2007 and ANSI/ASHRAE Standard 29–2009 as the DOE test procedure. 76 FR at 18431 (April 4, 2011). AHRI Standard 810–2007 with Addendum 1 was not published in time for DOE to include it in the NOPR. At the April 2011 NOPR public meeting and in subsequent written comments, AHRI, Manitowoc Ice (Manitowoc), Scotsman Industries (Scotsman), Follett Corporation (Follett), and the Northwest Energy Efficiency Alliance (NEEA) supported this proposal (AHRI, No. 0005 at p. 23; Manitowoc, No. 0009 at p. 1; Scotsman, No. 0010 at p. 1; Follett, No. 0008 at p. 1; NEEA, No. 0013 at p. 2) [2] Pacific Gas & Electric, Southern California Edison, San Diego Gas and Electric, and Southern California Gas Company, hereafter referred to as the California Investor Owned Utilities (CA IOUs), submitted a joint comment that also supported adopting AHRI Standard 810–2007 and ASHRAE Standard 29–2009. (CA IOUs, No. 0011 at pp. 1–2) AHRI also recommended that DOE adopt AHRI standard 810–2007 with Addendum 1, pointing out that the addendum was added in March 2011 and has new definitions for ''dump and purge water'' and ''harvest water.'' AHRI added that the addendum also clarifies how potable water usage rate is calculated. (AHRI, No. 0015 at p. 1) DOE did not receive any dissenting comments generally regarding reference to the updated industry standards, nor regarding AHRI Standard 810–2007 with Addendum 1.

DOE reviewed AHRI 810–2007 with Addendum 1 and determined that this revised version of the AHRI Standard 810–2007 test procedure meets the EPCA requirements for a test procedure in that it is reasonably designed to produce test results that reflect the energy use of covered equipment during a representative cycle of use and is not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

DOE believes AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009 are the most up-to-date and commonly used test procedures for automatic commercial ice makers in the industry and are the most appropriate to cover all equipment included in the scope of this rulemaking. Thus, in today's final rule, DOE is updating the DOE test procedure for automatic commercial ice makers to reference the most current versions of the industry test procedures, AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009.

2. Expand Capacity Range to Larger Capacity Equipment

DOE's existing test procedure references ARI Standard 810–2003, which limits the testing provisions to a capacity range of 50 to 2,500 pounds of ice per 24 hours. In AHRI Standard 810–2007, AHRI expanded the capacity range to include automatic commercial ice makers having a harvest capacity between 50 and 4,000 pounds of ice per 24 hours at standard rating conditions due to changes in the products offered by manufacturers. Specifically, some manufacturers offer larger capacity units that exceed the capacity range of the previous test procedure. AHRI's expansion of the capacity range does not affect the way ice makers are tested; it only provides for the same test procedure to be applied to larger capacity ice makers.

Consistent with referenced industry test procedures, DOE proposed in the April 2011 NOPR to expand the capacity range of the DOE test procedure to include automatic commercial ice makers with harvest rates between 50 and 4,000 pounds of ice per 24 hours. 76 FR at 18431 (April 4, 2011). In response to this proposal, Manitowoc, AHRI, Follett, Scotsman, the CA IOUs, and NEEA commented that 50 to 4,000 pounds per day was an appropriate capacity range for this equipment. (Manitowoc, No. 0009 at p. 1; AHRI, No. 0005; Follett, No. 0008 at p. 1; Scotsman, No. 0010 at p. 1; CA IOUs, No. 0011 at pp. 1–2; NEEA, No. 0013 at p. 1) Manitowoc further commented that there are some industrial applications of ice makers, at airports or other venues with very high ice consumption, but that larger capacity industrial-scale equipment was already inherently more efficient. (Manitowoc, No. 0005 at p. 26) NEEA commented that it is inclined to agree that equipment with capacities greater than 4,000 pounds of ice per day need not be included in the scope of coverage because, while these types of machines can probably be rated using the test procedure, environmental chamber issues would impose a potentially significant burden on manufacturers who are not so equipped. NEEA also agreed with Manitowoc that machines of capacities greater than 4,000 pounds per day are inherently at least a little more energy efficient per pound of ice produced than similar smaller machines. (NEEA, No. 0013 at pp. 1–2) AHRI added that ice makers producing more than 4000 pounds of ice per 24 hours are usually used in industrial applications that are outside the scope of this rulemaking, as justified by the EPACT 2005, which gives DOE the authority to develop energy conservation standards for automatic commercial ice makers only. (AHRI, No. 0015 at p. 2)

DOE agrees with commenters that 4,000 pounds of ice produced per a 24 hour period is a reasonable maximum capacity limit for automatic commercial ice makers. Consequently, DOE is establishing in this final rule the applicable capacity range of the test procedure for automatic commercial ice makers as the same capacity range established in AHRI 810–2007 with Addendum 1, namely 50 to 4,000 pounds of ice per 24 hours.

3. Include Test Methods for Continuous Type Ice Makers

In the April 2011 NOPR, DOE proposed including test methods as defined in AHRI Standard 810–2007 and ANSI/ASHRAE Standard 29–2009 for continuous type ice makers, as well as an additional method to scale their energy consumption and water consumption with respect to the latent heat capacity contained in the ice compared to the latent heat capacity of the same mass of completely frozen ice. 76 FR at 18432 (April 4, 2011). The following sections discuss DOE's specific proposals, comments submitted by interested parties on these proposals, DOE's responses, and the amendments DOE is adopting in today's final rule.

a. Definitions and Referenced Industry Test Methods

AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009 have provisions that allow for the testing of continuous type ice makers. The previous versions of these standards, ARI Standard 810–2003 and ANSI/ASHRAE Standard 29–1988 (RA 2005), as referenced in the current DOE test procedure, do not include a method for testing continuous type ice makers. The revised ANSI/ASHRAE Standard 29–2009 adopts definitions for a ''continuous type ice maker'' and a ''batch type ice maker.'' A continuous type ice maker is defined as an ice maker that continually freezes and harvests ice at the same time. Continuous type ice makers primarily produce flake and nugget ice. A batch type ice maker is defined as an ice maker that has alternate freezing and harvesting periods, including machines

[2] In the following discussion, comments will be presented along with a notation in the form ''AHRI, No. 0005 at p. 23,'' which identifies a written comment DOE received and included in the docket of this rulemaking. DOE refers to comments based on when the comment was submitted in the rulemaking process. This particular notation refers to a comment (1) By AHRI, (2) in document number 0005 of the docket (available at regulations.gov), and (3) appearing on page 23.

that produce cube type ice, tube type ice, and fragmented ice. AHRI Standard 810–2007 with Addendum 1 adopts the same definition for a continuous type ice maker, but refers to ice makers that have alternate freezing and harvesting periods as ''cube type ice makers.'' The AHRI Standard 810–2007 definition further clarifies that in this definition the word ''cube'' does not refer to the specific shape or size of ice produced. Because of this, ANSI/ASHRAE Standard 29–2009 includes the statement that batch type ice makers are also referred to as cube type ice makers.

In the April 2011 NOPR, DOE proposed to refer to an ice maker with alternate freezing and harvesting periods as a ''batch type ice maker,'' so that it is not confused with an ice maker that produces only cube type ice. DOE believes that referring to this type of ice maker as a ''cube type ice maker'' could be confusing, since not all batch type ice makers produce ice that fits the ''cube type ice'' definition established in the 2006 en masse final rule. 71 FR at 71372 (Dec. 8, 2006). Rather, batch type ice makers include, but are not limited to, cube type ice makers. DOE wishes to establish this differentiation because ice makers that produce cube type ice with capacities between 50 and 2,500 pounds of ice per 24 hours are currently covered by energy conservation standards that are established in EPCA, while batch type ice makers that produce other than cube type ice and cube type ice makers with capacities between 2,500 and 4,000 pounds of ice per 24 hours are not currently covered by DOE energy conservation standards. In the April 2011 NOPR (76 FR at 18444 (April 4, 2011)), DOE proposed adding definitions to 10 CFR 431.132 for ''batch type ice maker,'' which would refer to ice makers that alternate freezing and harvesting periods, and ''continuous type ice maker, '' which would refer to ice makers that continuously freeze and harvest at the same time.

In addition to these definitions, DOE proposed to adopt AHRI Standard 810–2007 as the referenced DOE test procedure, including referencing ANSI/ASHRAE Standard 29–2009 as the method of test. 76 FR at 18432 (April 4, 2011). This would expand the current DOE test procedure to provide a method for testing continuous type ice makers, in addition to batch type ice makers.

At the April 2011 NOPR public meeting and in written comments, both energy efficiency advocates and manufacturers agreed that continuous type ice makers should be included in the standards. (Follett, No. 0008 at p. 1; Manitowoc, No. 0009 at p. 1; Scotsman, No. 0010 at p. 1; CA IOUs, No. 0011 at pp. 1–2; NEEA, No. 0013 at p. 1) The CA IOUs and Manitowoc added that the coverage of continuous type equipment is important because continuous type machines represent up to 20 percent of the total market based on energy use today and continue to grow in market share; thus, establishing a test procedure in this rulemaking and corresponding energy conservation standards for these equipment types would ensure that significant energy savings are captured. (CA IOUs, No. 0011 at p. 2; Manitowoc, No. 0009 at p. 1)

DOE agrees with commenters that it is logical and appropriate to include test procedures for continuous type ice makers in this test procedure revision. In today's final rule, DOE is adopting definitions and test procedures for batch type and continuous type ice makers. The test procedure for testing continuous type ice makers will be used in conjunction with any potential energy conservation standards for automatic commercial ice makers that produce flake or nugget ice.

To remove any uncertainty regarding the current applicability of standards for ice makers that produce cube type ice with capacities between 50 and 2,500 pounds per 24 hours, DOE is slightly modifying the proposed definition for batch type ice makers, as well as adding language to the definition for cube type ice and scope in the final rule. Specifically, DOE is removing the clarification of AHRI's definition of cube type ice maker in the definition of batch type ice maker, specifying that where there is inconsistency between AHRI and DOE's definitions of cube type ice, the DOE definition takes precedence, and noting that all references to cube type ice makers in AHRI Standard 810–2007 shall apply to all batch type automatic commercial ice makers only. DOE believes this removes, to the extent possible, any potential ambiguity regarding the nomenclature and coverage of batch type ice makers that produce cube type ice and batch type ice makers that produce other than cube type ice (such as fragmented ice makers) in the DOE test procedure. DOE is also updating the definition for continuous type ice makers to be consistent with that adopted in AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009.

b. Standardize Ice Hardness for Continuous Type Ice Makers

Continuous type ice makers typically produce ice that is not completely frozen. This means that there is some liquid water content in the total mass of ice product produced by continuous type ice makers. The specific liquid water content can be described in terms of ice hardness or ice quality and is usually quantified in terms of percent of completely frozen ice in the total ice product. Ice quality can vary significantly across different continuous ice makers, from less than 70 percent to more than 100 percent. DOE understands that the percentage of liquid water in the product of continuous ice makers is directly related to the measured energy consumption of these machines, since more refrigeration is required to freeze a greater percentage of the ice product.

To provide comparability and repeatability of results, in the April 2011 NOPR, DOE proposed to standardize the energy consumption and condenser water use measurements of continuous ice makers based on the ratio of enthalpy reduction of the water/ice product achieved in the machine (incoming water enthalpy less ice product enthalpy) to the enthalpy reduction that would be achieved if the ice were produced at 32 °F with no liquid water content. DOE proposed to base the adjustment on the ice quality of continuous type ice makers, as measured using the ''Procedure for Determining Ice Quality'' in section A.3 of normative annex A in ANSI/ASHRAE Standard 29–2009. DOE proposed that the calorimeter constant, defined and measured using ANSI/ASHRAE Standard 29–2009, be used to calculate an ''ice quality adjustment factor.'' This factor is a ratio of the refrigeration required to cool water from 70 °F to 32 °F and freeze all of the water compared to the refrigeration required to cool 70 °F water to the mixture of frozen ice and liquid water produced by the ice maker under test. The reported (adjusted) energy consumption would be equal to the ice quality adjustment factor multiplied by the energy consumption per 100 pounds of ice measured using ANSI/ASHRAE Standard 29–2009. The condenser water use would be adjusted in the same way. 76 FR at 18432–33 (April 4, 2011). DOE did not propose similar adjustment for the harvest rate.

Interested parties, including Manitowoc, Howe Corporation (Howe), and NEEA, generally supported this approach. (Manitowoc, No. 0005 at p. 41; Howe, No. 0017 at pp. 2–3; NEEA, No. 0013 at p. 2) However, Scotsman commented that normalization of energy and water consumption with respect to ice hardness could result in selection of higher energy consumption products by the consumer because when a consumer fills a glass or cooler with ice, they do so based on the volume of space the ice occupies, not the cooling power it provides. Scotsman added that, in rating

ice machines based on the total weight of the product of ice and water rather than just the ice content, the consumer gets a more accurate measurement of the amount of energy consumed to produce the nugget of ice that is in the cup or cooler, while ''normalizing'' to 32 °F ice with no water content gives a more accurate measure of the energy used to produce a certain amount of cooling power contained in the ice, but is not representative of how the ice is typically used. (Scotsman, No. 0010 at p. 1) Scotsman also asked if DOE intended to require ice hardness reporting. (Scotsman, No. 0010 at p. 1)

DOE maintains that, because energy and condenser water consumption are directly related to ice hardness, measurement and normalization with respect to ice hardness is necessary to compare equipment from different manufacturers accurately. In response to Scotsman's concern, DOE notes that this test method will not affect the availability of automatic commercial ice makers that produce lower quality ice; it will simply provide a method by which automatic commercial ice maker energy consumption and condenser water use results can be compared to a baseline ice quality. DOE acknowledges that, if consumers value total pounds of ice rather than the cooling that can be provided by the ice, the unadjusted energy and water consumption data may provide a better indication of the energy use per quantity valued by the customer. However, DOE believes that scaling energy and water consumption with respect to ice quality will result in more comparable values for determining compliance with DOE's energy conservation standards. The harvest rate of these ice makers will not be adjusted with respect to ice hardness. In addition, DOE is not considering changes to the certification requirements in this test procedure rulemaking. Thus, in this final rule, DOE is adopting the provisions proposed in the April 2011 NOPR to scale the energy and water consumption measured in ANSI/ASHRAE Standard 29–2009 based on a ratio of the refrigeration required to cool water from 70 °F to 32 °F and freeze all of the water compared to the refrigeration required to cool 70 °F water to the mixture of frozen ice and liquid water produced by the ice maker under test.

c. Ice Hardness Versus Ice Quality

As discussed above, DOE in the April 2011 NOPR proposed that the calorimeter constant, determined using ANSI/ASHRAE Standard 29–2009, be used to determine an ''ice quality adjustment factor.'' 76 FR at 18433 (April 4, 2011). Scotsman, Manitowoc, and Hoshizaki all commented that the term ''ice quality'' should instead be referred to as ''ice hardness,'' as defined in AHRI Standard 810–2007. (Scotsman, No. 0005 at p. 38; Manitowoc, No. 0005 at p. 40; Hoshizaki, No. 0005 at pp. 44–45) Howe countered that ''ice hardness,'' as defined in the AHRI standard, should not be used to replace the proposed ''ice quality'' used in the ASHRAE standard because the term ''ice hardness'' is confusing and is a misstatement. (Howe, No. 0017 at p. 8)

In response to comments from interested parties, DOE is using the term ''ice hardness'' in place of the term ''ice quality'' throughout this rule, since it is defined in AHRI Standard 810–2007 and seems to be the preferred term within the industry. Specifically, DOE is defining the ''ice hardness adjustment factor,'' as opposed to the previously defined ''ice quality adjustment factor,'' which will be calculated in order to scale energy consumption and condenser water use. DOE acknowledges Howe's comment that this may cause confusion, but contends that the terms ''ice hardness'' and ''ice quality'' are used interchangeably in the industry, and understands the two terms to have the same meaning.

d. Sub-Cooled Ice

Just as ice makers that produce less than 100 percent hardness ice will use less energy than ice makers that produce 100 percent 32 °F ice, ice makers that produce sub-cooled ice, or higher than 100 percent hardness ice, require more energy to produce a given mass of ice product. At the April 2011 NOPR public meeting and in subsequent written comments, Manitowoc, Howe, and NEEA all commented that the adjustment of energy and water consumption with respect to ice hardness should be allowed for sub-cooled ice as well as low hardness ice. (Manitowoc, No. 0005 at p. 42; Howe, No. 0005 at pp. 45–46; NEEA, No. 0013 at p. 2)

DOE agrees with interested parties that the energy content of sub-cooled ice should also be adjusted with respect to 32 °F ice of 100 percent hardness. However, DOE notes that the measurement of ice hardness is not limited to low hardness ice and that quantification of the ice hardness for sub-cooled ice is possible using the adopted procedure for ice hardness normalization. Rather, the adopted test procedure already accounts for the additional cooling associated with production of sub-cooled ice. DOE clarifies that ice hardness testing of ice makers that produce sub-cooled ice can be conducted using the ice hardness test procedure adopted in today's final rule and that the energy use and condenser water use measurements for ice makers that produce sub-cooled ice can and should be adjusted using the ice hardness adjustment factor.

e. Ice Hardness Testing of Batch Type Ice Makers

AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009 both specify that ice hardness testing is only to be performed for continuous type ice makers. In the April 2011 NOPR, DOE also proposed that measurement and scaling of energy and water consumption values based on ice hardness only be required for continuous type ice makers. 76 FR at 18433 (April 4, 2011).

In written comments submitted in response to the April 2011 NOPR, Follett recommended that the ice quality adjustment be applied to batch type ice makers as well as continuous type. (Follett, No. 0008 at p. 1)

DOE agrees with Follett that there would be value in requiring batch machines to perform the ice hardness measurement and scale their energy consumption accordingly. Testing and normalizing energy and water consumption values for ice hardness would account for the additional energy consumption of batch type commercial ice makers that produce sub-cooled ice and would allow for the most consistent results across all ice makers. In addition, some batch type automatic commercial ice makers may produce cube type ice with some liquid water content. DOE believes that this would account for the additional energy consumption of batch type commercial ice makers that produce sub-cooled ice and would allow for the most consistent results across all ice makers. However, DOE does not have any data or information regarding the existence of batch type ice makers that vary from 100 percent hardness or the extent to which their hardness departs from 100 percent. DOE believes that, for most batch type ice makers, the ice hardness will be nearly 100 percent and any departure from 100 percent will be within the statistical accuracy of the ice hardness measurement. Lacking sound information, DOE is unable to justify the additional burden associated with requiring ice hardness measurement and scaling of energy and water consumption for batch type ice makers at this time. Thus, in today's final rule DOE specifies that only continuous type ice makers are required to measure ice hardness and adjust the energy

consumption and condenser water use based on the ice hardness measurement.

f. Variability of the Ice Hardness Measurement

DOE is aware of concerns regarding the accuracy and repeatability of the ice hardness test. These concerns were voiced during the U.S. Environmental Protection Agency (EPA) ENERGY STAR® discussions with interested parties regarding revisions to the ENERGY STAR specification for automatic commercial ice makers.[3] In written comments received during the comment period that followed the publication of the April 2011 NOPR, Scotsman recommended the tolerance for the ice hardness factor be ±5 rather than ±5 percent, as test data Scotsman has indicates that ±5 percent is too tight when accounting for water mineral content, which can have a substantial impact on ice hardness. (Scotsman, No. 0010 at pp. 2–3)

As part of this rulemaking and the ongoing energy conservation standards rulemaking (Docket No. EERE–2010–BT–STD–0037), DOE conducted testing of ice makers, including running the ice hardness tests. In conducting this testing, DOE wished to better understand the source of any variability in ANSI/ASHRAE Standard 29–2009 normative annex A. Specifically, DOE wished to discern the variability, if any, in the measurement of ice hardness that could be attributed specifically to inaccuracy in the test method, rather than inherent variability in the hardness of ice produced by a given ice maker. DOE determined that the fundamental test procedure established in ANSI/ASHRAE Standard 29–2009 is sound. However, DOE believes that several areas of the test procedure are unclear and could be misinterpreted. This includes confusing nomenclature and references in normative annex A, as well as specification of the specific temperatures, weights, and tolerances to be used in the test procedure.

DOE believes ANSI/ASHRAE Standard 29–2009 normative annex A specifies two procedures:

1. Section A2, ''Procedure,'' which specifies the calibration of the calorimeter device and the calculation of the calorimeter constant for the device; and

2. Section A3, ''Procedure for Determining Quality of Harvested Ice,'' which is used to determine the ice hardness of a given ice maker's ice product, defined as the ''ice hardness factor'' in AHRI Standard 810–2007 with Addendum 1.

DOE also believes there is confusion in determining the ice hardness factor of a given ice sample using section A3. AHRI Standard 810–2007 with Addendum 1 specifies that the ice hardness factor is the latent heat capacity of ice harvested in British thermal units per pound (Btu/lb), as defined in ANSI/ASHRAE Standard 29, Table A1, line 15, divided by 144 Btu/lb, multiplied by 100, presented as a percent. DOE believes that this value should also be multiplied by the calorimeter constant, line 18 of Table A1, as determined in section A2 at the beginning of that day's tests. This is equivalent to line 19 in ANSI/ASHRAE Standard 29–2009 Table A1, although it is not clear that the calibration constant used in line 18 is to be determined with seasoned block ice during the calibration procedure. To clarify this procedure, DOE will require that the ice hardness factor, as defined in AHRI Standard 810–2007 with Addendum 1, be calculated, except that it shall reference the corrected net cooling effect per pound of ice, line 19 of ANSI/ASHRAE Standard 29–2009 Table A1, and the calorimeter constant used in line 18 shall be that determined in section A2 using seasoned, block ice.

The ice hardness factor will be used to determine an adjustment factor based on the energy required to cool ice from 70 °F to 32 °F and produce a given amount of ice, as shown in the following:

$$\textbf{Ice Hardness Adjustment Factor} = \left[\frac{144\,{}^{\mathrm{Btu}}/_{\mathrm{lb}} + 38\,{}^{\mathrm{Btu}}/_{\mathrm{lb}}}{144\,{}^{\mathrm{Btu}}/_{\mathrm{lb}} \times \left({}^{\textbf{Ice Hardness Factor}}/_{100}\right) + 38\,{}^{\mathrm{Btu}}/_{\mathrm{lb}}}\right]$$

The measured energy consumption per 100 pounds of ice and the measured condenser water consumption per 100 pounds of ice, as determined using ANSI/ASHRAE Standard 29–2009, will be multiplied by the ice hardness adjustment factor to yield the adjusted energy and condenser water consumption values, respectively. These values will be reported to DOE to show compliance with the energy conservation standard.

DOE explored the variation in both the calibration procedure and the procedure for determining an ice maker's ice hardness factor in laboratory testing. DOE hypothesized the following variables, which could contribute to variability in the test procedure:

- How to ensure that ice is ''seasoned''
- Thermal conductivity and specific heat of bucket
- Frequency and timing of calibration
- Vigorousness of ice stirring
- Location of temperature sensor in the ice bucket
- Variation in ambient conditions
- Difference between water temperature and ambient air temperature
- Time allowed between production of ice and initiation of ice hardness test

DOE conducted testing to determine the significance of these variables on the calorimeter constant result. DOE believes standardization and tolerances are important because otherwise there is no indicator of how close a measurement must be to the specified value in order to comply with the test procedure.

In section A2 of ANSI/ASHRAE Standard 29–2009, which specifies the calibration procedure for the calorimeter, DOE found that the type of ''seasoned'' ice used significantly affected the calibration of the device, but that variation of all other factors examined did not have a significant effect provided they were maintained within a reasonable range. DOE believes ''seasoned'' ice is ice that is 32 °F throughout with as little entrained water as possible. A single block of seasoned ice is used to minimize the amount of water on the surface of the ice due to the low surface area to volume ratio. If multiple, smaller cubes are used, and seasoned in the same manner, it is much more difficult to ensure that the surface liquid is removed so that a calorimeter

[3] Hoffman, M. *Personal Communication.* Consortium for and Energy Efficiency, Boston, MA. Letter to Christopher Kent, U.S. Environmental Protection Agency, regarding written comments submitted in response to the ENERGY STAR Commercial Ice Machines Version 2 Draft 1 Specification, June 11, 2011. *http://www.energystar.gov/ia/partners/prod_development/revisions/downloads/commercial_ice_machines/ACIM_Draft_1_V_2.0_Comments_-_CEE.pdf.*

constant of less than 1.02 can be obtained.

DOE believes the calorimeter constant should be viewed as a calibration constant that is representative of the specific heat of the calorimeter device. This calorimeter constant shall not be greater than 1.02 when determined with seasoned block ice. This limit establishes that the calorimetry procedure is being performed correctly and all equipment is accurately calibrated.

ANSI/ASHRAE Standard 29–2009 normative annex A specifies the temperature difference between the air and water, the weight of water, and the weight of ice, but does not specify acceptable tolerances for any of these parameters. For example, ANSI/ASHRAE Standard 29–2009 normative annex A does not specify an initial water temperature or ambient air temperature. Instead, the initial water temperature is specified as 20 °F above room temperature. Also, this temperature differential does not have an associated tolerance. Similarly, the weights to determine the calorimeter constant in section A2, 30 pounds of water and 6 pounds of ice, do not have specified tolerances.

DOE found that changes in the ambient temperature, the temperature difference between the air and water, the weight of ice, and the weight of water did not affect the calorimeter constant significantly. However, DOE still must specify tolerances in order to ensure compliance with the test procedure. As such, DOE assumes the tolerances specified in section 6 of ANSI/ASHRAE Standard 29–2009, ''Test Methods,'' also apply to the normative annex, namely water and air temperature shall be within 1 °F of the specified value and the measured weights of ice and water shall be within ±2 percent of the quantity measured. DOE believes that the ice hardness measurement should be conducted at the same ambient temperature as the other testing, namely 70 °F. This will increase the accuracy and repeatability of the measurement. DOE believes that a temperature differential of 20 °F is appropriate, as it minimizes heat flow into and out of the water. DOE does not believe maintaining 70 °F ± 1 °F ambient air temperature and obtaining 90 °F ± 1 °F initial water temperature will be burdensome for manufacturers as it is commensurate with the ambient requirements already called for in the energy consumption and condenser water consumption test, and 90 °F water is easily attainable from a standard water heater. As such, DOE is clarifying in today's final rule that normative annex A of ANSI/ASHRAE Standard 29–2009 shall be performed at 70 °F ± 1 °F ambient air temperature with an initial water temperature of 90 °F ± 1 °F and weights shall be accurate to within ±2 percent of the quantity measured.

With these changes and assumptions, DOE was able to produce a repeatable calorimeter constant measurement of less than 1.02 when testing using seasoned ice. While there may be variations in ice hardness inherent to the machine, for given hardness of ice, DOE was able to produce ice hardness results that agree within 1.3 percent.

In response to Scotsman's comment regarding tolerances of the ice hardness factor, as defined in AHRI Standard 810–2007 with Addendum 1, DOE believes that ±5 percent variability for a given basic model should be sufficient given the data DOE has collected on ice hardness measurements. DOE does not have data to validate the need for or support the development of a different tolerance for the ice hardness of continuous type ice makers. The variance on the ice hardness factor is only relevant to the extent that it impacts the calculation of energy consumption or condenser water use. With respect to the reported energy and condenser water use, manufacturers must meet DOE's certification, compliance, and enforcement (CCE) regulations for automatic commercial ice makers, which established the relevant sampling plans and tolerances for the certified ratings of energy and water consumption values. 76 FR 12422 (March 7, 2011).

In summary, DOE believes there is sufficient accuracy and precision in the test procedure for determining ice hardness prescribed in ANSI/ASHRAE Standard 29–2009 normative annex A, with the exception that the test shall be conducted at an ambient air temperature of 70 °F ± 1 °F, with an initial water temperature of 90 °F ± 1 °F, and weights shall be accurate to within ± 2 percent of the quantity measured. DOE believes adding these specifications and tolerances will allow for greater repeatability and standardization without significant additional burden on manufacturers. All other potential sources of variability were found to not significantly affect the calculated ice hardness.

g. Perforated Containers for Continuous Type Ice Makers

As mentioned previously, continuous type ice makers produce ice that is not 100 percent frozen and contains some liquid water. In the current industry test procedures, a non-perforated container is used to capture the ice product so that all of the ice/water mixture is included in the harvest rate and the ice hardness measurement.

At the April 2011 NOPR public meeting, Howe commented that the container that is used for continuous ice should be a perforated container rather than a solid container to remove chilled water that is not usable ice from the test procedure process. (Howe, No. 0005 at p. 48) Howe noted that, beyond beverage dispensing, there is no useful application for the cooled liquid water content of low hardness ice. (Howe, No. 0005 at p. 56) Scotsman and Hoshizaki commented that when consumers use ice, they usually do so based on volume of both ice and water, so there is value in both the water and the ice portion. (Scotsman, No. 0005 at p. 39; Hoshizaki, No. 0005 at p. 45) Manitowoc provided the example of low quality ice being useful in beverage dispensers and packing fish. (Manitowoc, No. 0005 at pp. 55–56)

In response to Howe's suggestion that perforated containers be used for continuous type ice makers, Scotsman commented that it may not be practical to use a perforated container to capture continuous ice because the liquid water is infused in the ice and it takes a long time for it to drain out, and the ice would melt over that period. (Scotsman, No. 0005 at pp. 50–51) Hoshizaki noted that with a perforated container the size of the perforations would need to be defined because very small bits of ice, called ''dust ice,'' may fall through the perforations, causing a loss of good quality ice. (Hoshizaki, No. 0005 at p. 51) Hoshizaki added that the calorimetry test already accounts for the differences between low hardness ice and high hardness ice. (Hoshizaki, No. 0005 at pp. 51–52) Manitowoc agreed with Hoshizaki with respect to the calorimetry test being sufficient to differentiate low hardness and high hardness ice. (Manitowoc, No. 0005 at p. 52) NEEA commented that a perforated basket should not be required for continuous type ice makers because only a fraction of the product that is not fully hardened (chilled water) will escape the matrix of the hardened product in a reasonable period. In addition, NEEA commented that this would introduce an unfortunate degree of test complexity and variability in the results and that any improvement in the product accounting should be worth this additional complexity and variability. (NEEA, No. 0013 at p. 2)

DOE believes that, as Manitowoc, Scotsman, and Hoshizaki stated, there is clear value and customer utility in the liquid water content of low hardness ice and that this should be measured as part

of the ice product when determining the harvest rate. DOE also believes that the proposed procedure for adjusting energy and water consumption measurements with respect to ice hardness, defined in section III.A.3.b, is sufficient to describe the differences between ice with different amounts of water content. Further, if a perforated container were used for testing continuous type ice makers, this would not be representative of the ''ice product'' consumers receive and expect. DOE is not requiring testing of continuous type ice makers with a perforated container in today's final rule and instead is maintaining the industry-accepted method of testing continuous type ice makers with a non-perforated container to measure harvest rate and test for ice hardness.

4. Clarify the Test Method and Reporting Requirements for Remote Condensing Automatic Commercial Ice Makers

EPCA establishes energy conservation standards for two types of remote condensing automatic commercial ice makers: (1) Remote condensing (but not remote compressor) and (2) remote condensing and remote compressor. (42 U.S.C. 6313(d)(1)) Remote condensing (but not remote compressor) ice makers are sold and operated with a dedicated remote condenser that is in a separate section from the ice-making mechanism and compressor. Remote condensing and remote compressor automatic commercial ice makers may be operated with a dedicated remote condensing unit or connected to a remote compressor rack. Units designed for connection to a compressor rack may also be sold with dedicated condensing units, but some rack-connection units are sold only for rack connection, without a dedicated refrigeration system. The energy use of such equipment is often reported without including the compressor or condenser energy use, since manufacturers generally do not have a compressor rack at their disposal for testing purposes. In the April 2011 NOPR, DOE proposed that remote condensing ice makers that are designed to be used with a remote condensing rack would be tested with a sufficiently sized dedicated remote condensing unit. This approach was proposed to ensure that ratings for such equipment represent all of the energy use incurred by such machines for making ice, including the compressor and condenser energy use. 76 FR at 18433–34 (April 4, 2011).

Howe, Manitowoc, NEEA, Follett, CA IOUs, and the Natural Resources Defense Council (NRDC) all agreed with DOE's proposal to test remote condensing ice makers designed to be connected to a remote condensing rack using dedicated remote condensing units and reporting the energy consumption of the ice-making mechanism, condenser, and compressor. (Howe, No. 0005 at p. 63; Manitowoc, No. 0005 at p. 64; NEEA, No. 0005 at p. 64; Follett, No. 0008 at p. 1; CA IOUs, No. 0011 at p. 2; NRDC, No. 0012 at p. 1) Earthjustice and NRDC both recommended that DOE provide clear guidance on how to select a remote condensing unit to pair with a given ice maker for such a test. (Earthjustice, No. 0005 at p. 75; NRDC, No. 0012 at p. 1) However, the CA IOUs and NEEA commented that, given that ice production performance is closely tied to the refrigerant system specifications, as manifested in the ice-making head, manufacturers will likely select compressor/condenser components that are properly matched to the requirements of the balance of the system, since any significant deviation from this would likely change ice production performance and adversely affect the energy performance rating of the system. (CA IOUs, No. 0011 at p. 2; NEEA, No. 0013 at pp. 2–3) NEEA suggested that one possible guideline for selecting the balance-of-system components might simply be to require that the ice-making head be tested with the compressor/condenser components that would be shipped with it if sold with a dedicated condenser; however, NEEA also commented that this is a minor issue. (NEEA, No. 0013 at pp. 2–3)

Hoshizaki stated that, generally, a rack unit ice machine is similar in construction to other ice machines that are designed to be paired with a remote condensing unit, but that is not necessarily the case every time. (Hoshizaki, No. 0005 at p. 67) Hoshizaki continued that it does not have a condensing unit designed for use with its largest rack unit machine and it would have to develop such a condensing unit to test the ice maker as proposed. (Hoshizaki, No. 0005 at pp. 67–68) Scotsman stated that it also manufactures products that are meant to be connected to rack systems for which it does not offer a dedicated condensing unit, and that it would be problematic for Scotsman to develop a companion condensing unit for it. Scotsman added that such a rating would be arbitrary because it would not represent what was actually sold. (Scotsman, No. 0005 at pp. 72–73) Scotsman recommended that only the power of the ice-making mechanism should be reported for units that do not have matched dedicated condensing units, because reporting power for the condensing units for those machines would require manufacturers to either design and build or purchase a condenser that would never be offered for sale. (Scotsman, No. 0010 at p. 2) Manitowoc agreed that, in most situations, manufacturers will use the same basic evaporator section and controls for both a parallel rack and remote condensing/compressor, so the inclusion of the remote system with a dedicated condensing unit will effectively cover the testing and regulation of the majority of automatic commercial ice machines, even if they are matched to a parallel rack system. Manitowoc recommended that the test method only include matched remote condensing systems with a designated condensing unit, and that any evaporator section that is sold only for application with a remote parallel rack is outside of the scope of the regulations. (Manitowoc, No. 0009 at p. 2) Howe stated that many of the units it manufactures are designed solely for use with remote, field-built refrigeration systems, and it does not have condensing units available to test these units. Howe contended that this would leave them and other small manufacturers with no choice but to discontinue models, thus decreasing sales and severely harming their financial viability. (Howe, No. 0017 at pp. 4–5)

DOE believes that testing all remote condensing and remote compressor automatic commercial ice makers that are designed to be connected to a remote compressor rack with a sufficiently sized dedicated remote condensing unit will adequately represent the energy consumption of this equipment without introducing undue burden. DOE notes that typically a remote condensing and compressor ice maker is designed to be paired with only one type of dedicated condensing unit and agrees with interested parties that manufacturers will be encouraged to test the ice maker using this paring as it will ensure the ice maker operates most efficiently. Thus, DOE does not believe further specification as to the pairing of remote condensing and remote compressor ice-making mechanisms and dedicated remote condensing units is required. For remote condensing and remote compressor ice makers that can be sold either with a matched dedicated condensing unit or for connection to a remote compressor rack, this method provides a straightforward and consistent way to compare the performance of remote condensing and remote compressor ice makers. Even

though DOE believes that the dedicated condensing unit and ice maker will be a unique combination and further specificity in the test procedure is unnecessary, DOE notes that the ratings for each basic model must be based on the least efficient individual model combination.

For remote condensing and remote compressor ice makers that are never sold with a dedicated condensing unit, DOE considered Manitowoc's comment that ice makers designed only for connection to remote compressor racks are out of the scope of the regulations. DOE concurs with this comment, finding that these units are inconsistent with the definition of ''automatic commercial ice maker'' in EPCA. EPCA defines an automatic commercial ice maker as ''a factory-made assembly (not necessarily shipped in one package) that—(1) consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice.'' (42 U.S.C. 6311(19)) Because remote condensing automatic commercial ice makers that are solely designed to be connected to a remote rack are not sold or manufactured with a condensing unit, they do not meet the definition of an automatic commercial ice maker under the statute. Hence, the test procedure final rule does not address such products. DOE notes that remote condensing automatic commercial ice makers designed to be connected to a remote rack constitute a small market share and are typically more efficient than similar, smaller capacity ice makers. DOE also notes that there is interest by manufacturers and the ENERGY STAR program for DOE to provide a test method for these types of systems. Consequently, DOE will address testing of remote condensing automatic commercial ice makers designed to be connected to a remote rack in its ENERGY STAR test procedure development process, which is separate from this rulemaking.

In summary, DOE clarifies in this final rule that remote condensing automatic commercial ice makers that are sold exclusively to be connected to remote compressor racks do not meet the definition of an automatic commercial ice maker set forth under 42 U.S.C. 6311(19) and, as such, are not subject to DOE regulations.

DOE further notes that ice makers that could be connected to remote compressor racks but are also sold with dedicated condensing units are covered by DOE regulations in their configuration when sold with dedicated condensing units.

5. Discontinue Use of a Clarified Energy Rate Calculation

The current DOE test procedure references ARI Standard 810–2003, with an amended calculation for determining the energy consumption rate for the purposes of compliance with DOE's energy conservation standards. ARI Standard 810–2003 references ANSI/ASHRAE Standard 29–1988 (RA 2005) as the method of test for this equipment, including the equations for calculating the energy consumption rate per 100 pounds of ice produced. In the 2006 en masse proposed rule, DOE found the language in ANSI/ASHRAE Standard 29–1988 (RA 2005) unclear and proposed that the energy consumption rate be normalized to 100 pounds of ice instead and be determined as shown in the following equation. 71 FR at 71350 (Dec. 8, 2006).

$$\text{Energy Consumption Rate (per 100 lbs ice)} = \frac{\text{Energy Consumed During Testing (kWh)}}{\text{Mass of Ice Collected During Testing (lbs)}} \times 100\%$$

At the September 2006 public meeting for the 2006 en masse proposed rule, ARI supported DOE's proposal to adopt ARI Standard 810–2003 as the test procedure for automatic commercial ice makers with the revised energy use rate equation. However, ARI further stated that the ARI and ASHRAE standards have been used without the clarification. (Docket No. EE–RM/TP–05–500, ARI, Public Meeting Transcript, No. 18.8 at pp. 45–46)

The equation contained in ANSI/ASHRAE Standard 29–1988 (RA 2005), as adopted, directs that the energy consumption shall be calculated as the weight of ice produced during three specified time periods divided by the power consumed during those same three time periods. The specified time periods are defined as three complete cycles for batch type ice makers and three 14.4-minute periods for continuous type ice makers. The verbatim equation from ANSI/ASHRAE Standard 29–1988 (RA 2005) is as follows:

$$\text{kWh}/_{\text{100 lb ice}} = 8.^{4a}/_{8}.2a \times 100$$

In the above equation, ''kWh/100 lb ice'' refers to the desired energy consumption rate normalized per 100 pounds of ice produced; 8.2a refers to the data to be recorded for the capacity test, specifically weight in pounds of ice produced for three prescribed periods of collection; and 8.4a refers to the section of the standard that describes the data to be recorded for the calculation of energy consumption, specifically the energy input in kilowatt-hours for the same periods prescribed for measurement of capacity. This equation did not change in the update of ANSI/ASHRAE Standard 29–1988 (RA 2005) to the most recent ANSI/ASHRAE Standard 29–2009.

In the April 2011 NOPR, DOE concluded that the procedure specified in ANSI/ASHRAE Standard 29–2009 is clear and unambiguous. As a result, DOE proposed to remove the clarification for the calculation of energy consumption rate in this rulemaking. 76 FR at 18434–35 (April 4, 2011). AHRI, NEEA, Manitowoc, Follett, Hoshizaki, and Scotsman all supported DOE's proposal to remove the calculation for energy consumption. (AHRI, No. 0015 at p. 3; NEEA, No. 0013 at p. 3; Manitowoc, No. 0009 at p. 3; Follett, No. 0008 at p. 1; Hoshizaki, No. 0005 at p. 93; Scotsman, No. 0005 at p. 93)

DOE believes the ANSI/ASHRAE Standard 29–2009 test procedure clearly states that the mass of ice collected will be recorded for each of the three complete periods specified. ANSI/ASHRAE Standard 29–2009 also states that the power consumption will be recorded for the same three periods. DOE believes that this statement is clear and does not provide opportunity for misinterpretation. Additionally, DOE acknowledges that this method may show more consistency in the average energy use rate calculation and, further, is the method typically used in industry

today. In this final rule, DOE is removing the language that clarifies the calculation of energy consumption rate.

6. Test Procedure Compliance Date

EPCA, as amended, requires that any amended test procedures for automatic commercial ice makers shall comply with section 6293(e) of the same title (42 U.S.C. 6314(a)(7)(C)), which in turn prescribes that if any rulemaking amends a test procedure, DOE must determine ''to what extent, if any, the proposed test procedure would alter the measured energy efficiency * * * of any covered product as determined under the existing test procedure.'' (42 U.S.C. 6293(e)(1)) Further, if DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

In accordance with 42 U.S.C. 6293(e), DOE evaluated the amended test procedure, as adopted in today's final rule, to determine if it will affect the measured energy efficiency of a covered piece of equipment determined under the existing test procedure. DOE believes that the amendments set forth in today's final rule will not change the measured energy consumption of any covered piece of equipment. The reasoning for this determination is set forth in the following section.

When the revised ACIM test procedure final rule goes into effect, 30 days from today's publication in the **Federal Register**, the energy conservation standards set in EPACT 2005 for automatic commercial ice makers that produce cube type ice of capacities between 50 and 2,500 pounds of ice per 24 hours will be in effect. DOE believes that the only test procedure amendments adopted in this final rule applicable to automatic commercial ice makers covered under EPACT 2005 standards are those that update the references to industry test procedures to their most current versions and discontinue the use of a clarified energy use rate equation. DOE believes that these amendments would not significantly affect the measured energy or water use of equipment for which standards are currently in place.

The amendment that updates the references to industry test procedures to their most current versions is not anticipated to affect the measured energy consumption or condenser water use of covered equipment determined by DOE's existing test procedure. The updated industry test procedures, AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009, primarily expand the test procedure to continuous type ice makers and ice makers with capacities up to 4,000 pounds of ice per 24 hours, which does not affect the test procedure for ice makers that make cube type ice with capacities between 50 and 2,500 pounds of ice per 24 hours. AHRI Standard 810–2007 with Addendum 1 revised the definition of ''potable water use rate'' and added new definitions of ''purge or dump water'' and ''harvest water'' that more accurately describe the water consumption of automatic commercial ice makers. This change only affects measurement of the potable water use of automatic commercial ice makers and, as such, does not impact the DOE test procedure for automatic commercial ice makers. The amendment that discontinues the use of the clarified energy use rate equation is primarily editorial and does not fundamentally affect the way automatic commercial ice makers are tested. These amendments are described in more detail in sections III.A.1 and III.A.5. DOE notes that if manufacturers test a given basic model using the amended test procedure and find it results in a more consumptive rating than its certified value, they are required to recertify the given basic model with the Department.

In this final rule, DOE also adopts other test procedure amendments that are only applicable to types of automatic commercial ice makers for which energy conservation standards do not currently exist. In the concurrent ACIM energy conservation standards rulemaking (Docket No. EERE–2010–BT–STD–0037), DOE is considering establishing energy conservation standards for batch type and continuous type ice makers with capacities up to 4,000 pounds of ice per 24 hours. This includes new energy conservation standards for batch type ice makers that produce cube type ice with capacities between 2,500 and 4,000 pounds of ice per 24 hours, batch type ice makers that produce other than cube type ice with capacities between 50 and 4,000 pounds of ice per 24 hours, and continuous type ice makers with capacities between 50 and 4,000 pounds of ice per 24 hours. Because there currently are no standards for the aforementioned types of ice makers, 42 U.S.C. 6293(e) does not apply to test procedure amendments that affect only those equipment types.

B. Notice of Proposed Rulemaking Comment Summary and DOE Responses

At the April 2011 NOPR public meeting and in the ensuing comment period, DOE received comments from interested parties that were in response to issues discussed in the ACIM test procedure proposed rulemaking, but which are not among the amendments discussed above and included in this final rule. The additional matters on which DOE received comments are as follows:

1. Test Method for Modulating Capacity Automatic Commercial Ice Makers
2. Treatment of Tube Type Ice Machines
3. Quantification of Auxiliary Energy Use
4. Measurement of Storage Bin Effectiveness
5. Establishment of a Metric for Potable Water Used in Making Ice
6. Standardization of Water Hardness for Measurement of Potable Water Used in Making Ice
7. Testing of Batch Type Ice Makers at the Highest Purge Setting
8. Consideration of Space Conditioning Loads
9. Burden Due to Cost of Testing

This section discusses these comments and DOE's responses to them.

1. Test Method for Modulating Capacity Automatic Commercial Ice Makers

An ice maker could theoretically be designed for multiple capacity levels, either using a single compressor capable of multiple or variable capacities, or using multiple compressors. This may be advantageous since ice makers operate at full capacity for only a small portion of the time, if at all. Such a system could potentially produce ice more efficiently when operating at a low capacity level because there would be more heat exchanger surface area available relative to the mass flow of refrigerant, which would reduce temperature differences in the heat exchangers and result in operation of the compressor with lower pressure lift. DOE is not aware of any evidence that such a system has been sold or tested anywhere in the world. However, the basic concept is illustrated by the current use of different capacity models using the same heat exchangers with different capacity compressors. For such product pairs, the lower capacity machine is generally more efficient.

In the April 2011 NOPR, DOE proposed an optional test procedure to measure energy and water use of variable or multiple capacity systems. The proposed procedure involved measuring energy use in kilowatt-hours per 100 pounds of ice and water use in gallons per 100 pounds of ice of at least two production rates and calculating weighted average energy use and water use values. DOE proposed that, for modulating capacity systems, testing would be done at the maximum and minimum capacity settings. These

values would then be averaged to determine the energy consumption and condenser water consumption of the ice maker. DOE proposed equal weighting of the measurements at different capacities (as represented by the average) and requested information and data that might be used to develop a weighting scheme more representative of field use. 76 FR at 18434 (April 4, 2011).

At the April 2011 NOPR public meeting and in subsequent written comments, interested parties all agreed that DOE was premature in establishing test procedures for a technology that was not on the market, or even in development, and that DOE should wait until there is more information about how these machines would function before establishing a test procedure. (AHRI, No. 0005 at p. 85; Scotsman, No. 0010 at p. 2; NRDC, No. 0012 at p. 1; NEEA, No. 0013 at p. 3; Howe, No. 0017 at p. 5) NRDC and NEEA offered that manufacturers are free in the future to seek waivers from established test procedures if and when they need to do so to certify such a product complies with DOE's energy conservation standards. (NRDC, No. 0012 at p. 1; NEEA, No. 0013 at p. 3) NEEA also offered to consider acquiring some ice maker end-use metering data to determine ice maker duty cycles to shed some light on how to weight tested energy use values in the future. (NEEA, No. 0013 at p. 3)

DOE acknowledges the comments of interested parties and concedes that incorporating a method for accommodating modulating capacity ice makers may be premature, since modulating capacity ice makers currently do not exist and there is limited information about how such equipment would function. DOE will not incorporate a test method for testing automatic commercial ice makers at multiple capacity ranges at this time. If a manufacturer develops such an ice maker, DOE encourages that manufacturer to follow the test procedure waiver process in 10 CFR 431.401.

2. Treatment of Tube Type Ice Machines

In the April 2011 NOPR, DOE proposed to clarify in the DOE test procedure that tube and other batch technologies can be tested by the current industry test procedures using the batch type test method. 76 FR at 18436 (April 4, 2011). Scotsman, Manitowoc, and Follett supported DOE's approach of treating all non-cube batch type ice makers consistently using the test procedure for batch type ice makers. (Scotsman, No. 0005 at p. 97; Manitowoc, No. 0005 at p. 97; Follett, No. 0008 at p. 1) The CA IOUs asked DOE to clarify in the DOE test procedure that tube, cracked, and other batch type technologies will be included by the proposed DOE definitions and test method. (CA IOUs, No. 0011 at p. 2)

DOE agrees with the comments from Scotsman, Manitowoc, and Follett regarding categorization of tube type ice machines, and finds that tube type machines can be tested under the currently available test procedures. Therefore, DOE is clarifying in the DOE test procedure that tube and other batch technologies can be tested by the current industry test procedures using the batch type test method. DOE will treat all batch type machines, as defined previously in the proposed rule, the same. This will include tube type, cube type, and other batch type automatic commercial ice makers.

3. Quantification of Auxiliary Energy Use

In the April 2011 NOPR, DOE referred to energy consumed when an ice maker is not producing ice as auxiliary energy consumption. 76 FR at 18436 (April 4, 2011). DOE also noted that the magnitude of this energy use is less than one percent of the total daily ice maker's energy consumption, assuming typical auxiliary power levels and ice maker duty cycle (*i.e.* portion of time in a day that the ice maker produces ice). Thus, DOE did not propose incorporating the measurement of auxiliary energy use in the test procedure since DOE could not find economic justification in the potential energy savings generated when considering the additional test procedure burden associated with auxiliary power testing. 76 FR at 18436 (April 4, 2011).

Follett, Scotsman, and the CA IOUs supported DOE's determination that an additional test procedure to quantify auxiliary energy consumption is not justified. (Scotsman, No. 0010 at p. 3; Follett, No. 0008 at p. 2; CA IOUs, No. 0011 at p. 2) Manitowoc agreed with DOE's finding that auxiliary energy use represents an insignificant contribution to the total energy consumption of a commercial ice machine.[4] Manitowoc further stated that any attempt to incorporate these minor standby losses would require definition of the percentage of time the ice machine is operating in a typical installation, would require laboratories to measure power consumption at levels below 1 percent of operating input power, and in the end would at most change the energy efficiency value for the machine by an amount well below the tolerances allowed in the reference test standards. (Manitowoc, No. 0009 at p. 3) Manitowoc added that there actually is no auxiliary energy consumption in an automatic commercial ice maker, since ice makers are all electrically powered and all of the electricity use is measured while they operate during a test. (Manitowoc, No. 0005 at pp. 109–110)

The CA IOUs and NEEA stated that, based on the definition of standby (*i.e.,* connected to a power source and not performing any of its primary functions), DOE should call this mode ''standby mode'' instead of ''auxiliary mode.'' (CA IOUs, No. 0011 at p. 2; NEEA, No. 0013 at pp. 3–4)

AHRI agreed with DOE's conclusion that the auxiliary energy use during the non-ice-making period is very small and that its quantification is not justified. AHRI offered that ''standby mode'' energy consumption represents a very small portion of the energy usage and is negligible. AHRI also stated that EPCA does not give DOE the authority to regulate ''standby mode'' and ''off mode'' energy for commercial equipment because section 42 U.S.C. 6295 of EPCA, as amended by EISA 2007, specifically deals with consumer products (*i.e.,* residential equipment) and not commercial equipment. (AHRI, No. 0015 at p. 3)

NRDC and Earthjustice disagreed with AHRI and commented that the statutory direction regarding standby for consumer products requires that it be considered for implementation when test procedures for consumer products are revised, but that this does not preclude DOE from considering standby or other aspects of auxiliary energy use in commercial products. (NRDC, No. 0005 at p. 107; Earthjustice, No. 0014 at p. 1) Earthjustice also noted that, although Congress did not specifically mandate the development of standby and off mode energy consumption metrics for commercial equipment, 10 watts is consistent with the baseline levels of standby energy consumption that Congress considered significant enough to merit regulation in residential products. Earthjustice pointed to 73 FR 62052 (Oct. 17, 2008), where baseline standby power for microwave ovens was given as 4 watts, and 75 FR 64627 (Oct. 20, 2010), where baseline standby and off mode electricity consumption of furnaces was given as ranging from 2 to 10 watts. Earthjustice added that, even if measuring and regulating the between-cycle energy consumption of ice makers would at best reduce the

[4] At the Framework Document public meeting, Manitowoc mentioned that standby energy use due to sensors could represent an electrical load as high as 10 watts in some units. (Docket No. EERE–2010–BT–STD–0037, Manitowoc Ice, No. 0016 at p. 143)

total energy consumption of this equipment by no more than 1 percent, promulgating ice maker standards that fail to capture these energy savings, if technologically feasible and economically justified, would be inconsistent with EPCA's direction to maximize energy savings. (42 U.S.C. 6295(o)(2)(A)) Earthjustice also stated that including provisions in the test procedure to measure the energy consumption of ice makers in between ice-producing cycles is needed to comport with the EPCA requirement that test procedures accurately depict real-world energy consumption (42 U.S.C. 6314(a)(2)), as the consumers of this equipment are unlikely to unplug their ice makers when the ice storage bin is full. (Earthjustice, No. 0014 at p. 1)

NRDC and NEEA both recommended that DOE incorporate a measure of auxiliary energy use into the test procedure, as consumption levels as high as 10 watts certainly warrant measurement, and incorporate this measure into the efficiency standard if justified. (NRDC, No. 0012 at p. 2; NEEA, No. 0005 at p. 99) NEEA also stated that this energy consumption should be called ''standby energy consumption,'' and disagreed that the measurement of standby energy use represents anything more than a minor additional testing burden, as the equipment required to measure it precisely is inexpensive and the test, as spelled out in International Electrotechnical Commission (IEC) 62301, is simple to conduct. (NEEA, No. 0013 at pp. 3–4)

DOE agrees with commenters that auxiliary energy use could also be referred to as standby energy consumption. DOE has been unable, however, to collect sufficient information regarding standby mode energy use to support the promulgation of a standby mode test procedure within the scope of this rulemaking.

4. Measurement of Storage Bin Effectiveness

A common metric used to quantify ice meltage in the ice storage bin is storage bin effectiveness. Storage bin effectiveness is defined as a theoretical expression of the fraction of ice that under specific rating conditions would be expected to remain in the ice storage bin 24 hours after it is produced, stated as a percentage of total ice deposited in the bin. AHRI has a standard, AHRI 820–2000, that describes a test method for quantifying the effectiveness of ice storage bins. This method, or a similar method, is also used in the Canadian and Australian test procedures for automatic commercial ice makers to quantify ice storage bin effectiveness.

In the April 2011 NOPR, DOE stated that, while quantifying the additional energy use associated with ice storage losses could contribute to additional energy savings, doing so would result in an inconsistency between the standards for self-contained and remote condensing ice makers or ice-making heads because DOE would only be addressing the ice storage losses associated with the storage bins that are shipped with the ice making mechanism from the point of manufacturer (*i.e.,* self-contained ice makers). Consequently DOE noted that there could be an increased burden resulting from testing for storage bin effectiveness for manufacturers of self-contained units only. DOE proposed, for these reasons, to not include a quantification of meltage in the storage bin in this rulemaking. 76 FR at 18436 (April 4, 2011).

Howe, Manitowoc, Hoshizaki, and Scotsman commented that ice storage bins are typically not specified by the manufacturer, are separate devices, have different lifetimes, and can be paired with one automatic commercial ice machine in many different combinations based on a variety of end-user requirements. These manufacturers all contended that it would be difficult to include ice storage bins as a part of the test procedure for ice-making equipment, and testing all possible combinations would be excessively burdensome and costly for all manufacturers. (Howe, No. 0017 at p. 4; Manitowoc, No. 0009 at p. 3; Hoshizaki, No. 0005 at pp. 124–125; Scotsman, No. 0010 at p. 3) Howe further commented that ice storage bins are often sold separately from the automatic commercial ice makers, and many small manufacturers only produce ice storage bins, not ice machines. (Howe, No. 0017 at p. 4) In addition, Howe, Follett, and Manitowoc all commented that ice storage bin efficiencies are outside the scope of this proposed rule and suggested that if a test procedure for ice storage bin effectiveness is established, it should be separate from the ACIM test procedure. (Howe, No. 0017 at p. 4; Follett, No. 0008 at p. 1; Manitowoc, No. 0005 at p. 116) AHRI expressed its opinion that DOE lacks the authority to regulate the effectiveness of storage bins because EPACT 2005 only addresses the energy consumption of commercial ice makers and nothing else. (AHRI, No. 0015 at p. 2)

Earthjustice commented that there is precedent for DOE to adopt test procedures and standards for products that account for such indirect forms of energy consumption. (Earthjustice, No. 0014 at p. 2) Earthjustice further commented that the statute's definition of automatic commercial ice maker states that an automatic commercial ice maker may include a means for storing ice, dispensing ice, or storing and dispensing ice. Earthjustice added that while Congress did not establish standards applicable to the storage of ice, it did provide DOE with a requirement to amend standards for automatic commercial ice makers, and if storage is a part of the ice maker, clearly the Department has the authority. (Earthjustice, No. 0005 at p. 119) NRDC and the Appliance Standards Awareness Project (ASAP) commented that DOE should not preclude coverage of storage bins in the standards rulemaking by not covering them in the test procedure. (NRDC, No. 0005 at p. 119; ASAP, No. 0005 at p. 129) The CA IOUs, NEEA, and NRDC recommended that the Department include a measure of ice storage bin effectiveness in the test procedure, applicable to units shipped with an integral bin, since ineffective storage contributes to additional energy use, condenser water use, and potable water use for a given end-user demand for finished ice. (NRDC, No. 0012 at p. 2; NEEA, No. 0005 at p. 124; CA IOUs, No. 0011 at p. 3) NRDC and NEEA further stated that the concern over additional test burden is misguided given that an AHRI test method for quantifying the effectiveness of storage bins has long been available and Canadian standards already require manufacturers to conduct this test. (NRDC, No. 0012 at p. 2; NEEA, No. 0005 at p. 124) NEEA further stated that it sees no problem in measuring storage bin effectiveness only for self-contained equipment, as there are other test procedure inconsistencies between classes already and this one is appropriate to the equipment. In response to manufacturer comments that one ice-making head may be shipped with any one of a number of storage bins, NEEA offered that a separate efficiency metric for the storage bins could easily work in practice. (NEEA, No. 0013 at p. 4)

While DOE acknowledges stakeholders' concerns regarding storage bin effectiveness, DOE has determined that it will not pursue a measure for storage bin effectiveness at this time. Many ice makers (ice-making heads and remote compressing ice makers) can be paired with any number of storage bins, often produced by other manufacturers, and are typically paired in the field upon installation. In these cases, the effectiveness of such storage bins is

beyond the control of the manufacturer of the ice making head or remote compressing ice maker.

Furthermore, if DOE were to regulate self-contained ice makers only, it could disincentivize the manufacturing of such devices, effectively eliminating a feature (built-in ice storage bins). *See* 42 U.S.C. 6295(o)(4). In order to avoid this outcome, DOE is choosing not to regulate self-contained ice makers only. Therefore, DOE believes it would be more consistent to promulgate test procedures and subsequent standards for ice storage bins and the bins of self-contained ice makers at the same time. Due to market complexities inherent in the pairing of ice makers and storage bins, DOE is declining to include a quantification of meltage in the storage bin as part of this rulemaking.

5. Establishment of a Metric for Potable Water Used To Produce Ice

The current DOE energy conservation standard for automatic commercial ice makers established metrics of energy use per 100 pounds of ice for all equipment classes, and condenser water use per 100 pounds of ice produced for water-cooled models only. However, automatic commercial ice makers consume potable water to produce ice as well. AHRI Standard 810–2007 with Addendum 1 defines ''potable water use rate'' as the amount of potable water used in making ice, including ''dump or purge water'' and ''harvest water.'' AHRI Standard 810–2007 with Addendum 1 defines ''dump or purge water'' as the water from the ice-making process that was not frozen at the end of the freeze cycle and is discharged from a batch type automatic commercial ice maker and ''harvest water'' as the water that has been collected with the ice used to measure the machine's capacity.

Including potable water used to produce ice in the overall water metric could produce significant water savings and additional energy savings. The current EPA ENERGY STAR standard for automatic ice makers limits water use in air-cooled machines to less than 25 gallons per 100 pounds of ice for remote condensing automatic commercial ice makers and 35 gallons per 100 pounds of ice for self-contained equipment.[5] In addition, both the previously referenced ARI Standard 810–2003 and the updated AHRI Standard 810–2007 with Addendum 1 provide a test method to measure the amount of water used in making ice in units of gallons per 100 pounds of ice.

In the April 2011 NOPR, DOE stated that it had examined the statutory authority in EPCA for the establishment of test procedures and energy and water conservation standards for automatic commercial ice makers and determined that the Department does not have a direct mandate from Congress to regulate potable water use under 42 U.S.C. 6313. Therefore, in the April 2011 NOPR, DOE proposed not to regulate potable water used in making ice in this rulemaking. 76 FR at 18437 (April 4, 2011).

AHRI commented that potable water consumption information is already available in the AHRI online database, which is publicly available, and recommended against requiring potable water testing in the DOE test procedure due to the increased burden of meeting DOE's CCE regulations. (AHRI, No. 0005 at pp. 139–140) AHRI, Follett, and Scotsman agreed that potable water use should not be regulated as part of this rulemaking. (AHRI, No. 0015 at pp. 3–4; Follett, No. 0008 at p. 2; Scotsman, No. 0010 at p. 3) Manitowoc added that, for continuous type machines, essentially all potable water is converted to ice product, so there is no significant variation among available models; and for batch machines, potable water use is related to energy efficiency, which drives manufacturers to minimize potable water use in achieving higher energy efficiency. Manitowoc also offered that, depending on the design of the batch ice machine, there is an optimum range where further reduction in potable water use can dramatically affect the reliability of the ice machine and the quality of the ice that it produces, and stated that establishing regulations on potable water use without understanding these limits and trade-offs could significantly affect life-cycle cost to the end user. (Manitowoc, No. 0009 at p. 3)

Conversely, Howe contended that there should be a calculation for potable water use in ice machines because chilled waste water is currently collected along with ice and is included in the measured production capacity of some ice machines, while waste water is ignored in other machines. (Howe, No. 0005 at p. 132; Howe, No. 0005 at pp. 145–146) Howe also contended that this requirement should apply to batch type and continuous type ice machines. (Howe, No. 0017 at pp. 5–6)

NEEA and NRDC stated that establishing a measurement for potable water in the test procedure would be beneficial, but that standards for potable water consumption may not be required. (NEEA, No. 0005 at pp. 136–137; NRDC, No. 0005 at p. 135) The CA IOUs, NRDC, and NEEA recommended that DOE adopt in this test procedure rulemaking the test method to measure potable water as outlined in the AHRI/ASHRAE standards, and disagreed with DOE regarding the Department's authority to regulate potable water, as prescribed in EPCA. (CA IOUs, No. 0011 at p. 3; NRDC, No. 0012 at p.2; NEEA, No. 0013 at pp. 4–5) The CA IOUs, ICF International (ICF), and NEEA further stated that the potable water use of more than half of commercial ice makers shipped in the United States is currently being measured and reported by manufacturers for ENERGY STAR qualification and, as such, adding a method to measure the potable water use should not significantly increase the testing burden for manufacturers. (CA IOUs, No. 0011 at p. 3; ICF, No. 0005 at p. 141; NEEA, No. 0013 at pp. 4–5)

Earthjustice, NEEA, and NRDC commented that, although Congress has not directly instructed the Department to regulate potable water use, DOE has the authority to do so in accordance with the purposes of EPCA and with Congress' intent to achieve energy savings by regulating automatic commercial ice makers. Earthjustice and NRDC also stated that the reporting of potable water consumption data would be valuable in its own right for specifiers, end users, and water supply utilities. (NRDC, No. 0012 at p. 2; NEEA, No. 0013 at pp. 4–5; Earthjustice, No. 0005 at p. 150)

Earthjustice also responded to DOE's interpretation that the footnote to the table at 42 U.S.C. 6313(d)(1) suggests that Congress specifically considered potable water use, and excluded it. (Earthjustice, No. 0005 at p. 132) Earthjustice claimed that DOE's admission that EPCA has left a ''gray area'' surrounding the Department's authority to adopt potable water standards for ice makers suggests that DOE views this issue as one of interpreting an ambiguous statute—an activity in which courts grant substantial deference to the executive branch. Earthjustice pointed to *Chevron* v. *NRDC,* 467 U.S. 837, 843–44 (1984), as the controlling precedent. Earthjustice stated that it would be unreasonable to conclude that Congress intended to prohibit DOE from adopting potable water standards for ice makers, as the note following the table in 42 U.S.C. 6313(d)(1) by its own terms applies only to the initial standards codified in EPACT 2005, and had Congress intended to restrict DOE's authority to adopt water consumption standards encompassing potable water

[5] U.S. Environmental Protection Agency. *Commercial Ice Machines Key Product Criteria.* 2008. (Last accessed March 5, 2011.) *http://www.energystar.gov/index.cfm?c=comm_ice_machines.pr_crit_comm_ice_machines*

use, it could have easily provided that DOE is only authorized to adopt revised energy use and condenser water use standards. Instead, argued Earthjustice, the fact that Congress clarified the inapplicability of the EPACT 2005 standards to potable water consumption but did not enact express language to similarly limit DOE's authority in subsequent rulemakings indicates that DOE is authorized to require the measurement and regulation of potable water consumption. (Earthjustice, No. 0014 at pp. 2–3)

DOE acknowledges the commenters' concerns regarding the coverage of potable water consumption in the ACIM test procedure. Regarding DOE's authority to promulgate an ACIM test procedure addressing potable water use, DOE notes that 42 U.S.C. 6313(d) does not require DOE to develop a water conservation test procedure or standard for potable water use in cube type ice makers or other automatic commercial ice makers. Rather, it sets forth energy and condenser water use standards for cube type ice makers at 42 U.S.C. 6313(d)(1), and allows, but does not require, the Secretary to issue analogous standards for other types of automatic commercial ice makers under 42 U.S.C. 6313(d)(2).

Ambiguous statutory language may lead to multiple interpretations in the development of regulations. As the U.S. Supreme Court has held, ''[i]f [a] statute is ambiguous on [a] point, we defer * * * to the agency's interpretation so long as the construction is 'a reasonable policy choice for the agency to make.' '' *Nat'l Cable & Telecomms. Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 986 (2005) (quoting *Chevron U.S.A. Inc.* v. *Natural Res. Def. Council, Inc.,* 467 U.S. 837, 845 (1984)). DOE believes that it is unclear whether the footnote on potable water use that appears in 42 U.S.C. 6313(d)(1) has a controlling effect on 42 U.S.C. 6313(d)(2) and 42 U.S.C. 6313(d)(3). Potable water use is not referenced anywhere else in 42 U.S.C. 6313(d), and thus it is difficult to determine whether this footnote is a clarification or a mandate in regard to cube type ice makers, and furthermore, whether it would apply to the regulation of other types of automatic commercial ice makers. Without a clear mandate from Congress on potable water use generally, and given that Congress chose not to regulate potable water use for cube type ice makers by statute, DOE exercises its discretion in choosing not to include potable water use in its test procedure for automatic commercial ice makers.

While there is generally a positive relationship between energy use and potable water use, DOE understands that at a certain point the relationship between potable water use and energy consumption reverses due to scaling. Based on this fact, and given the added complexity inherent to the regulation of potable water use and the concomitant burden on commercial ice maker manufacturers, DOE will not regulate or require testing and reporting of the potable water use of automatic commercial ice makers at this time. Although AHRI Standard 810–2007 with Addendum 1 already includes a measurement of potable water consumption, and reporting of potable water use is required by the ENERGY STAR program, neither performance of AHRI Standard 810–2007 nor participation in the ENERGY STAR program is mandatory. Because DOE test procedures are mandatory for all equipment sold in the United States, DOE must be more cognizant of burden and the limitation of products or features when determining the test procedures and energy conservation standards for covered equipment.

Earthjustice, NRDC, and NEEA noted that among the stated purposes of EPCA, as amended by EPACT 1992, is the conservation of water in certain plumbing products and appliances under 42 U.S.C. 6201(8). (Earthjustice, No. 0014 at pp. 2–3; NRDC, No. 0012 at p.2; NEEA, No. 0013 at pp. 4–5) At the time of its adoption, the language of 42 U.S.C. 6201(8) supported DOE's regulation of water use efficiency in plumbing products such as showerheads, faucets, water closets, and urinals. Congress added the regulation of automatic commercial ice makers later, in EPACT 2005. Given that Congress often amends portions of statutes in subsequent legislation, courts have had to examine how to interpret unchanged parts of the statute in light of amended sections of the same statute. The U.S. Supreme Court has held that ''a specific policy embodied in a later Federal statute should control construction of the earlier statute.'' *Food & Drug Admin.* v. *Brown & Williamson Tobacco Corp.,* 529 U.S. 120, 143 (2000). Congress set forth the general purposes of its energy and water conservation program for appliances in 42 U.S.C. 6201, but later established more specific requirements for certain products, including automatic commercial ice makers. In EPACT 2005, Congress required DOE to issue standards for automatic commercial ice makers, but excluded consideration of potable water use. Earthjustice noted that DOE currently regulates water use in residential clothes washers (Earthjustice, No. 0014 at pp. 2–3), but again, this is not controlled by 42 U.S.C. 6201(8). DOE did not regulate water use for residential clothes washers under 42 U.S.C. 6295(g) until directed to by Congress in EISA 2007, section 311(a)(2). Thus, DOE chooses today to interpret 42 U.S.C. 6201(8) consistently with how it has interpreted the provision in the past: as a general guiding principle that is implemented through provisions within EPACT 1992 and subsequent amendments for specific products and equipment.

In summary, DOE is using its discretion to not cover potable water in this rulemaking to limit the burden on manufacturers, especially considering that standards for potable water do not currently exist and are not being considered in the concurrent ACIM energy conservation standards rulemaking (Docket No. EERE–2010–BT–STD–0037).

6. Standardization of Water Hardness for Measurement of Potable Water Used in Making Ice

Differences in water hardness can cause ice machines to use more or less energy and water. Harder water has a greater concentration of total dissolved solids and chemical ions, which affects the thermal properties of the water. Harder water depresses the freezing temperature of water and results in increased energy use to produce the same quantity of ice. In addition, harder water requires a higher purge setting to prevent scaling and a decrease in ice clarity. While DOE recognizes that differences in water hardness can affect the energy and water consumption of an automatic commercial ice maker, DOE believes that there is still uncertainty in the causal relationship between total dissolved solids, ion concentration, and ice maker performance. Given the uncertainty in the relationship between water hardness and water and energy consumption, DOE proposed in the April 2011 NOPR not to standardize water hardness in the test procedure, but requested additional data that would support evaluation of the need for a standardized water hardness test. Specifically, DOE requested additional data or information regarding (1) The relationship between total dissolved solids, ion concentration, and energy and water use; (2) the magnitude of these effects; and (3) specific testing methodologies that would produce repeatable results. 76 FR at 18437 (April 4, 2011).

Manitowoc, Follett, and NEEA supported DOE's recommendation to not bring water hardness into the rulemaking. (Manitowoc, No. 0005 at p.

154; Follett, No. 0008 at p. 2; NEEA, No. 0013 at p. 5) Manitowoc and NEEA agreed that water hardness or quality has a greater effect on reliability and maintenance than it does on energy efficiency of commercial ice makers and felt it would be a significant effort to properly define and obtain ''standard hardness'' water for testing purposes. (Manitowoc, No. 0009 at p. 3; NEEA, No. 0013 at p. 5) Scotsman suggested that, if water hardness were indeed a significant factor in energy consumption, it would become apparent in the certification and enforcement actions related to the equipment and the Department could move to standardize it at that time, after DOE had collected more information. (Scotsman, No. 0005 at pp. 158–159) Scotsman also offered that it knows anecdotally that water hardness will impact the hardness of flake and nugget ice, but does not have data at this time to present a correlation. (Scotsman, No. 0010 at p. 3) NRDC suggested that the Department consider a range of acceptable water hardness values as a condition for the test procedure. (NRDC, No. 0005 at p. 154) Hoshizaki suggested that if DOE considers a band of water hardness values that are acceptable to test within, it should make sure that water of a value within the band is geographically available everywhere across the United States. (Hoshizaki, No. 0005 at p. 162)

DOE appreciates interested parties' comments and agrees that there is still uncertainty in the causal relationship between total dissolved solids, ion concentration, and ice maker performance. Specifically, it is not clear whether total dissolved solids or ion concentration is more significant in impacting the energy performance of an ice maker. DOE did not receive any additional data that would suggest the proper test procedure specifications for water hardness. As such, DOE maintains that an appropriate standardized water hardness for use in a test procedure cannot be accurately specified at this time, and even if it could, applying such a test procedure would increase the testing burden for manufacturers. In addition, the primary effect of increasing water hardness would be increased potable water used in making ice. This is because the potential for scale formation increases with higher water hardness, requiring an increase in the dump water used in batch type ice machines that produce cube type ice. Since DOE is not addressing potable water in this rulemaking, DOE is not standardizing water hardness in the test procedure at this time, but requests additional data that would support evaluation of the need for a standardized water hardness test.

7. Testing of Batch Type Ice Makers at the Highest Purge Setting

At the energy conservation standard Framework document public meeting, ASAP cautioned that installers may install cube type ice makers with a purge setting in the highest water use position, which may substantially increase water consumption in the field compared to the manufacturer tested water consumption. (Docket No. EERE–2010–BT–STD–0037, ASAP, No. 0013 at p. 16) DOE does not have data to validate these claims and believes that the manufacturer-specified purge setting is how ice makers are meant to be installed in the field. Also, as DOE did not propose to regulate potable water used in making ice in the April 2011 NOPR, DOE did not believe it was justified to require testing of automatic commercial ice makers at the highest purge setting. Instead, DOE proposed to continue to require testing of automatic commercial ice makers in accordance with AHRI 810–2007 and ANSI/ASHRAE Standard 29–2009. DOE also committed to investigate the magnitude and effects of this issue by gathering data related to national water hardness, the difference between manufacturer recommended and maximum purge settings, and the way ice makers are typically installed in the field. 76 FR at 18437–38 (April 4, 2011).

In commenting on the April 2011 NOPR, Manitowoc, Hoshizaki, and Follett supported the current AHRI and industry practice to test ice makers at the water purge setting as instructed in the manufacturer's installation and operation manual for ''normal'' quality potable water. (Manitowoc, No. 0009 at p. 4; Hoshizaki, No. 0005 at p. 165; Follett, No. 0008 at p. 2) Scotsman suggested that if DOE were going to consider a standard that included variability in the level of purge, testing should be done at both a maximum flush level setting and a minimum flush level setting, to give manufacturers credit for water conserving purge options. (Scotsman, No. 0005 at p. 167)

NRDC commented that both energy and water consumption can vary considerably across the range of field-adjustable purge settings, ±3 percent for energy consumption and ±20 percent for potable water consumption, and recommended that ice makers be tested in their highest water consumption purge setting. (NRDC, No. 0012 at p. 2) The CA IOUs agreed that DOE should require testing of ice makers at the purge setting that uses the most water. (CA IOUs, No. 0011 at p. 4) NEEA commented that the specification to test ice machines with the ''as shipped'' purge setting would lead to all units being shipped in the minimum purge mode, resulting in very unrepresentative potable water use measurements. NEEA cautioned that this would violate the spirit, if not the letter, of 42 U.S.C. 6214(a)(2). (NEEA, No. 0013 at p. 5) NEEA and NRDC stated that the Department's proposal simply to allow manufacturers to specify the purge setting for testing purposes fails to maintain the integrity of the testing process and reduces the incentive to innovate in this area of machine performance. (NRDC, No. 0012 at p. 2; NEEA, No. 0013 at p. 5) Howe stated that, in order to standardize energy consumption and water usage, it is necessary to test at the highest purge setting, especially because energy usage increases as the purge setting increases. (Howe, No. 0017 at p. 6)

Although both AHRI 810–2007 and ANSI/ASHRAE Standard 29–2009 require that the ice makers be set up pursuant to the manufacturer's instruction, DOE acknowledges that this may not capture the maximum potable water consumption of the unit or, perhaps, the most common water consumption setting of the unit. DOE found that the manufacturers recommended purge setting is typically an intermediate purge setting which is adequate for most parts of the U.S. Also, DOE found that some manufacturers who offered adjustable purge settings offered low purge settings, in addition to high purge settings, to conserve water in those places with low water hardness.

However, DOE has found no data or information related to how ice makers are currently installed in the field. Further, all previous test data are from tests conducted at this default test setting, and requiring testing at another level will make historical comparisons difficult and significantly increase the testing burden for all manufacturers, since manufacturers would be required to recertify all their models using the new test procedure. Also, changes in purge setting most strongly affect potable water consumption and affect energy use to a lesser degree. As DOE will not regulate potable water used in making ice in this rulemaking, and the preponderance of previous data come from tests conducted at the manufacturer recommended purge setting, DOE will require testing of automatic commercial ice makers in accordance with AHRI 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009 in this final rule and

will not further specify the required purge setting.

8. Consideration of Space Conditioning Loads

In written comments submitted in response to the April 2011 NOPR, Howe commented that the majority of air-cooled self-contained automatic commercial ice makers are located within air conditioned spaces (*e.g.,* motels/hotels, restaurants, bars, retail food markets, institutions, and airports). Howe opined that the total heat rejection of the automatic commercial ice maker, including the heat removed at the evaporator, heat related to suction-cooled hermetic and semi-hermetic compressors, and the fan/motor efficiency related heat, should be tested and published so that consulting engineers can accurately calculate the sensible heat gain to the air conditioned space.

Howe illustrated, saying a 970 pound per 24 hour output automatic commercial ice maker located in a 70 °F space supplied with 50 °F water adds the total rejected heat of 8,450 Btu to the space, which must be removed by the building cooling system, while the energy consumption of this automatic commercial ice maker is 3.8 kWh per 100 pounds of ice. The energy consumed by the building cooling system to remove this sensible internal heat gain to the conditioned space is estimated to be 0.85 kWh, or 22 percent of the energy consumed by the ice maker in question. Howe also stated that no intermediate cooling is required if this heat is rejected directly to outdoor air and provided the four examples of water cooled condensers, remote air cooled condensers, remote dedicated split condensing units, and an ice machine that is field-connected to a remote compressor rack (field-built refrigeration system) that serves other evaporators throughout the building. (Howe, No. 0017 at pp. 8–9)

DOE acknowledges that the total rejection of heat indoors for air-cooled self-contained and ice-making head automatic commercial ice makers may impact space cooling loads, but DOE expects changes from revised and new ice maker standards to be negligible. In chapter 2 of the preliminary technical support document for commercial refrigeration equipment that DOE published on March 30, 2011, DOE determined that the effect of efficiency improvements in self-contained commercial refrigeration equipment on space conditioning loads was negligible.[6] DOE expects the impact of efficiency improvements in automatic commercial ice makers to be less than that of commercial refrigeration equipment because there are typically fewer automatic commercial ice makers per building.[7] In addition, there is a high degree of variability in the impact of this rejected heat on the total building heating and cooling load due to differences in weather, building size, and building type. In cold climates, the additional heat rejected by the ice maker may decrease building space heating loads. Moreover, requiring testing and reporting of the total heat rejection of automatic commercial ice makers would increase the testing and reporting burden for self-contained and ice-making head equipment. DOE does not believe this increase in testing burden for some ice makers is justified given the magnitude of impact ice makers are expected to have on space conditioning loads. Manufacturers may publish total heat rejection information and engineers may request this information when it is required, but DOE does not believe it will be required in all cases and, further, believes that it is not relevant to DOE's standards for automatic commercial ice makers. DOE is not including testing or reporting for total heat rejection of automatic commercial ice makers in this final rule.

9. Burden Due to Cost of Testing

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 requires that the test procedures promulgated by DOE be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs of the covered equipment during a representative average use cycle. EPCA also requires that the test procedure not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

At the April 2011 NOPR public meeting and in subsequent written comments, many interested parties commented on the burden of testing for manufacturers of automatic commercial ice makers. AHRI commented that the issue of regulatory burden is not associated with conducting the test itself, but with DOE's CCE requirements. AHRI emphasized that, accounting for DOE's CCE requirements, the cost to comply with the Federal standard would be 10 or 100 times what DOE projected. (AHRI, No. 0005 at p. 179) AHRI suggested that alternative energy determination methods, although not currently available for ice makers, could be developed to help manufacturers comply with DOE's regulations and reduce the burden on manufacturers. (AHRI, No. 0005 at p. 180)

Howe commented that, using DOE calculations of the cost of testing, the cost to Howe would range from $620,000 to $930,000 in the first year, and stated that this amount vastly exceeds what would be reasonable for a small manufacturer to absorb. Howe further commented that the costs of testing for small manufacturers as estimated in the NOPR are significantly understated for several reasons, including the fact that small manufacturers typically produce large, custom equipment that they are unable to test in current test facilities. Howe suggested that manufacturers of remote automatic commercial ice machines be allowed to test the most commonly sold remote ice maker configuration (ice maker, compressor, and condenser) for each productive capacity of automatic commercial ice maker and apply those energy consumption ratings to similar remote automatic commercial ice makers of the same productive capacity. (Howe, No. 0017 at pp. 6–8)

Conversely, NEEA contended that the testing required by AHRI Standards 810 and 820 is not overly burdensome to conduct, even including tests for potable water use and standby energy consumption. NEEA further stated that the tests proposed by the Department, along with a test for potable water consumption, standby energy use, and storage bin effectiveness, seem to be the minimum required to fully characterize the energy and water use of these products, and are the same tests that the manufacturers are already doing, whether it be for Canadian standards, ENERGY STAR, or AHRI product listings. (NEEA, No. 0013 at p. 5)

DOE notes that this final rule addresses only the incremental burden of the test procedure changes. DOE does not believe these test procedure amendments will significantly increase

[6] U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy. Preliminary Technical Support Document (TSD): Energy Conservation Program for Certain Commercial and Industrial Equipment: Commercial Refrigeration Equipment, Chapter 2: Analytical Framework, Comments from Interested Parties, and DOE Responses. March 2011. Washington, DC *http://www1.eere.energy.gov/buildings/appliance_standards/commercial/pdfs/cre_pa_tsd_ch2_analytical_framework.pdf.*

[7] Navigant Consulting, Inc. *Energy Savings Potential and R&D Opportunities for Commercial Refrigeration, Final Report.* 2009. Prepared for the U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy, Washington, DC *http://apps1.eere.energy.gov/buildings/publications/pdfs/corporate/commercial_refrig_report_10-09.pdf.*

the burden on manufacturers, and the amended test procedure is the minimum required to fully characterize and compare the performance of automatic commercial ice makers. DOE maintains that it is not possible to further limit the burden within the test procedure and still meet the requirements of EPCA that the test procedure be representative of ice maker performance during a typical period of use. (42 U.S.C. 6314(a)(2))

The purpose of this assessment of the burden of testing is to identify the changes in burden arising solely from the proposed changes in the test procedure. DOE acknowledges that other recent rulemakings also impact the overall burden on manufacturers to test and certify equipment for compliance with DOE's Appliances and Commercial Equipment Standards program. In the final rule DOE published on March 7, 2011, which established certification, compliance, and enforcement regulations for covered equipment (the CCE final rule), DOE established requirements for determining the number of units that must be tested and for designing a sampling plan for reliable testing. 76 FR at 12422. Currently, manufacturers must test a minimum of two units of each basic model to arrive at the maximum energy use rating for that basic model, unless otherwise specified. 76 FR at 12480 (March 7, 2011). Due to issues raised by some manufacturers of larger, custom equipment, including automatic commercial ice makers, on June 22, 2011 DOE published a revised final rule establishing new compliance dates for certification of automatic commercial ice makers, which is 18 months from publication in the **Federal Register**. 76 FR 38287 (June 30, 2011). DOE notes that the CCE final rule published March 7, 2011 is only applicable to automatic commercial ice makers for which standards were set in EPACT 2005, namely automatic commercial ice makers that produce cube type ice with capacities between 50 and 2,500 pounds of ice per 24 hours. For other types of ice makers covered under this test procedure final rule, CCE requirements have not yet been established and will be considered in a separate rulemaking.

DOE acknowledges manufacturers' concerns about the burden associated with the overall testing and certification of automatic commercial ice makers. To help reduce test burden on manufacturers of low production volume, such as highly customized equipment like automatic commercial ice makers, DOE is considering alternative energy determination methods or alternative rating methods for automatic commercial ice makers. DOE recently issued a request for information on this issue. 76 FR 21673 (April 18, 2011).

In response to Howe's comment, this test procedure rulemaking does not describe sampling plans or define basic model requirements for automatic commercial ice makers, because that information is in the CCE final rule. DOE notes that the CCE final rule establishes basic model definitions that allow manufacturers to group individual models with similar, but not exactly the same, energy performance characteristics into a basic model for purposes of fulfilling the Department's testing and certification requirements. The Department encourages manufacturers to group similar individual models as they would in current industry practice, provided all models identified in a certification report as being the same basic model have the same certified efficiency rating. The CCE final rule also establishes that the efficiency rating of a basic model must be based on the least efficient or most energy consuming individual model, or, put another way, all individual models within a basic model must be at least as good as the certified rating. The regulations also require certification of a new basic model if a modification results in an increase in energy or water consumption beyond the rated amount. 76 FR at 12428–29 (March 7, 2011).

The specific burden on small manufacturers is discussed in DOE's revised final regulatory flexibility analysis, which can be found in section IV.B of this document.

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 (IRFA) whenever an agency is required to publish a general notice of proposed rulemaking. When an agency promulgates a final rule after being required to publish a general notice of proposed rulemaking, the agency must prepare a final regulatory flexibility analysis (FRFA). The requirement to prepare these analyses does not apply to any proposed or final rule if the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the agency makes such a certification, the agency must publish the certification in the **Federal Register** along with the factual basis for such certification.

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, so that the potential impacts of its rules on small entities are properly considered during the 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.*

DOE reviewed the proposed rule to amend the test procedure for automatic commercial ice makers under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certified that the proposed rule, if adopted, would not result in a significant impact on a substantial number of small entities. DOE received comments on the economic impacts of the test procedure and responds to these comments in section III.B.9. After consideration of these comments, DOE continues to certify that the test procedure amendments set forth in today's final rule will not have a significant impact on a substantial number of small entities. The factual basis for this certification is set forth below.

For manufacturers of automatic commercial ice makers, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's size standards published on January 31, 1996, as amended, to determine whether any small entities would be required to comply with the rule. *See* 13 CFR part 121. The standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/sites/default/files/Size_Standards_Table.pdf.* ACIM manufacturers are classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' The SBA sets a threshold of 750 employees or less for

an entity to be considered as a small business for this category.

DOE conducted a market survey using all available public information to identify potential small manufacturers who could be impacted by today's final rule. DOE reviewed industry trade association membership directories (including the Association of Home Appliance Manufacturers (AHAM)), product databases (*e.g.,* Federal Trade Commission (FTC), the Thomas Register, California Energy Commission (CEC) and ENERGY STAR databases), individual company Web sites, and marketing research tools (*e.g.,* Dun and Bradstreet reports) to create a list of companies that manufacture or sell automatic commercial ice makers covered by this rulemaking. DOE reviewed this data to determine whether the entities met the SBA's definition of a small business and manufactured automatic commercial ice makers. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are foreign owned and operated.

DOE initially identified 24 manufacturers of automatic commercial ice makers available in the United States. Of these 24 companies, 10 were determined to be foreign owned or have more than 750 employees, meaning that they would not qualify as small businesses. Of the remaining 14 entities, 5 manufacture ice makers for residential uses and 1 has filed for bankruptcy. Thus, DOE identified 8 manufacturers that produce covered automatic commercial ice makers and can be considered small businesses.

Table IV.1 stratifies the small businesses according to their number of employees. The smallest company has 5 employees and the largest has 175 employees. The majority of the small businesses affected by this rulemaking (75 percent) have fewer than 50 employees and all but one of the small businesses have fewer than 100 employees.

TABLE IV.1—SMALL BUSINESS SIZE BY NUMBER OF EMPLOYEES

Number of employees	Number of small businesses	Percentage of small businesses	Cumulative percentage
1–50	6	76	75
51–100	1	13	88
101–150	0	0	88
151–200	1	13	100

This final rule amends the test procedure for automatic commercial ice makers. Specifically, DOE is incorporating revisions to the DOE test procedure that:

1. Update the references to AHRI Standard 810–2007 with Addendum 1 and ANSI/ASHRAE Standard 29–2009;
2. Expand the scope of the test procedure to include equipment with capacities from 50 to 4,000 pounds of ice per 24 hours;
3. Provide test methods for continuous type ice makers and standardize the measurement of energy and water use for continuous type ice makers with respect to ice hardness;
4. Clarify the test method and reporting requirements for remote condensing automatic commercial ice makers designed for connection to remote compressor racks; and
5. Discontinue the use of a clarified energy use rate calculation and instead calculate energy use per 100 pounds of ice as specified in ANSI/ASHRAE Standard 29–2009.

Changes to the existing rule as described in the preceding paragraph have potential impacts on manufacturers who will be required to revise their current testing program to comply with DOE's energy conservation standards. DOE has analyzed these impacts on small businesses and presents its findings in the remainder of this section.

Currently, only automatic commercial ice makers that produce cube type ice with capacities between 50 and 2,500 pounds of ice per 24 hours must be tested using the DOE test procedure to show compliance with energy conservation standards established in EPACT 2005. Automatic commercial ice makers with larger capacities, batch type ice makers that produce other than cube type ice, and continuous type ice makers of any capacity have not been subject to this rule. This rulemaking would institute new testing requirements for automatic commercial batch type ice makers that produce cube type ice with capacities between 2,500 and 4,000 pounds of ice per 24 hours, batch type ice makers that produce other than cube type ice with capacities between 50 and 4,000 pounds of ice per 24 hours, and continuous type ice makers with capacities between 50 and 4,000 pounds of ice per 24 hours. The costs to manufacturers associated with these test procedures were estimated to range from $5,000 to $7,500 per tested model. This estimate is based on input from manufacturers and third-party testing laboratories for completing a test as specified by AHRI Standard 810–2007 with Addendum 1 on automatic commercial ice makers. Additional testing requirements will be mandatory for continuous type ice makers to assess ice hardness, as discussed in the following paragraph.

The additional test methods required for continuous type ice makers will standardize energy and water use with respect to ice hardness. This test will consist of performing an additional calorimetry test, as specified in ASHRAE Standard 29–2009, normative annex A. DOE estimates that performing this test will require 2 additional hours of laboratory time, including the time to perform necessary calculations, per unit. Costs associated with the calorimetry test have been estimated by DOE to equal approximately 10 percent of the AHRI 810 test or $500 to $740. These costs would not include those associated with transportation, assuming that the unit would be analyzed at the same time as the required AHRI 810 test. DOE estimates that 28 percent of all automatic commercial ice makers would be subject to this additional test procedure. This estimate was developed based on publicly available listings of automatic commercial ice makers (*e.g.,* AHRI and CEC databases) and manufacturer Web sites.

The primary cost for small businesses under this rulemaking would result from the aforementioned additional testing requirements. These costs were applied to the number of existing designs subject to testing requirements outlined in this rulemaking, which DOE estimated at 30 models (for all small businesses combined) in the April 2011 NOPR. DOE based the April 2011 NOPR estimate on an estimate of fundamental ACIM individual model offerings, consolidated into basic models based on similar features. For example, DOE estimated that each capacity of each unique product line (typically

determined by SKU numbers) represented a separate basic model that was required to be certified. DOE researched manufacturer catalogs and publically available databases to determine the number of unique product lines and capacities manufacturers offered to arrive at the estimate of 30 basic models for all small businesses.

Based on DOE's review of public comments in response to the April 2011 NOPR and a detailed discussion of model characteristics with one small manufacturer, the number of models affected by these test procedures was increased to 264 models for all small manufacturers. This increase was based on the number of different features offered within each product line that DOE did not account for in the April 2011 NOPR estimate, such as different refrigerants. Further, DOE assumes that each company would introduce a new base model (8 new models for testing) in each year of the 5-year (2015–2019) analysis time horizon (for a total of 40 new models for testing). Thus, costs are higher in the first year following implementation of the new testing requirements as existing models are tested but decline in future years as the requirements are applied only to new models. Two scenarios were developed to reflect the low- and high-end cost estimates for each test presented previously in this section. Based on these assumptions, testing costs for small businesses were estimated at $1.4 to $2.0 million in 2015 and $41,120 to $60,858 in 2016 through 2019. DOE presents the costs for the testing of all of these models in Table IV.2. As discussed below, however, DOE notes that based on grouping of similar basic models, the total number of models to be tested is likely to be significantly smaller.

In addition to testing costs, DOE estimates an additional $24,572 in review and filing costs over the 5-year analysis time horizon. DOE bases its estimate on the assumptions that it would take an engineer 2 hours to communicate with the testing laboratory, review test results, prepare adequate documentation, and file the report. The average hourly salary for an engineer completing these tasks is estimated at $38.74.[8] Fringe benefits are estimated at 30 percent of total compensation, which brings the hourly costs to employers associated with review and filing of reports to $55.34.[9]

The incremental costs incurred by small businesses to implement the requirements of this rulemaking are summarized in Table IV.2. Total costs to small businesses are estimated at $1.5 to $2.3 million over the 5-year analysis time horizon. The present value costs of this rulemaking on small businesses are estimated at $1.2 to $1.7 million, or $144,989 to $213,477 per small business, for an average annual cost of $28,998–$42,695. Annual costs are discounted using a 7-percent real discount rate, as recommended in OMB Circular A–94.

TABLE IV.2—ANNUAL COSTS OF COMPLIANCE FOR SMALL BUSINESSES (2015–2019)

Year	Testing costs		Review/filing costs	Total costs		Discounted costs	
	Low end	High end		Low end	High end	Low end	High end
2015	$1,356,960	$2,008,301	$21,916	$1,378,876	$2,030,217	$1,051,938	$1,548,843
2016	41,120	60,858	664	41,784	61,522	29,791	43,864
2017	41,120	60,858	664	41,784	61,522	27,843	40,995
2018	41,120	60,858	664	41,784	61,522	26,021	38,313
2019	41,120	60,858	664	41,784	61,522	24,319	35,806
Totals	1,521,440	2,251,731	24,572	1,546,012	2,276,303	1,159,912	1,707,820
Average Cost per Small Business						144,989	213,477

DOE also estimated costs to small businesses using CCE basic model definitions, which allow manufacturers to group individual models with similar, but not exactly the same, energy performance characteristics into basic models for purposes of compliance with DOE's regulations. 76 FR at 12428–29 (March 7, 2011). DOE reviewed product literature and manufacturer Web sites to determine, on average, the number of individual models that could be grouped together into representative basic models. DOE determined that, for automatic commercial ice makers, an average of eight individual models could be grouped into basic models for the purposes of compliance with DOE's energy conservation standards, thus reducing the number of models that would require testing from 264 to 33. DOE's CCE requirements also require that each model be tested twice. Using the provisions for basic model grouping established in DOE's CCE final rule, DOE estimated the costs to small businesses to be between $673,596 and $994,332 over the 5-year analysis time horizon. The present value costs of this rulemaking on all small businesses under this scenario are estimated at $475,126 to $701,360, or $59,391 to $87,670 per small business, for an average annual cost of $11,878 to $17,534.

The findings of the DOE analysis suggest that small business manufacturers of automatic commercial ice makers would not be disproportionally impacted by the test procedure amendments, relative to their competition. Testing procedures are required for each base model and only models produced by manufacturers that are covered by this rule would be required to be tested. DOE research indicates that the small entities affected by this regulation produce fewer automatic commercial ice makers, on average, when compared to larger businesses. Small businesses manufacture, on average, 264 individual models and 33 basic models covered by this rule, while large businesses manufacture an average of 2,176 individual models and 272 basic models. Thus, small businesses are subject to fewer testing procedures, and testing costs for large businesses are estimated to be approximately 8.2 times higher than costs for small businesses. DOE has, therefore, concluded that large and small entities would incur a

[8] U.S. Department of Labor, Bureau of Labor Statistics. *National Occupational Employment and Wage Estimates.* 2009. Washington, DC.

[9] U.S. Department of Labor, Bureau of Labor Statistics. *Employer Costs for Employee Compensation—Management, Professional, and Related Employees.* 2010. Washington, DC.

proportional distribution of costs associated with the new testing requirements.

DOE conducted an analysis to measure the maximum testing cost burden relative to the gross profits of small manufacturers. The costs used in this analysis are the total cost to small businesses if they were to test each individual model, as presented in Table IV.2. DOE notes that these testing costs could be reduced by grouping individual models into basic models for the purpose of certification with existing energy conservation standards, as explained above. The analysis utilized financial data gathered from other public sources to derive the average annual gross profits of the small businesses impacted by this rule. The average industry gross profit margin was estimated at 29.0 percent.[10] The annualized costs associated with this rulemaking were then compared to estimated gross profits to determine the magnitude of the cost impacts of this regulation on small businesses. Based on this analysis, DOE estimates that the total increase in testing burden amounts to approximately 0.5 to 0.7 percent of gross profit for the small manufacturers affected by this rule. DOE further estimates that the cost burden of the testing procedures is equal to approximately 0.1 to 0.2 percent of average annual sales ($8.9 million [11]) per small entity affected by this regulation. DOE concludes that these values do not represent a significant economic impact.

Based on the criteria outlined above, DOE continues to certify that the test procedure amendments would not have a ''significant economic impact on a substantial number of small entities.'' DOE has transmitted the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of automatic commercial ice makers must certify to DOE that their equipment complies with any applicable energy conservation standards. In certifying compliance, manufacturers must test their equipment according to the DOE test procedure for automatic commercial ice makers, including any amendments adopted for the test procedure. DOE has established regulations for the certification and record-keeping requirements for all covered consumer products and commercial equipment, including automatic commercial ice makers. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the certification is 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.

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 final rule, DOE amends its test procedure for automatic commercial ice makers. 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 rule amends an existing rule without affecting the amount, quality, or distribution of energy usage, and therefore will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 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 at 13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the equipment that is the subject of today's final 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

[10] BizStats. *Free Business Statistics and Financial Ratios. Industry Income-Expense Statements.* (Last accessed February 17, 2011.) <*http://www.bizstats.com/corporation-industry-financials/manufacturing-31/machinery-manufacturing-333/ventilation-heating-a-c-and-commercial-refrigeration-equipment-333410/show*>.

[11] Calculated based on data obtained from *http://www.manta.com* and Dun and Bradstreet reports.

review and determined that, to the extent permitted by law, this final 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, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting 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 at 12820; also available at *http://www.gc.doe.gov.* DOE examined today's final 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. Today's final rule will 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 will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under 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 final 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 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 significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's regulatory action 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 provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the NOPR 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 FTC concerning the impact of the commercial or industry standards on competition.

This final rule incorporates testing methods contained in the following commercial standards:

1. AHRI Standard 810–2007 with Addendum 1, which supersedes AHRI Standard 810–2003, ''2007 Standard for Performance Rating of Automatic Commercial Ice Makers,'' section 3, ''Definitions,'' section 4, ''Test Requirements,'' and section 5, ''Rating Requirements'' into 10 CFR 431.134(b); and

2. ANSI/ASHRAE Standard 29–2009, which supersedes ANSI/ASHRAE Standard 29–1988 (RA 2005), ''Method of Testing Automatic Ice Makers,'' 10 CFR 431.134(b) and (b)(2).

DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Approval of the Office of the Secretary

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

List of Subjects in 10 CFR Part 431

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

Issued in Washington, DC, on December 20, 2011.

Kathleen B. Hogan,

Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE amends part 431 of title 10, Code of Federal Regulations to read as follows:

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. Section 431.132 is amended by adding in alphabetical order the definitions of ''batch type ice maker,'' ''continuous type ice maker,'' and ''ice hardness factor,'' and revising the definitions of ''cube type ice'' and ''energy use'' to read as follows:

§ 431.132 Definitions concerning automatic commercial ice makers.

* * * * *

Batch type ice maker means an ice maker having alternate freezing and harvesting periods. This includes automatic commercial ice makers that produce cube type ice and other batch technologies. Referred to as cubes type ice maker in AHRI 810 (incorporated by reference, see § 431.133).

Continuous type ice maker means an ice maker that continually freezes and harvests ice at the same time.

Cube type ice means ice that is fairly uniform, hard, solid, usually clear, and generally weighs less than two ounces (60 grams) per piece, as distinguished from flake, crushed, or fragmented ice. Note that this conflicts and takes precedence over the definition established in AHRI 810 (incorporated by reference, see § 431.133), which indicates that ''cube'' does not reference a specific size or shape.

Energy use means the total energy consumed, stated in kilowatt hours per one-hundred pounds (kWh/100 lb) of ice stated in multiples of 0.1. For remote condensing (but not remote compressor) automatic commercial ice makers and remote condensing and remote compressor automatic commercial ice makers, total energy consumed shall include the energy use of the ice-making mechanism, the compressor, and the remote condenser or condensing unit.

* * * * *

Ice hardness factor means the latent heat capacity of harvested ice, in British thermal units per pound of ice (Btu/lb), divided by 144 Btu/lb, expressed as a percent.

* * * * *

■ 3. Section 431.133 is revised to read as follows:

§ 431.133 Materials incorporated by reference.

(a) *General.* We incorporate by reference the following standards into Subpart H 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 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/.* Also, this material is available for inspection at 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.* Standards can be obtained from the sources listed below.

(b) *AHRI.* Air-Conditioning, Heating, and Refrigeration Institute, 2111 Wilson Blvd., Suite 500, Arlington, VA 22201, (703) 524–8800, *ahri@ahrinet.org,* or *http://www.ahrinet.org.*

(1) AHRI Standard 810–2007 with Addendum 1, (''AHRI 810''), *Performance Rating of Automatic Commercial Ice-Makers,* March 2011; IBR approved for §§ 431.132 and 431.134.

(2) [Reserved].

(c) *ASHRAE.* American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle NE., Atlanta, GA 30329, (404) 636–8400, *ashrae@ashrae.org,* or *http://www.ashrae.org.*

(1) ANSI/ASHRAE Standard 29–2009, (''ANSI/ASHRAE 29''), *Method of Testing Automatic Ice Makers,* (including Errata Sheets issued April 8, 2010 and April 21, 2010), approved January 28, 2009; IBR approved for § 431.134.

(2) [Reserved].

■ 4. Section 431.134 is revised to read as follows:

§ 431.134 Uniform test methods for the measurement of energy and water consumption of automatic commercial ice makers.

(a) *Scope.* This section provides the test procedures for measuring, pursuant to EPCA, the energy use in kilowatt hours per 100 pounds of ice (kWh/100 lb ice) and the condenser water use in gallons per 100 pounds of ice (gal/100 lb ice) of automatic commercial ice makers with capacities between 50 and 4,000 pounds of ice per 24 hours.

(b) *Testing and Calculations.* Measure the energy use and the condenser water use of each covered product by conducting the test procedures set forth in AHRI 810, section 3, ''Definitions,'' section 4, ''Test Requirements,'' and section 5, ''Rating Requirements'' (incorporated by reference, see § 431.133). Where AHRI 810 references ''ASHRAE Standard 29,'' ANSI/ASHRAE Standard 29–2009 (incorporated by reference, see § 431.133) shall be used. All references to cube type ice makers in AHRI 810 apply to all batch type automatic commercial ice makers.

(1) For batch type automatic commercial ice makers, the energy use and condenser water use will be reported as measured in this paragraph (b), including the energy and water consumption, as applicable, of the ice-making mechanism, the compressor, and the condenser or condensing unit.

(2)(i) For continuous type automatic commercial ice makers, determine the energy use and condenser water use by multiplying the energy consumption or condenser water use as measured in this paragraph (b) by the ice hardness adjustment factor, determined using the following equation:

$$\text{Ice Hardness Adjustment Factor} = \left[\frac{144\,{}^{\text{Btu}}/_{\text{lb}} + 38\,{}^{\text{Btu}}/_{\text{lb}}}{144\,{}^{\text{Btu}}/_{\text{lb}} \times \left({}^{\text{Ice Hardness Factor}}/_{100}\right) + 38\,{}^{\text{Btu}}/_{\text{lb}}}\right]$$

(ii) Determine the ice hardness factor by following the procedure specified in the ''Procedure for Determining Ice Quality'' in section A.3 of normative annex A of ANSI/ASHRAE 29 (incorporated by reference, see § 431.133), except that the test shall be conducted at an ambient air temperature of 70 °F ± 1 °F, with an initial water temperature of 90 °F ± 1 °F, and weights shall be accurate to within ± 2 percent of the quantity measured. The ice hardness factor is equivalent to the corrected net cooling effect per pound of ice, line 19 in ANSI/ASHRAE 29 Table A1, where the calorimeter constant used in line 18 shall be that determined in section A2 using seasoned, block ice.

[FR Doc. 2012–218 Filed 1–10–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2010–1193; Amdt. No. 25–136]

RIN 2120–AJ80

Harmonization of Airworthiness Standards for Transport Category Airplanes—Landing Gear Retracting Mechanisms and Pilot Compartment View

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Aviation Administration amends the airworthiness standards for transport category airplanes on landing gear retracting mechanisms and the pilot compartment view. For the landing gear retracting mechanism, this rulemaking adopts the 1-g stall speed as a reference stall speed instead of the minimum speed obtained in a stalling maneuver and adds an additional requirement to keep the landing gear and doors in the correct retracted position in flight. For the pilot compartment view, this rulemaking revises the requirements for pilot compartment view in precipitation conditions. This action eliminates regulatory differences between the airworthiness standards of the U.S. and the European Aviation Safety Agency (EASA), without affecting current industry design practices.

DATES: Effective March 12, 2012.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see ''How To Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Mahinder Wahi, Federal Aviation Administration, Propulsion and Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 227–1262; facsimile (425) 227–1320, email *mahinder.wahi@faa.gov*.

For legal questions about this proposed rule, contact Doug Anderson, FAA, Office of the Regional Counsel (ANM–7), 1601 Lind Avenue SW., Renton, Washington 98057; telephone (425) 227–2166; facsimile (425) 227–1007; email *Douglas.Anderson@faa.gov*.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority. It prescribes new safety standards for the design and operation of transport category airplanes.

List of Abbreviations Frequently Used in This Document

Term Definition

V_S the stalling speed or the minimum steady flight speed at which the airplane is controllable.

V_{S1} the stalling speed or the minimum steady flight speed obtained in a specific configuration.

V_{SR} reference stall speed and may not be less than a 1-g stall speed.

V_{SR1} reference stall speed in a specific configuration.

1-g stall speed minimum speed at which the airplane can develop the usable maximum lift force capable of supporting the weight of the airplane.

List of Acronyms Frequently Used in This Document

ALPA Airline Pilots Association
ANAC Agência Nacional de Aviação Civil
ARAC Aviation Rulemaking Advisory Committee
EASA European Aviation Safety Agency
FAA Federal Aviation Administration
ICAO International Civil Aviation Organization
JAA European Joint Aviation Authorities
NPRM Notice of Proposed Rulemaking
RFA Regulatory Flexibility Act
SBREFA Small Business Regulatory Enforcement Fairness Act

I. Overview of Final Rule

This action harmonizes airworthiness certification standards for landing gear mechanisms and pilot compartment view for transport category airplanes with those of EASA. Harmonizing these airworthiness standards reduces costs to airplane manufacturers and operators while retaining the level of safety.

II. Background

A. Statement of the Problem

This rulemaking results from an agreement between the European Joint Aviation Authorities (JAA), the predecessor to EASA, and the FAA to harmonize certain airworthiness standards between the two authorities. Differences between the regulations of the FAA and foreign certification authorities increase the cost and complexity of certification without contributing significantly to safety. These rules result from the recommendations of the Aviation Rulemaking Advisory Committee, through its Mechanical Systems Harmonization Working Group (MSHWG).

B. Summary of the NPRM

The FAA published a notice of proposed rulemaking (NPRM), Docket No. FAA–2010–1193; Notice No. 10–19 in the **Federal Register** on January 5, 2011 (76 FR 472). The NPRM proposed to amend the standards for landing gear retraction mechanism and pilot compartment view to harmonize with the corresponding EASA standards. The proposed standards for landing gear addressed reference stall speed, positive means to keep the landing gear and doors in the correct retracted position, gear position indication, and protection of equipment on the landing gear and in the wheel well. The proposed standards for pilot compartment view addressed single failures of rain removal systems, alternatives to the openable side window requirement and certain environmental conditions.

The comment period for the NPRM ended on April 5, 2011.

C. General Overview of Comments

The FAA received comments from Airbus, Boeing Company, Bombardier, Cessna Aircraft Company, Embraer,

Hawker Beechcraft, Transport Canada, and Air Line Pilots Association, International (ALPA). ALPA, Airbus, Bombardier, and Cessna provided general comments in support of the proposed changes.

Embraer correctly noted that a proposed text change to § 25.729(a)(3) was unnecessary since EASA had already adopted the current FAA standard. The proposed change to § 25.729(a)(3) is therefore withdrawn. Boeing, Transport Canada, and Hawker Beechcraft proposed changes to the regulatory text. Embraer requested that the FAA wait for the final rule issuance of NPRM 10–10, Airplane and Engine Certification Requirements in Supercooled Large Drop, Mixed Phase, and Ice Crystal Icing Conditions (75 FR 37311, June 29, 2010) (Docket No. FAA–2010–0636) before issuing this final rule. Boeing, Transport Canada and Bombardier noted editorial errors which have been corrected.

D. Associated Advisory Circular Guidance Material

Advisory Circular AC 25.729–1 has been revised to incorporate acceptable means of compliance to the amended requirements of this rulemaking action. A draft of this AC was made available for public comment during the comment period of the NPRM. The FAA received comments on the AC from the Brazilian Civil Aviation Authority (Agência Nacional de Aviação Civil—ANAC), Transport Canada, Boeing Company, and Embraer. The disposition of the AC public comments is posted along with the final version of the AC on the FAA Regulatory and Guidance Library Web site (*http://rgl.faa.gov/*).

III. Discussion of Public Comments and Final Rule

A. Effect of Flightcrew Alerting Rule

Boeing recommended the proposed rule for landing gear position indication be revised to be consistent with the new flightcrew alerting rule, § 25.1322. Boeing's rationale is that the proposed wording of § 25.729(e) in the NPRM is inconsistent with retractable landing gear and associated door indication systems on existing FAA type certificated and recent EASA validated airplanes. Boeing also stated the proposed wording and the associated AC guidance material are inconsistent with the quiet and dark flight deck philosophy used on modern airplanes.

The proposed wording would have required ''a clear indication or warning must be provided whenever the landing gear position is not consistent with the landing gear selector lever position.'' In some situations, an advisory or caution message would be appropriate, not a warning message. Boeing requested a change to make warning, caution, and advisory messages compliant with § 25.1322 and provide information to the flight crew if the gear or doors are not in the commanded position or are in a hazardous configuration. Boeing also recommended deleting § 25.729(e)(7) and rewording paragraph (e) to reference § 25.1322 for alerting.

We agree the specification to provide a ''warning'' as in the proposed § 25.729(e)(7) is not consistent with the § 25.1322 at the current amendment level. ARAC recommended and EASA adopted the proposed wording prior to the development of the current § 25.1322 requirements. The intent of the wording recommended by ARAC was consistent with the definition of the term ''flightcrew alert'' in the current § 25.1322. We replaced the wording ''clear indication or warning'' with ''flightcrew alert'' to be consistent with § 25.1322. This also addresses the Boeing comment associated with the quiet and dark flightdeck concept. It is not necessary to specifically refer to § 25.1322 in the rule text, as the current version of § 25.1322 will be in the certification basis for new type designs and new significant changes to type design (as determined per 14 CFR § 21.101).

Boeing also noted the regulation does not address other landing gear actuation functions, such as a landing gear lever lock or truck tilt message to prevent retraction or the hazards associated with retracting an out of configuration gear, or the necessary indication for hazards associated with semi-lever gears or tail skid actuation.

The FAA considers that §§ 25.1301, 25.1309 and 25.1322 adequately address identification and alerting of these hazards and provide the applicant the greatest flexibility in the use of such functions. No change to the rule will be made in this regard.

B. Wheel Brake Temperature

Hawker Beechcraft stated the proposed wording for § 25.729(f)(3), ''possible wheel brake temperatures,'' is not specific enough. Hawker Beechcraft recommends changing the text to ''excessive wheel brake temperatures,'' or ''wheel brakes overheating.'' We note that because § 25.729(f) refers to the ''damaging effects of'' the temperatures, we believe it is clear the regulation refers to high ''possible'' temperatures. No changes were made to the rule in response to this comment.

C. Landing Gear Lock

Transport Canada concurs with the new requirement for a positive means to keep the landing gear and doors in the correct retracted position in flight, and would like a similar requirement for a downlock. As proposed, § 25.729(b) is a performance-based rule that requires positive means to keep the landing gear extended in flight and on the ground. Adding specificity to require a downlock, limits design options that would otherwise meet the intent of the rule without increasing the level of safety. No change to the rule was made in this regard.

D. Supercooled Large Drop Rulemaking

Embraer suggested the FAA publish the final rule associated with NPRM Notice No. 10–10, previously referenced on page 5, before proceeding with proposed changes to § 25.773(b) in this rulemaking since the NPRM proposed to change § 25.773(b)(1). This rulemaking includes changes to § 25.773(b)(2) and additionally to § 25.773(b)(3) and (4), but proposed no changes to § 25.773(b)(1). Since these rulemaking changes are independent of those proposed in the Supercooled Large Drop NPRM, the FAA does not plan to wait on publishing this rule.

E. Lightning as a Discrete Damage Source for Pilot Compartment View

Transport Canada requested we add lightning to the list of discrete damage sources presented in § 25.773(b)(4)(ii). The FAA is not aware of any data that indicates lightning has resulted in the reduction of pilot compartment view, therefore changing the regulatory text is unnecessary.

F. Differences Between the NPRM and the Final Rule

Except for the editorial correction in the rule title for § 25.729, the withdrawal of proposed text change to § 25.729(a)(3), and the change in amendatory language found in § 25.729(e)(7) from ''A clear indication or warning'' to ''A flightcrew alert,'' the changes to §§ 25.729 and 25.773 are adopted as proposed.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act

of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impact of the final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the costs and benefits is not prepared. Such a determination has been made for this final rule.

The reasoning for this determination follows: The final rule will amend the airworthiness standards for transport category airplanes for landing gear retracting mechanisms and pilot compartment view to harmonize with existing, more stringent European Aviation Safety Agency (EASA) requirements. For landing gear retracting mechanisms, the more stringent EASA requirements ensure (1) The landing gear is in the appropriate configuration; (2) the landing gear and its supporting structure, doors, and mechanisms operate properly; (3) the flight crew is aware of the landing gear position status; and (4) critical equipment is protected from tire failure or excessive brake temperatures.

For the pilot compartment view, reliable and safe operation during precipitation is ensured by adoption of the EASA design requirements for flight deck rain removal systems because there will be no single failure of the rain removal system that could lead to a loss of pilot view through both windshields. The effect of this requirement is that, for newly certificated airplanes, manufacturers must provide a separate, mechanically and electrically independent method for clearing the windshield during precipitation. This method may include separate flight deck control switches for left and right windshield wipers. The FAA has determined that installation of the second wiper switch will require minimal additional costs when the system is initially designed to comply with the EASA requirement and received no comments regarding this estimate.

A review of current practices of U.S. manufacturers of transport category airplanes has revealed that only a minority of manufacturers are not already in compliance with the EASA requirements. For these manufacturers, the FAA has determined that additional costs to comply with the EASA requirements will be minimal and that there will be additional safety benefits from adoption of the more stringent EASA requirements. For the majority of manufacturers already in compliance with the EASA requirements as a means of obtaining joint certification, there will be no additional compliance costs or additional safety benefits. We received no comments regarding this cost estimate. However, the final rule will provide benefits from reduced joint certification costs—in the requirements for data collection and analysis, paperwork, and time spent applying for and obtaining approval from the regulatory authorities. The FAA therefore has determined that this final rule will have minimal costs and positive net benefits and does not warrant a full regulatory evaluation.

The FAA has also determined that this final rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it would, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

As noted above, this final rule will impose no or little additional costs on part 25 manufacturers. Moreover, all U.S. manufacturers of transport category airplanes exceed the Small Business Administration small-entity criteria of 1,500 employees. Therefore, the FAA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it will promote international trade by harmonizing U.S. standards with corresponding EASA regulations thus reducing the cost of joint certification.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State,

local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $141.3 million.

This final rule does not contain such a mandate. The requirements of Title II do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312d and involves no extraordinary circumstances.

H. Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the FAA, when modifying its regulations in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. In the NPRM, the FAA requested comments on whether the proposed rule should apply differently to intrastate operations in Alaska. The agency did not receive any comments, and has determined, based on the administrative record of this rulemaking, that there is no need to make any regulatory distinctions applicable to intrastate aviation in Alaska.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a ''significant energy action'' under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

VI. How To Obtain Additional Information

A. Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the Internet:

1. Search the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or
3. Access the Government Printing Office's Web page at *http://www.fdsys.gov.*

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680.

B. Comments Submitted to the Docket

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 25 of title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

■ 1. The authority citation for part 25 continues to read as follows:

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

■ 2. Amend § 25.729 by revising paragraphs (a)(1)(ii) and (iii), (b), (e) introductory text, and (e)(5), adding paragraph (e)(7), revising paragraphs (f) introductory text and (f)(1), and adding paragraph (f)(3) to read as follows:

§ 25.729 Retracting mechanism.

(a) * * *

(1) * * *

(ii) The combination of friction loads, inertia loads, brake torque loads, air loads, and gyroscopic loads resulting from the wheels rotating at a peripheral speed equal to $1.23V_{SR}$ (with the wing-flaps in take-off position at design take-off weight), occurring during retraction and extension at any airspeed up to 1.5 V_{SR1} (with the wing-flaps in the approach position at design landing weight), and

(iii) Any load factor up to those specified in § 25.345(a) for the wing-flaps extended condition.

* * * * *

(b) *Landing gear lock.* There must be positive means to keep the landing gear extended in flight and on the ground. There must be positive means to keep the landing gear and doors in the correct retracted position in flight, unless it can be shown that lowering of the landing gear or doors, or flight with the landing gear or doors extended, at any speed, is not hazardous.

* * * * *

(e) *Position indicator and warning device.* If a retractable landing gear is

used, there must be a landing gear position indicator easily visible to the pilot or to the appropriate crew members (as well as necessary devices to actuate the indicator) to indicate without ambiguity that the retractable units and their associated doors are secured in the extended (or retracted) position. The means must be designed as follows:

* * * * *

(5) The system used to generate the aural warning must be designed to minimize false or inappropriate alerts.

* * * * *

(7) A flightcrew alert must be provided whenever the landing gear position is not consistent with the landing gear selector lever position.

(f) *Protection of equipment on landing gear and in wheel wells.* Equipment that is essential to the safe operation of the airplane and that is located on the landing gear and in wheel wells must be protected from the damaging effects of—

(1) A bursting tire;

* * * * *

(3) Possible wheel brake temperatures.

■ 3. Amend § 25.773 by revising paragraph (b)(2) and adding paragraphs (b)(3) and (4) to read as follows:

§ 25.773 Pilot compartment view.

* * * * *

(b) * * *

(2) No single failure of the systems used to provide the view required by paragraph (b)(1) of this section must cause the loss of that view by both pilots in the specified precipitation conditions.

(3) The first pilot must have a window that—

(i) Is openable under the conditions prescribed in paragraph (b)(1) of this section when the cabin is not pressurized;

(ii) Provides the view specified in paragraph (b)(1) of this section; and

(iii) Provides sufficient protection from the elements against impairment of the pilot's vision.

(4) The openable window specified in paragraph (b)(3) of this section need not be provided if it is shown that an area of the transparent surface will remain clear sufficient for at least one pilot to land the airplane safely in the event of—

(i) Any system failure or combination of failures which is not extremely improbable, in accordance with § 25.1309, under the precipitation conditions specified in paragraph (b)(1) of this section.

(ii) An encounter with severe hail, birds, or insects.

* * * * *

Issued in Washington, DC, on December 27, 2011.

Michael P. Huerta,

Acting Administrator.

[FR Doc. 2012–360 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–0009; Special Conditions No. 25–454–SC]

Special Conditions: The Boeing Company, Model 767–300; Seats With Inflatable Lapbelts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 767–300 series airplanes. These airplanes will have a novel or unusual design feature associated with seats with inflatable lapbelts. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is January 5, 2012. We must receive your comments by February 27, 2012.

ADDRESSES: Send comments identified by docket number FAA–2012–0009 using any of the following methods:

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

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

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

FOR FURTHER INFORMATION CONTACT: John Shelden, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2785; facsimile (425) 227–1320.

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

Comments Invited

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

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

Background

On April 19, 2011, The Boeing Company (hereafter referred to as ''Boeing'') applied for a change to Type Certificate No. A1NM for the installation of inflatable lapbelts on

Boeing Model 767–300 series airplanes. The Model 767–300 is a transport category airplane powered by two turbofan engines with a maximum passenger capacity of 290 and a maximum takeoff weight of 351,600 pounds. These special conditions are to allow installation of inflatable lapbelts for head injury protection on certain seats in the 767–300 series airplanes similar to Special Conditions No. 25–187A–SC for Boeing Model 777 series airplanes and Special Conditions No. 25–386–SC for Boeing Model 737 series airplanes.

The inflatable lapbelt is designed to limit occupant forward excursion in the event of an accident. This will reduce the potential for head injury, thereby reducing the head injury criteria (HIC) measurement. The inflatable lapbelt behaves similarly to an automotive inflatable airbag, but in this case the airbag is integrated into the lapbelt and inflates away from the seated occupant. While inflatable airbags are now standard in the automotive industry, the use of an inflatable lapbelt is novel for commercial aviation.

Title 14, Code of Federal Regulations (14 CFR) 121.311(j) requires that all passenger and flight attendant seats in transport category airplanes meet the requirements of § 25.562 in effect on or after June 16, 1988, if they were type certificated after January 1, 1958, manufactured on or after October 27, 2009, and operated under part 121 rules in passenger-carrying operations.

Boeing is required to show compliance with certain aspects of § 25.562 as specified per Type Certificate Data Sheet (TCDS) A1NM for the Model 767–300 (hereafter referred to as ''767–300'') series airplanes. However, 767–300 series airplanes manufactured on or after October 27, 2009, operated under part 121, must meet all of the requirements of § 25.562 for passenger and flight attendant seats. Thus, it is in the interest of installers to show full compliance to § 25.562, so that an operator under part 121 may be able to use the aircraft without having to do additional certification work. It is also noted that some foreign civil airworthiness authorities have invoked these same operator requirements in the form of airworthiness directives.

Section 25.785 requires that occupants be protected from head injury by either the elimination of any injurious object within the striking radius of the head, or by padding. Traditionally, this has required a set back of 35 inches from any bulkhead or other rigid interior feature or, where not practical, specified types of padding. The relative effectiveness of these means of injury protection was not quantified. With the adoption of Amendment 25–64 to 14 CFR part 25, specifically § 25.562, a new standard that quantifies required head injury protection was created.

Section 25.562 specifies that each seat type design approved for crew or passenger occupancy during takeoff and landing must be shown to be compliant by successful completion of dynamic tests or by rational analysis based on dynamic tests of a similar type seat. In particular, the regulations require that persons not suffer serious head injury under the conditions specified in the tests, and that protection must be provided, or the seat be designed, so that the head impact does not exceed a HIC of 1000 units. While the test conditions described for HIC are detailed and specific, it is the intent of the requirement that an adequate level of head injury protection be provided for passengers in a severe crash.

Because §§ 25.562 and 25.785 and associated guidance do not adequately address seats with inflatable lapbelts, the FAA recognizes that appropriate pass/fail criteria need to be developed that do fully address the safety concerns specific to occupants of these seats.

Type Certification Basis

Under the provisions of § 21.101, Boeing must show that the 767–300, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A1NM or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A1NM are as follows: part 25 of the Federal Aviation Regulations as amended by Amendments 25–1 through 25–37, except where superseded. The U.S. type certification basis for the 767–300 is established in accordance with 14 CFR 21.29 and 21.17 and the type certification application date. The U.S. type certification basis is listed in TCDS No. A1NM.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 767–300 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, the 767–300 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The 767–300 will incorporate the following novel or unusual design features: Boeing is proposing to install an inflatable lapbelt on certain seats of the 767–300 series airplanes in order to reduce the potential for head injury in the event of an accident. The inflatable lapbelt works similarly to an automotive airbag, except that the airbag is integrated with the lapbelt of the restraint system.

The CFR states the performance criteria for head injury protection in objective terms. However, none of these criteria are adequate to address the specific issues raised concerning seats with inflatable lapbelts. The FAA has therefore determined that, in addition to the requirements of 14 CFR part 25, special conditions are needed to address requirements particular to installation of seats with inflatable lapbelts.

Accordingly, in addition to the passenger injury criteria specified in § 25.785, these special conditions are proposed for the Boeing Model 767–300 series airplanes equipped with inflatable lapbelts. Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer and civil aviation authorities.

Discussion

From the standpoint of a passenger safety system, the inflatable lapbelt is unique in that it is both an active and entirely autonomous device. While the automotive industry has good experience with inflatable airbags, the conditions of use and reliance on the inflatable lapbelt as the sole means of injury protection are quite different. In automobile installations, the airbag is a supplemental system and works in conjunction with an upper torso restraint. In addition, the crash event is

more definable and of typically shorter duration, which can simplify the activation logic. The airplane operating environment is also quite different from automobiles and includes the potential for greater wear and tear and unanticipated abuse conditions (due to galley loading, passenger baggage, etc.); airplanes also operate where exposure to high intensity electromagnetic fields could affect the activation system.

The inflatable lapbelt has two potential advantages over other means of head impact protection. First, it can provide significantly greater protection than would be expected with energy-absorbing pads, and second, it can provide essentially equivalent protection for occupants of all stature. These are significant advantages from a safety standpoint, since such devices will likely provide a level of safety that exceeds the minimum standards of the Federal aviation regulations. Conversely, inflatable lapbelts in general are active systems and must be relied upon to activate properly when needed, as opposed to an energy-absorbing pad or upper torso restraint that is passive, and always available. Therefore, the potential advantages must be balanced against these and other potential disadvantages in order to develop standards for this design feature.

The FAA has considered the installation of inflatable lapbelts to have two primary safety concerns: First, that they perform properly under foreseeable operating conditions, and second, that they do not perform in a manner or at such times as would constitute a hazard to the airplane or occupants. This latter point has the potential to be the more rigorous of the requirements, owing to the active nature of the system.

The inflatable lapbelt will rely on electronic sensors for signaling and pyrotechnic charges for activation so that it is available when needed. These same devices could be susceptible to inadvertent activation, causing deployment in a potentially unsafe manner. The consequences of such deployment, as well as failure to deploy, must be considered in establishing the reliability of the system. Boeing must substantiate that the effects of an inadvertent deployment in flight are either not a hazard to the airplane, or that such deployment is an extremely improbable occurrence (less than 10^{-9} per flight hour). The effect of an inadvertent deployment on a passenger or crewmember that might be positioned close to the inflatable lapbelt should also be considered. The person could be either standing or sitting. A minimum reliability level will have to be established for this case, depending upon the consequences, even if the effect on the airplane is negligible.

The potential for an inadvertent deployment could be increased as a result of conditions in service. The installation must take into account wear and tear so that the likelihood of an inadvertent deployment is not increased to an unacceptable level. In this context, an appropriate inspection interval and self-test capability are considered necessary. Other outside influences are lightning and high intensity radiated fields (HIRF). Existing regulations regarding lightning, § 25.1316, and existing HIRF special conditions for the 767–300 series airplanes, Special Conditions No. 25–ANM–18, are applicable. For the purposes of compliance with those conditions, if inadvertent deployment could cause a hazard to the airplane, the inflatable lapbelt is considered a critical system; if inadvertent deployment could cause injuries to persons, the inflatable lapbelt should be considered an essential system. Finally, the inflatable lapbelt installation should be protected from the effects of fire, so that an additional hazard is not created by, for example, a rupture of the pyrotechnic squib.

In order to be an effective safety system, the inflatable lapbelt must function properly and must not introduce any additional hazards to occupants as a result of its functioning. There are several areas where the inflatable lapbelt differs from traditional occupant protection systems and requires special conditions to ensure adequate performance.

Because the inflatable lapbelt is essentially a single use device, there is the potential that it could deploy under crash conditions that are not sufficiently severe as to require head injury protection from the inflatable lapbelt. Since an actual crash is frequently composed of a series of impacts before the airplane comes to rest, this could render the inflatable lapbelt useless if a larger impact follows the initial impact. This situation does not exist with energy absorbing pads or upper torso restraints, which tend to provide continuous protection regardless of severity or number of impacts in a crash event. Therefore, the inflatable lapbelt installation should be such that the inflatable lapbelt will provide protection when it is required, by not expending its protection during a less severe impact. Also, it is possible to have several large impact events during the course of a crash, but there will be no requirement for the inflatable lapbelt to provide protection for multiple impacts.

Since each occupant's restraint system provides protection for that occupant only, the installation must address seats that are unoccupied. It will be necessary to show that the required protection is provided for each occupant regardless of the number of occupied seats, and considering that unoccupied seats may have lapbelts that are active.

The inflatable lap belt should be effective for a wide range of occupants. The FAA has historically considered the range from the fifth percentile female to the ninety-fifth percentile male as the range of occupants that must be taken into account. In this case, the FAA is proposing consideration of a broader range of occupants, due to the nature of the lapbelt installation and its close proximity to the occupant. In a similar vein, these persons could have assumed the brace position for those accidents where an impact is anticipated. Test data indicate that occupants in the brace position do not require supplemental protection, and so it would not be necessary to show that the inflatable lapbelt will enhance the brace position. However, the inflatable lapbelt must not introduce a hazard in that case when deploying into the seated, braced occupant.

Another area of concern is the use of seats, so equipped, by children whether lap-held, in approved child safety seats, or occupying the seat directly. Although specifically prohibited by the FAA operating regulations, the use of the supplementary loop belt (''belly belt'') may be required by other civil aviation authorities, and should also be considered with the end goal of meeting those regulations. Similarly, if the seat is occupied by a pregnant woman, the installation needs to address such usage, either by demonstrating that it will function properly, or by adding appropriate limitation on usage.

Since the inflatable lapbelt will be electrically powered, there is the possibility that the system could fail due to a separation in the fuselage. Since this system is intended as crash/post-crash protection means, failure due to fuselage separation is not acceptable. As with emergency lighting, the system should function properly if such a separation occurs at any point in the fuselage.

Since the inflatable lapbelt is likely to have a large volume displacement, the inflated bag could potentially impede egress of passengers. Since the bag deflates to absorb energy, it is likely that an inflatable lapbelt would be deflated at the time that persons would be trying to leave their seats. Nonetheless, it is considered appropriate to specify a time

interval after which the inflatable lapbelt may not impede rapid egress. Ten seconds has been chosen as a reasonable time since this corresponds to the maximum time allowed for an exit to be openable (§ 25.809). In actuality, it is unlikely that an exit would be prepared by a flight attendant this quickly in an accident severe enough to warrant deployment of the inflatable lapbelt, and the inflatable lapbelt will likely deflate much quicker than ten seconds.

This potential impediment to rapid egress is even more critical at the seats installed in the emergency exit rows. Section 25.813 requires access to the exit from the main aisle in the form of an unobstructed passageway and no interference in opening the exit. The restraint system must not create an impediment to the access to, and the opening of, the exit. In some cases, the passenger is the one who will open the exit, such as a Type III over wing hatch. These lapbelts should be evaluated in the exit row under existing regulations (§§ 25.809 and 25.813) and guidance material. The inflatable lapbelts must also be evaluated in post crash conditions and should be evaluated using representative restraint systems in the bag-deployed condition. This evaluation would include reviewing the access to and opening of the exit, specifically for obstructions in the egress path and any interferences in opening the exit. Each unique interior configuration must be considered, for example, passageway width, single or dual passageways with outboard seat removed, etc. If the restraint creates any obstruction or interference, it is likely that it could impede the rapid egress of the airplane. Project-specific guidance is likely necessary if these restraint systems are installed at exit door rows.

The current special conditions for the Boeing 777 series airplanes, Special Conditions No. 25–187A–SC, were amended to address flammability of the airbag material. During the development of the inflatable lapbelt, the manufacturer was unable to develop a fabric that would meet the inflation requirements for the bag and the flammability requirements of part I, paragraph (a)(1)(ii), of appendix F to part 25. The fabrics that were developed that met the flammability requirement did not produce acceptable deployment characteristics. However, the manufacturer was able to develop a fabric that meets the less stringent flammability requirements of part I, paragraph (a)(1)(iv), of appendix F to part 25 and has acceptable deployment characteristics.

Part I of appendix F to part 25 specifies the flammability requirements for interior materials and components. There is no reference to inflatable restraint systems in appendix F, because such devices did not exist at the time the flammability requirements were written. The existing requirements are based on both material types, as well as use, and have been specified in light of the state-of-the-art of materials available to perform a given function. In the absence of a specific reference, the default requirement would be for the type of material used to construct the inflatable restraint, which is a fabric in this case. However, in writing special conditions, the FAA must also consider the use of the material, and whether the default requirement is appropriate. In this case, the specialized function of the inflatable restraint means that highly specialized materials are needed. The standard normally applied to fabrics is a 12-second vertical ignition test. However, materials that meet this standard do not perform adequately as inflatable restraints. Since the safety benefit of the inflatable restraint is very significant, the flammability standard appropriate for these devices should not screen out suitable materials, thereby effectively eliminating use of inflatable restraints. The FAA will need to establish a balance between the safety benefit of the inflatable restraint and its flammability performance. At this time, the 2.5-inch per minute horizontal test is considered to provide that balance. As the state-of-the-art in materials progresses (which is expected), the FAA may change this standard in subsequent special conditions to account for improved materials.

The following special conditions can be characterized as addressing either the safety performance of the system or the system's integrity against inadvertent activation. Because a crash requiring use of the inflatable lapbelts is a relatively rare event, and because the consequences of an inadvertent activation are potentially quite severe, these latter requirements are probably the more rigorous from a design standpoint.

Finally, it should be noted that the special conditions are applicable to the inflatable lapbelt system as installed. The special conditions are not an installation approval. Therefore, while the special conditions relate to each such system installed, the overall installation approval is a separate finding and must consider the combined effects of all such systems installed.

Applicability

As discussed above, these special conditions are applicable to the 767–300. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

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

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 767–300 airplanes.

1. Seats with Inflatable Lapbelts. It must be shown that the inflatable lapbelt will deploy and provide protection under crash conditions where it is necessary to prevent serious head injury. The means of protection must take into consideration a range of stature from a two-year-old child to a ninety-fifth percentile male. The inflatable lapbelt must provide a consistent approach to energy absorption throughout that range of occupants. In addition, the following situations must be considered:

a. The seat occupant is holding an infant.

b. The seat occupant is a child in a child restraint device.

c. The seat occupant is a child not using a child restraint device.

d. The seat occupant is a pregnant woman.

2. The inflatable lapbelt must provide adequate protection for each occupant regardless of the number of occupants of the seat assembly, considering that unoccupied seats may have active seatbelts.

3. The design must prevent the inflatable lapbelt from being either incorrectly buckled or incorrectly installed such that the inflatable lapbelt would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant and will provide the required head injury protection.

4. It must be shown that the inflatable lapbelt system is not susceptible to inadvertent deployment as a result of wear and tear or inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings) likely to be experienced in service.

5. Deployment of the inflatable lapbelt must not introduce injury mechanisms to the seated occupant or result in injuries that could impede rapid egress. This assessment should include an occupant who is in the brace position when it deploys and an occupant whose belt is loosely fastened.

6. It must be shown that inadvertent deployment of the inflatable lapbelt, during the most critical part of the flight, will either not cause a hazard to the airplane or its occupants, or meets the requirements of § 25.1309(b).

7. It must be shown that the inflatable lapbelt will not impede rapid egress of occupants 10 seconds after its deployment.

8. The system must be protected from lightning and HIRF. The threats specified in existing regulations regarding lightning, § 25.1316, and existing HIRF special conditions for the Boeing Model 767 series aircraft, Special Conditions No. 25–ANM–18, are incorporated by reference for the purpose of measuring lightning and HIRF protection. For the purposes of complying with HIRF requirements, the inflatable lapbelt system is considered a ''critical system'' if its deployment could have a hazardous effect on the airplane; otherwise, it is considered an ''essential'' system.

9. Inflatable lapbelts, once deployed, must not adversely affect the emergency lighting system (i.e., block proximity lights to the extent that the lights no longer meet their intended function).

10. The inflatable lapbelt must function properly after loss of normal aircraft electrical power and after a transverse separation of the fuselage at the most critical location. A separation at the location of the lapbelt does not have to be considered.

11. It must be shown that the inflatable lapbelt will not release hazardous quantities of gas or particulate matter into the cabin.

12. The inflatable lapbelt installation must be protected from the effects of fire such that no hazard to occupants will result.

13. There must be a means for a crewmember to verify the integrity of the inflatable lapbelt activation system prior to each flight, or it must be demonstrated to operate reliably between inspection intervals. The FAA considers the loss of the airbag system deployment function alone (i.e., independent of the conditional event that requires the airbag system deployment) to be a major failure condition.

14. The inflatable material may not have an average burn rate of greater than 2.5 inches/minute when tested using the horizontal flammability test as defined in 14 CFR part 25, appendix F, part I, paragraph (b)(5).

Issued in Renton, Washington, on January 5, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 2012–350 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1139; Directorate Identifier 2011–CE–021–AD; Amendment 39–16911; AD 2011–27–09]

RIN 2120–AA64

Airworthiness Directives; Socata Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Socata Model TBM 700 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued 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 installation of the wrong (switched) aileron control cables in the wing. This unsafe condition could lead to restricted movement of the aileron, resulting in reduced control of the airplane. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective February 15, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of February 15, 2012.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this proposed AD, contact Socata—Direction des Services—65921 Tarbes Cedex 9—France; telephone +33 (0) 62 41 7300, fax +33 (0) 62 41 76 54, or for North America: Socata North America, 7501 South Airport Road, North Perry Airport (HWO), Pembroke Pines, Florida 33023; telephone: (954) 893–1400; fax: (954) 964–4141; email: *mysocata@socata.daher.com;* Internet: *http://mysocata.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 21, 2011 (76 FR 65419). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> A TBM 700 operator reported a case of inverted installation of aileron control cables in the wing. The shortest cable was found installed instead of the longest one on wing tip side, with left hand (LH) threaded end in upper section. This wrong installation could have been caused by mistaken maintenance data.
>
> This condition, if not detected and corrected, could lead to restricted movement

of the aileron, resulting in reduced control of the aeroplane, particularly when operating under adverse flight conditions on landing and during avoidance manoeuvres.

For the reasons described above, this AD requires an inspection to verify the correct installation of the aileron control cables and, in case of discrepancies, proper re-installation of the cables in accordance with the approved design configuration.

Even with potentially reduced aileron deflection, Socata's analysis shows that the airplane is still capable of achieving its published cross wind landing limits.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 404 products of U.S. registry. We also estimate that it would take about 0.5 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $17,170, or $43 per product.

In addition, we estimate that any necessary follow-on actions would take about 16 work-hours and require parts costing $0, for a cost of $1,360 per product. We have no way of determining the number of products that may need these actions.

According to the manufacturer, some of the costs of this 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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

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

(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.

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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2011–27–09 Socata: Amendment 39–16911; Docket No. FAA–2011–1139; Directorate Identifier 2011–CE–021–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective February 15, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Socata Model TBM 700 airplanes, serial numbers (SN) 1 through 572, 574, and 576, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(e) Reason

The MCAI describes the unsafe condition as installation of the wrong (switched) aileron control cables in the wing. This unsafe condition could lead to restricted movement of the aileron, resulting in reduced control of the airplane. We are issuing this AD to require actions to address the unsafe condition on these products.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within 12 months after February 15, 2012 (the effective date of this AD) or within 100 hours time-in-service (TIS) after February 15, 2012 (the effective date of this AD), whichever occurs first, inspect the aileron control cables in left and right wings for proper installation following the accomplishment instructions of Daher-Socata Mandatory Service Bulletin SB 70–191–27, dated April 2011.

(2) If during the inspection required by paragraph (f)(1) of this AD you find the cables are improperly installed, before further flight, remove the cables and correctly re-install the cables following the accomplishment instructions of Daher-Socata Mandatory Service Bulletin SB 70–191–27, dated April 2011.

(3) After February 15, 2012 (the effective date of this AD), after each removal of the aileron control cables, you must re-install using the maintenance manual temporary revisions below:

(i) *For S/N 1 through 433:* Socata TBM 700 Model Maintenance Manual Temporary Revision No. TR040.27, dated April 2011.

(ii) *For S/N 434 through 572, 574 and 576:* Socata TBM 850 Maintenance Manual Temporary Revision No. TR015.27, dated April 2011.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures

found in 14 CFR 39.19. Send information to ATTN: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2011–0101, dated May 25, 2011; Daher-Socata Mandatory Service Bulletin SB 70–191–27, dated April 2011; Socata TBM 700 Model Maintenance Manual Temporary Revision No. TR040.27, dated April 2011; and Socata TBM 850 Maintenance Manual Temporary Revision No. TR015.27, dated April 2011, for related information.

(i) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51:

(i) DAHER–SOCATA Mandatory Service Bulletin SB 70–191–27, dated April 2011;

(ii) Socata TBM 700 Model Maintenance Manual Temporary Revision No. TR040.27, dated April 2011; and

(iii) Socata TBM 850 Maintenance Manual Temporary Revision No. TR015.27, dated April 2011.

(2) For service information related to this AD, contact Socata—Direction des Services—65921 Tarbes Cedex 9—France; telephone +33 (0) 62 41 7300, fax +33 (0) 62 41 76 54, or for North America: Socata North America, 7501 South Airport Road, North Perry Airport (HWO), Pembroke Pines, Florida 33023; telephone: (954) 893–1400; fax: (954) 964–4141; email: *mysocata@socata.daher.com;* Internet: *http://mysocata.com.*

(3) You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on January 3, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–122 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1155; Directorate Identifier 2011–CE–032–AD; Amendment 39–16913; AD 2012–01–02]

RIN 2120–AA64

Airworthiness Directives; Schempp-Hirth Flugzeugbau GmbH Gliders

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Schempp-Hirth Flugzeugbau GmbH Model Discus 2cT gliders. This AD results from mandatory continuing airworthiness information (MCAI) issued 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 small cracks which have been found on engine pylons in the area of the lower engine support that have not been detected during the standard daily inspection. This condition, if not detected and corrected, could lead to an engine pylon failure resulting in loss of control of the glider. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective February 15, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of February 15, 2012.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, D–73230 Kirchheim/Teck, Germany; phone: +49 7021 7298–0; fax +49 7021 7298–199; Internet: *http://www.schempp-hirth.com;* email: *info@schempp-hirth.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 21, 2011 (76 FR 65421). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> It has been reported that small cracks on engine pylons, in the area of the lower engine support, were not detected through the ''standard'' inspection required by the daily inspection instructions. The cracks were discovered only after having significantly grown.
>
> This condition, if not detected and corrected, could lead to an engine pylon failure and consequent damage to the aeroplane or injury to people on the ground.
>
> For the reasons described above, this AD requires to replace the daily inspections pages of the Aircraft Flight Manual (AFM) that are describing the engine pylon inspection instructions, to inspect the affected engine pylon area in accordance with those instructions, and the replacement with a newly designed engine pylon in case of findings.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (76 FR 65421, October 21, 2011) or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 3 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $255, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 8 work-hours and require parts costing $1,697, for a cost of $2,377 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

(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.

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 the NPRM (76 FR 65421, October 21, 2011), the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2012–01–02 Schempp-Hirth Flugzeugbau: Amendment 39–16913; Docket No. FAA–2011–1155; Directorate Identifier 2011–CE–032–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective February 15, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Schempp-Hirth Flugzeugbau Discus 2cT gliders, serial numbers 1 through 35, certificated in any category, except those on which a engine pylon, part number (P/N) M03RT841, is installed.

(d) Subject

Air Transport Association of America (ATA) Code 54: Nacelles/Pylons.

(e) Reason

This AD was prompted by small cracks which have been found on engine pylons in the area of the lower engine support that have not been detected during the standard daily inspection. This condition, if not detected and corrected, could lead to an engine pylon failure resulting in loss of control of the glider. We are issuing this AD to require actions to address the unsafe condition on these products.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within 30 days after the effective date of this AD, replace the daily inspection pages of the airplane flight manual following Schempp-Hirth Flugzeugbau GmbH Technical Note No. 863–20 Revision 1, dated July 27, 2011. The actions required by this paragraph may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1)–(4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439. All other actions in this AD must be done by a properly certificated aircraft mechanic.

(2) Before further flight after doing the action in paragraph (f)(1) of this AD and repetitively thereafter at intervals not to exceed every 12 months, inspect the engine pylon for damage or cracks, following the daily inspection instructions as amended by Schempp-Hirth Flugzeugbau GmbH Technical Note No. 863–20 Revision 1, dated July 27, 2011.

(3) If during the daily inspections in the instructions amended by Schempp-Hirth Flugzeugbau GmbH Technical Note No. 863–20 Revision 1, dated July 27, 2011, in paragraph (f)(1) of this AD or the inspections required in paragraph (f)(2) of this AD, any damage or crack is found on the engine pylon, before further flight, replace the engine pylon with an engine pylon part number M03RT841 following Schempp-Hirth Flugzeugbau GmbH Technical Note No. 863–14, dated July 18, 2006.

(g) FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: In addition to the daily pilot inspections of the engine pylon required by the foreign authority, the FAA also requires an initial and annual repetitive inspection by a properly certificated aircraft mechanic.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust,

Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(i) Related Information

Refer to MCAI EASA AD No.: 2011–0146, dated August 3, 2011; Schempp-Hirth Flugzeugbau GmbH Technical Note No. 863–14, dated July 18, 2006; and Schempp-Hirth Flugzeugbau GmbH Technical Note No. 863–20 Revision 1, dated July 27, 2011, for related information.

(j) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the **Federal Register** approved the incorporation by reference (IBR) under 5 U.S.C. 552(a) and 1 CFR part 51 of the following service information:

(i) Schempp-Hirth Flugzeugbau GmbH Technical Note No. 863–14, dated July 18, 2006; and

(ii) Schempp-Hirth Flugzeugbau GmbH Technical Note No. 863–20 Revision 1, dated July 27, 2011.

(2) For service information identified in this AD, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, D–73230 Kirchheim/Teck, Germany; phone: +49 7021 7298–0; fax +49 7021 7298–199; Internet: *http://www.schempp-hirth.com;* email: *info@schempp-hirth.com.*

(3) You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on January 3, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–208 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0001; Directorate Identifier 2011–CE–041–AD; Amendment 39–16912; AD 2012–01–01]

RIN 2120–AA64

Airworthiness Directives; Various Aircraft Equipped With Rotax Aircraft Engines 912 A Series Engine

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for various aircraft equipped with Rotax Aircraft Engines 912 A series engine. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a deviation in the manufacturing process of certain part number 888164 crankshafts that may cause cracks on the surface of the crankshaft on the power take off side, which could lead to failure of the crankshaft support bearing and possibly result in an in-flight engine shutdown and forced landing. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective January 26, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of January 26, 2012.

We must receive comments on this AD by February 27, 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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact BRP–Powertrain GmbH & Co. KG, Welser Strasse 32, A–4623 Gunskirchen, Austria; phone: +43 7246 601 0; fax: +43 7246 601 9130; Internet: *http://www.rotax-aircraft-engines.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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 AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket 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: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090; email: *sarjapur.nagarajan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2011–0224–E, dated November 24, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During a production process review, a deviation (double side straightening) in the manufacturing process of certain Part Number (P/N) 888164 crankshafts has been detected, which may have resulted in cracks on the surface of the crankshaft. Only a few

crankshafts are suspected to have received this double side straightening treatment, but it has been impossible to identify these by individual serial number (s/n). To address this safety concern, BRP–Powertrain issued Alert Service Bulletin ASB–912–059 and ASB–914–042 (single document) with instructions to identify and inspect the entire batch of crankshafts that could be affected. These crankshafts have been installed on a limited number of engines, but some crankshaft sets have also been shipped as spare parts.

This condition, if not detected and corrected, could lead to crack propagation on the power take off side of the crankshaft journal, possibly resulting in failure of the crankshaft support bearing, in-flight engine shutdown and forced landing, damage to the aeroplane and injury to occupants.

To correct this potential unsafe condition, EASA issued Emergency AD 2011–022–E to require the identification and inspection for cracks of all affected crankshafts, and depending on findings, corrective action.

Since that AD was issued, it has been determined that there are additional affected crankshafts, currently known to be installed in the 'UL' (i.e. non-certified) versions of the affected engines.

For the reason described above, this AD retains the requirements of EASA AD 2011–0222–E, which is superseded, and expands the group of s/n of affected crankshafts, listed in Table 1 of this AD. A records check can be acceptable to determine the s/n of the crankshaft installed on the engine. This AD also prohibits installation of any affected crankshaft on an engine, or installation of an aeroplane of an engine with an affected crankshaft installed, unless the crankshaft has passed the inspection as required by this AD.

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

Relevant Service Information

Rotax Aircraft Engines BRP has issued Alert Service Bulletin ASB–912–059 and ASB–914–042 (single document), dated November 15, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of the short compliance time of 4 hours time-in-service, and the risk to single-engine airplanes affected. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0001; Directorate Identifier 2011–CE–041–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD will affect 112 products of U.S. registry. We also estimate that it will take about 31 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $5,400 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $899,920, or $8,035 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

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

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

(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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2012–01–01 Various Aircraft: Amendment 39–16912; Docket No. FAA–2012–0001; Directorate Identifier 2011–CE–041–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective January 26, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all serial numbers of the airplanes listed in table 1 of this AD, that are:

(1) Equipped with a Rotax Aircraft Engines 912 A series engine, with a part number (P/N) 888164 crankshaft installed, serial numbers 40232 through 40267, 40293 through 40374, 40408 through 40433, and 40435 through 40507; and

(2) Certificated in any category.

TABLE 1—AFFECTED AIRPLANES

Type certificate holder	Aircraft model	Engine model
Aeromot-Indústria Mecânico-Metalúrgica Ltda	AMT–200	912 A2
Diamond Aircraft Industries	HK 36 R "SUPER DIMONA"	912 A
DIAMOND AIRCRAFT INDUSTRIES GmbH	HK 36 TS and HK 36 TC	912 A3
Diamond Aircraft Industries Inc	DA20–A1	912 A3
HOAC-Austria	DV 20 KATANA	912 A3
Iniziative Industriali Italiane S.p.A	Sky Arrow 650 TC	912 A2
SCHEIBE-Flugzeugbau GmbH	SF 25C	912 A2

(d) Subject

Air Transport Association of America (ATA) Code 72: Engine.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a deviation (double side straightening) in the manufacturing process of certain P/N 888164 crankshafts that may cause cracks on the surface of the crankshaft on the power take off side, which could lead to failure of the crankshaft support bearing. We are issuing this AD to prevent failure of the crankshaft support bearing, which could result in engine failure and forced landing.

(f) Actions and Compliance

Unless already done, do the following actions.

(1) Within 4 hours time-in-service after January 26, 2012 (the effective date of this AD), inspect the crankshaft for cracks. Do the inspection following the Accomplishment Instructions in Rotax Aircraft Engines BRP Alert Service Bulletin ASB–912–059 and ASB–914–042 (single document), dated November 15, 2011.

(2) If any crack is found during the inspection required in paragraph (f)(1) of this AD, before further flight, remove the crankshaft from service.

(3) As of January 26, 2012 (the effective date of this AD), do not install on any airplane an engine equipped with an affected P/N 888164 crankshaft listed in paragraph (c)(1) of this AD, unless the crankshaft is inspected as specified in paragraph (f)(1) of this AD and is found to be crack free.

(4) As of January 26, 2012 (the effective date of this AD), do not install in any engine an affected P/N 888164 crankshaft listed in paragraph (c)(1) of this AD, unless the crankshaft is inspected as specified in paragraph (f)(1) of this AD and is found to be crack free.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090; email: *sarjapur.nagarajan@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD 2011–0224–E, dated November 24, 2011, and Rotax Aircraft Engines BRP Alert Service Bulletin ASB–912–059 and ASB–914–042 (single document), dated November 15, 2011, for related information.

(i) Material Incorporated by Reference

(1) You must use Rotax Aircraft Engines BRP Alert Service Bulletin ASB–912–059 and ASB–914–042 (single document), dated November 15, 2011, to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact BRP–Powertrain GmbH & Co. KG, Welser Strasse 32, A–4623 Gunskirchen, Austria; phone: +43 7246 601 0; fax: +43 7246 601 9130; Internet: *http://www.rotax-aircraft-engines.com.*

(3) You may review copies of the service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on January 3, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–202 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No.: FAA–2012–0007; Amdt. No. 135–126]

RIN 2120–AK02

Authorization To Use Lower Than Standard Takeoff, Approach and Landing Minimums at Military and Foreign Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This rulemaking would allow qualified operators to conduct lower than standard instrument flight rules (IFR) airport operations at military airports or outside the United States when authorized to do so by their operations specifications. This action is necessary because the current regulatory section limits certain operators to a takeoff minimum visibility of 1 mile, and a landing minimum visibility of ½ mile when conducting IFR operations at those airports, even when the operator has demonstrated the ability to safely conduct operations in lower visibility. The intended effect of this final rule is to bring the identified regulatory section into alignment with other sections of the regulations that currently permit lower than standard IFR operations at domestic civilian, foreign, and military airports when authorized to do so.

DATES: *Effective:* February 27, 2012.

Comments for inclusion in the Rules Docket must be received on or before February 10, 2012.

ADDRESSES: Commenting on this Direct Final Rule. You may send comments identified by docket number FAA–2012–0007 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 docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://www.Regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Gregory French, Air Transportation Division, 135 Air Carrier Operations Branch, AFS–250, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–4112; email *gregory.french@faa.gov.*

For legal questions concerning this action, contact Robert Frenzel, Office of the Chief Counsel, Operations Law Branch, (AGC–220), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073; email *robert.frenzel@faa.gov.*

SUPPLEMENTARY INFORMATION: Later in this preamble under the Additional Information section, we discuss how you can comment on this direct final rule and how we will handle your comments. Included in this discussion is related information about the docket. We also discuss how you can get a copy of this direct final rule and any related rulemaking documents.

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. This rulemaking is promulgated under the authority described in 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security. This amendment to the regulation is within the scope of that authority because it prescribes an accepted method for ensuring the safe operation of aircraft at foreign and military airports when weather conditions are below standard minimums.

The Direct Final Rule Procedure

The FAA is adopting this final rule without prior notice and prior public comment as a direct final rule with comments. The FAA does not believe prior notice and prior public comment is necessary in this rule change because it is relieving to all concerned parties. In addition, the FAA recently published a Petition for Exemption from § 135.225(f) for public comment (76 FR 22445) and received only three comments, all in favor of the petition.

The Regulatory Policies and Procedures of the Department of Transportation (DOT) provide that to the maximum extent possible, operating administrations of the DOT should provide an opportunity for public comment on regulations issued without prior notice (44 FR 1134). Accordingly, the FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting this final rule.

Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive an adverse or negative comment within the comment period, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

See the ''Additional Information'' section for information on how to comment on this direct final rule and how the FAA will handle comments received. The ''Additional Information'' section also contains related information about the docket, privacy, and the handling of proprietary or confidential business information. In addition, there is information on obtaining copies of related rulemaking documents.

I. Background

The airport weather minimums that eventually evolved into § 135.225 started development prior to 1957 in Civil Air Regulation part 60, Air Traffic Rules. Section 60.46, ''Instrument Approach Procedures,'' required the weather to be at least visual flight rules (VFR). The 1 mile and ½ mile visibility requirements that now appear in § 135.225 first appeared in the regulations in the early 1960s. As aircraft, flight crewmember and avionics capabilities evolved, it became possible to safely conduct lower than standard takeoffs, approaches and landings.

Qualified part 135 operators are allowed to conduct lower than standard IFR operations at domestic airports under § 135.225(g), 135.225(h) and 135.225(i)(3) when authorized to do so through the issuance of Operations Specification C079 (OpSpec C079). However, § 135.225(f) limits a part 135 operator to the standard visibility of 1 mile for takeoffs and ½ mile for approaches when conducting the same type of operations at military airports or outside the United States. There is no provision under § 135.225(f) to allow lower than standard IFR operations through operations specifications.

II. Discussion of the Direct Final Rule

While many part 135 operators fly turbojet airplanes worldwide, we realize that not all part 135 operators have met the requirements necessary to conduct lower than standard IFR operations authorized by OpSpec C079. Therefore, we are amending § 135.225(f) to allow for lower than standard IFR operations at military and foreign airports only for those part 135 operators authorized through OpSpec C079. This action will align § 135.225(f) with § 135.225(g), 135.225(h) and 135.225(i)(3), which permit operators to conduct certain lower than standard IFR operations when authorized to do so through the issuance of operations specifications.

By amending § 135.225(f), the final rule would also align part 135 regulations with similar provisions found in part 121 and part 91. For example, § 121.651(f), uses the alternative language, ''Unless otherwise authorized in the certificate holder's operations specifications * * *'' to allow for the use of lower weather minimums than those prescribed by the appropriate foreign airport authority.

Similarly, § 91.175 allows for lower than standard takeoff, approach, and landing at foreign and military airports by specific authorization. Section § 91.175(a), which concerns approaches, and § 91.175(f)(1), which concerns takeoffs, include the language: ''Unless otherwise authorized by the FAA''. Section 91.175(g) specifically concerns military airports and uses the language, ''Unless otherwise prescribed by the Administrator.''

A. Current Practice

Based on the fact that an increasing number of consumers are relying on part 135 operators for their travel and shipping needs and that OpSpec C079 provides an equivalent level of safety, the FAA determined that it is in the public interest to grant exemptions from § 135.225(f) to certificate holders who operate at military and foreign airports when those certificate holders have requested the exemption and otherwise meet all other regulatory requirements. To date, 22 grants of exemption from § 135.225(f) have been issued with thirteen of them granted in 2011.

As new aircraft replace the current fleet, more part 135 operators have the capability to perform at lower than standard takeoff, approach, and landing minimums. Therefore we have determined that it is unfair to continue to require the industry to bear the costs of the exemption process when an operations specification already exists that will allow the operations to be conducted safely.

To allow the use of OpsSpec C079 for these operations, the FAA will incorporate a minor rule language change in § 135.225(f) to add the phrase ''unless authorized by the certificate holder's operations specifications'' immediately before the words ''no pilot may * * *.''

The FAA will then make changes to OpSpec C079 as appropriate to include authorized international airports with the listing of domestic airports. The language currently in § 135.225(f) referencing military and foreign airports will otherwise remain unchanged since not all part 135 operators will choose to apply for, nor be able to demonstrate the requirements necessary for the issuance of OpSpec C079. Part 91 and part 121 regulations do not exclude the opportunity for a certificate holder to receive authorization to operate at lower than standard takeoff, approach, and landing minimums at military or foreign airports; therefore, they do not need to be changed.

III. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this direct final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this direct final rule.

The reasoning for this determination follows. 14 CFR 135.225(f), IFR Takeoff, approach and landing minimums, provides guidance to pilots making an IFR takeoff or approach and landing at a military or foreign airport. Under § 135.225(f), a part 135 operator may not conduct takeoffs, approaches and landings lower than the standard visibility of 1 mile for takeoffs and ½ mile for approaches. This direct final rule improves the efficiency of the current regulation by relieving operators of the burden of having to file repeated exemption requests to conduct operations that FAA has previously approved for their or other certificate holders' operations.

Part 135 operators are authorized through Operations Specification C079 to conduct lower than standard IFR operations at U.S. domestic airports. Allowing these same operators to conduct similar operations at military and foreign airports would be cost

beneficial. The net effect would be to eliminate the time, resources and documents required to apply for and process exemptions. As a result, the expected outcome will be a minimal impact with positive net benefits, and a full regulatory evaluation was not prepared.

The FAA has, therefore, determined that this direct final rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

As noted above, the proposed changes to § 135.225(f) are cost relieving because this direct final rule removes the burden of having to file exemptions for landings and takeoffs under low visibility. Therefore, as FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this direct final rule and determined that it will have only a domestic impact and therefore creates no obstacles to the foreign commerce of the United States.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $143.1 million in lieu of $100 million. This direct final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this direct final rule. Rather, the time and cost of preparing, filing and waiting for a decision for an exemption request to perform the operations is eliminated by the direct final rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations. The direct final rule does not make changes to those portions of the regulations that require operators to follow international regulations where applicable.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

IV. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action, since it is directed at airport operations conducted at airports outside the United States or at military airports, will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a ''significant energy action'' under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Rather, since this rule is relieving, and increases potential takeoff and landing options to the operator, the FAA believes that this rule may result in a net energy savings.

V. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the rulemaking action in this document. The most helpful comments reference a

specific portion of the rulemaking action, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking. Before acting on this rulemaking action, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this rulemaking action in light of the comments it receives.

Proprietary or Confidential Business Information: Do not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD–ROM, mark the outside of the disk or CD–ROM, and identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
3. Accessing the Government Printing Office's Web page at *http://www.fdsys.gov.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or amendment number of this rulemaking.

All documents the FAA considered in developing this rulemaking action, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects in 14 CFR Part 135

Aircraft, Airmen, Approach minimums, Authorizations, Aviation safety, Foreign airports, Landing minimums, Military airports, Reporting and recordkeeping requirements, Takeoff minimums.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 1. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 45101–45105.

■ 2. Amend § 135.225 by revising paragraph (f) introductory text to read as follows:

§ 135.225 IFR: Takeoff, approach and landing minimums.

* * * * *

(f) Each pilot making an IFR takeoff or approach and landing at a military or foreign airport shall comply with applicable instrument approach procedures and weather minimums prescribed by the authority having jurisdiction over that airport. In addition, unless authorized by the certificate holder's operations specifications, no pilot may, at that airport—

* * * * *

Issued in Washington, DC, on December 27, 2011.

Michael P. Huerta,

Acting Administrator.

[FR Doc. 2012–356 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 1

RIN 1505–AC31

Privacy Act of 1974; Implementation

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of the Treasury gives notice of an amendment to update its Privacy Act regulations to add an exemption from certain provisions of the Privacy Act for a system of records related to the Office of Civil Rights and Diversity.

DATES: *Effective date:* January 11, 2012.

FOR FURTHER INFORMATION CONTACT: Mariam G. Harvey, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622–0316, (202) 622–0367 (fax), or via electronic mail at *ocrd.comments@do.treas.gov*.

SUPPLEMENTARY INFORMATION: The Departmental Offices published a system of records notice on September 8, 2011, at 76 FR 55737, establishing a new system of records entitled ''Treasury .013—Department of the Treasury Civil Rights Complaints and Compliance Review Files.''

On September 9, 2011, the Department also published, at 76 FR 55839, a proposed rule that would amend 31 CFR 1.36(g)(1)(i). The proposed rule would exempt the new system of records (Treasury .013) from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

The proposed rule requested that the public submit comments to the Department of the Treasury, Office of Civil Rights and Diversity and no comments were received. Accordingly, the Department is hereby giving notice that the system of records entitled ''Treasury .013—Department of the Treasury Civil Rights Complaints and Compliance Review Files'' is exempt from certain provisions of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2) as set forth in the proposed rule.

This final rule is not a ''significant regulatory action'' under Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, it is hereby certified that this rule will not have significant economic impact on a substantial number of small entities. This certification is based on the fact that the final rule affects individuals and not

small entities. The term ''small entity'' is defined to have the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction,'' as defined in the RFA.

As authorized by 5 U.S.C. 553(d)(3), the Department finds that good cause exists for dispensing with the 30-day delay in the effective date of this rule. These regulations exempt certain investigative records maintained by the Department from notification, access, and amendment of a record. In order to protect the confidentiality of such investigatory records the Department finds that it is in the public interest to make these regulations effective upon publication.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1, Subpart C of title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

■ 2. In § 1.36, redesignate paragraphs (g)(1)(i) through (xiii) as (g)(1)(ii) through (xiv), respectively, and add new paragraph (g)(1)(i) to read as follows:

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

* * * * *

(g) * * *

(1) * * *

(i) Treasury:

Number	System name
Treasury .013.	Department of the Treasury Civil Rights Complaints and Compliance Review Files.

* * * * *

Dated: December 22, 2011.

Melissa Hartman,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2012–338 Filed 1–10–12; 8:45 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0104; FRL–9330–9]

Bacillus Subtilis Strain CX–9060; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the microbial pesticide *Bacillus subtilis* strain CX–9060 in or on all food commodities when applied/used in accordance with good agricultural practices. Certis U.S.A., L.L.C. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus subtilis* strain CX–9060.

DATES: This regulation is effective January 11, 2012. Objections and requests for hearings must be received on or before March 12, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0104. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Denise Greenway, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8263; email address: *greenway.denise@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0104 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be

received by the Hearing Clerk on or before March 12, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b). In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0104, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of March 10, 2010 (75 FR 11171) (FRL–8810–8), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 9F7643) by Certis U.S.A., L.L.C., 9145 Guilford Road, Suite 175, Columbia, MD 21046. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the microbial pesticide, *Bacillus subtilis* strain CX–9060. This notice referenced a summary of the petition prepared by the petitioner, Certis U.S.A., L.L.C., which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Although the Certis U.S.A., L.L.C. pesticide tolerance petition (PP 9F7643) specified that the requested exemption include residues resulting from post-harvest uses, the removal on December 8, 2010 of 40 CFR 180.1(h) (75 FR 76284, FRL–8853–8) eliminates the option for the expression of tolerances or exemptions from the requirement of a tolerance to include any reference to post-harvest use patterns. Therefore, the exemption established today by this rule does not specify post-harvest applications. Incidentally, there currently are no post-harvest uses proposed for the product containing *Bacillus subtilis* strain CX–9060. The addition of such uses to a *Bacillus subtilis* strain CX–9060 product label should be sought by amendment of the pesticide product under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *.'' Additionally, section 408(b)(2)(D) of FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.'' EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. *Bacillus subtilis* is a rod-shaped, gram-positive, aerobic, flagellar bacterium, which is ubiquitous in nature and has been recovered from water, soil, air, and decomposing plant residues (Ref. 1). The bacterium produces an endospore that allows it to endure extreme conditions of heat and desiccation in the environment (Ref. 1). *Bacillus subtilis* is not considered toxic or pathogenic to humans, animals, or plants (Ref. 2). Several strains of *Bacillus subtilis* are used predominantly as fungicidal active ingredients in various pesticides registered with the Agency.

A new strain, *Bacillus subtilis* strain CX–9060, proposed as a microbial pesticide by Certis U.S.A., L.L.C., is the subject of this final rule. *Bacillus subtilis* strain CX–9060 was isolated from a peat medium containing a naturally occurring strain of the *Bacillus subtilis* bacterium. The progenitor strain, *Bacillus subtilis* MBI 600, is a currently registered pesticide. Data and information, submitted by Certis U.S.A., L.L.C. and reviewed by the Agency, indicate that both *Bacillus subtilis* strain CX–9060 and *Bacillus subtilis* MBI 600 are in the *B. subtilis/amyloliquifaciens* group, and are closely related. The established level of equivalency is such that citation of existing data on the progenitor strain supports the *Bacillus subtilis* strain CX–9060 petition for an exemption from the requirement of a tolerance.

The toxicological data on *Bacillus subtilis* MBI 600 cited by Certis U.S.A., L.L.C. were previously submitted to support an exemption from the requirement of a tolerance for residues of that active ingredient in or on all raw agricultural commodities resulting from its use in the treatment of seeds used for growing agricultural crops (June 8, 1994; 59 FR 29543; FRL–4865–8), and later to support an amendment that established a broader exemption for use of *Bacillus subtilis* MBI 600 in or on all food commodities, including residues resulting from post-harvest uses, when applied or used in accordance with good agricultural practices (April 8, 2009; 74 FR 15865; FRL–8408–7). The previously submitted studies on *Bacillus subtilis* MBI 600 include the following:

- An acceptable acute oral toxicity/pathogenicity study performed in rats

(MRID 419074–02) demonstrated the lack of mammalian toxicity at high levels of exposure to *Bacillus subtilis* MBI 600. In this study, *Bacillus subtilis* MBI 600 was not toxic, infective nor pathogenic to rats given an oral dose of 2×10^8 colony forming units (CFU) per animal. The study resulted in a classification of Toxicity Category IV for this strain of *Bacillus subtilis.*

• An acceptable acute pulmonary toxicity/pathogenicity study in rats (MRID 419074–04) demonstrated that *Bacillus subtilis* MBI 600 was neither toxic, pathogenic nor infective to rats dosed intratracheally with 3.4×10^8 CFU of the test material. The study resulted in a classification of Toxicity Category IV for this strain of *Bacillus subtilis.*

• An acceptable acute intravenous injection toxicity/pathogenicity study in rats (MRID 419074–05) demonstrated that *Bacillus subtilis* MBI 600 was neither toxic, pathogenic nor infective to rats dosed intravenously with approximately 4×10^7 CFU of the test material. Although the microbe was detected in every organ tested, the test material displayed a distinct pattern of clearance from all organs. The study resulted in a classification of Toxicity Category IV for this strain of *Bacillus subtilis.*

New studies submitted by Certis U.S.A., L.L.C., and conducted with a formulation containing 25.0% *Bacillus subtilis* strain CX–9060 (at a concentration of 5×10^{10} spores per gram), include the following:

• An acceptable acute eye irritation study in rabbits (MRID 478203–05) demonstrated that the undiluted test article was mildly irritating when a single 0.1 mL ocular dose was administered. At one hour post-treatment, one animal showed signs of corneal opacity, which cleared by 24 hours. Chemosis exhibited by one animal at 1 and 24 hours post-treatment cleared at 48 hours. The study resulted in a classification of Toxicity Category III.

• An acceptable primary dermal irritation study in rabbits (MRID 478203–04) resulted in an observation of slight erythema in a single animal at 24 hours, which resolved by 48 hours. The study resulted in a classification of Toxicity Category IV.

Consistent with test note five, 40 CFR 158.2140, waiver of the acute oral, acute dermal, and acute inhalation toxicity tests, which provide data on the end-use pesticide product, was requested by the petitioner. The justification supporting a waiver of these tests (MRID 478203–06) was adequate as the petitioner demonstrated that the combination of inert ingredients is not likely to pose any significant human health risks. Furthermore, the Agency has assigned Toxicity Category IV for all three routes of exposure: Acute oral toxicity (based upon the results of the cited acute oral toxicity/pathogenicity study (MRID 419074–02)); acute dermal toxicity (based upon the low toxicity of the inert ingredients and observed slight dermal irritation (MRID 478203–04)); and acute inhalation toxicity (based upon the results of the cited acute pulmonary toxicity/pathogenicity study (MRID 419074–04)).

There have been no reports of hypersensitivity in over 15 years of registered uses of the progenitor strain, nor have incidents associated with the testing or production of *Bacillus subtilis* strain CX–9060 been reported. Any future hypersensitivity incidents must be reported per OCSPP Guideline 885.3400.

Consistent with test note four, 40 CFR 158.2140, no cell culture OCSPP Guideline 885.3500) data submission is required because *Bacillus subtilis* strain CX–9060 is not a virus.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

1. *Food. Bacillus subtilis* is ubiquitous in the environment (Ref. 1), especially in soils (Ref. 3) and agricultural environments (Ref. 4). Strain CX–9060 of *Bacillus subtilis* is derived from a naturally occurring isolate of the genus *Bacillus,* which was originally isolated from faba bean plants grown at the Nottingham University School of Agriculture in the United Kingdom. As a result, human dietary exposure to background levels of the microbe is likely occurring and will likely continue. Due to the ubiquitous presence of *Bacillus subtilis* in the environment, the Agency expects human exposure to *Bacillus subtilis* strain CX–9060 resulting from the proposed pesticidal uses will be no greater than existing human exposure to background levels of *Bacillus subtilis.*

Similar *Bacillus subtilis* strains are used internationally in the production of food grade products and in fermented foods in Japan and Thailand. Reports in the literature, implicating *Bacillus subtilis* (as distinguished from the specific strain, *Bacillus subtilis* strain CX–9060, at issue in this action) in food-borne illness, do not describe any pathogen or toxin production, only simple food spoilage from *Bacillus subtilis* growth in dough. This, in combination with test results (stated above) showing a lack of acute oral toxicity/pathogenicity, indicates the risk posed to adults, infants, and children from food-related exposures to *Bacillus subtilis* strain CX–9060 is expected to be minimal. Based on the Agency's evaluation of the submitted and cited data, there are no dietary risks that exceed the Agency's Level of Concern (LOC).

2. *Drinking water exposure.* Because *Bacillus subtilis* is ubiquitous in the environment, exposure to the microbe through drinking water may already be occurring and likely will continue. The proposed use sites do not include direct application to aquatic environments: the intended use of *Bacillus subtilis* strain CX–9060 is to treat growing crops (including roots and cuttings) for the control of plant disease. If the uses resulted in pesticide residues in spray drift or runoff that were to reach surface or ground waters, there is the potential for human exposure to *Bacillus subtilis* strain CX–9060 residues in drinking water, albeit likely greatly diluted. Municipal drinking water treatment processes and deep water wells, however, should further reduce any such residues. More importantly, even if oral exposure to this ubiquitous microbe should occur through drinking water, due to its expected lack of acute oral toxicity/pathogenicity, the Agency concludes that there is a reasonable certainty that no harm will result from such exposure.

B. Other Non-Occupational Exposure

The pesticide uses of *Bacillus subtilis* strain CX–9060 are limited to commercial agricultural and horticultural settings. There are no residential uses; it is not intended to be used in and around the home, or in schools, day care facilities or other such settings. Nonetheless, residential and other non-occupational exposure may

occur since *Bacillus subtilis* is ubiquitous in the environment. The potential for non-dietary, non-occupational exposure to *Bacillus subtilis* strain CX–9060 residues for the general population, including infants and children, is likely since populations have probably been previously exposed (and likely will continue to be exposed) to background levels of *Bacillus subtilis.* Neither such common human exposures to similar *Bacillus subtilis* strains naturally present in soils, waters and plants, nor exposures associated with those *Bacillus subtilis* strains used internationally in producing food-grade products and fermented foods, have resulted in reports of disease or other effects. Finally, while the literature includes accounts of *Bacillus subtilis* infections in humans (which consistently are bacteremias associated with immunosuppression, surgical intervention, neoplastic disease, and trauma), those reports are most notable for their rare and exceptional nature. EPA's evaluation of the required high-dose Tier I acute toxicity and pathogenicity tests, which were cited in support of this petition, resulted in the assignment of Toxicity Category IV (least toxic), as well as determinations of not infective and not pathogenic, for all exposure routes. No toxicological end points of concern were identified. There are no dietary endpoints that exceed the Agency's LOC. Therefore, the Agency has determined that any additional exposure to the microbe resulting from residues attributable to *Bacillus subtilis* strain CX–9060 pesticide use will not result in additional aggregate non-occupational risk from dermal and inhalation exposures. Because even regular occupational exposures associated with this active ingredient pose negligible risk, no risk is expected from non-occupation exposures.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found *Bacillus subtilis* strain CX–9060 to share a common mechanism of toxicity with any other substances, and *Bacillus subtilis* strain CX–9060 does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that *Bacillus subtilis* strain CX–9060 does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C), as amended by the Food Quality Protection Act (FQPA) of 1996, provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section (b)(2)(C) also provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database, unless EPA determines that a different margin of safety will be safe for infants and children.

Based on the acute toxicity information discussed in Unit III., EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Bacillus subtilis* strain CX–9060. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because the data available on *Bacillus subtilis* strain CX–9060 demonstrate a lack of toxicity/pathogenicity potential. Thus, there are no threshold effects of concern and, as a result, the Agency has concluded that the additional tenfold margin of safety for infants and children is unnecessary in this instance. Further, the need to consider consumption patterns, special susceptibility, and cumulative effects does not arise when dealing with pesticides with no demonstrated significant adverse effects.

VII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for *Bacillus subtilis* strain CX–9060.

VIII. Conclusions

Therefore, an exemption is established for residues of *Bacillus subtilis* strain CX–9060 in or on all food commodities.

IX. References

1. U.S. EPA. 2010. *Bacillus subtilis* Final Registration Review Decision. Case 6012. March 2010.
2. U.S. EPA. 1997. *Bacillus subtilis* Final Risk Assessment. Available from *http://www.epa.gov/oppt/biotech/pubs/fra/fra009.htm.*
3. Bergey. 2009. Bergey's Manual of Systematic Bacteriology, Volume 3; 2nd Ed. Springer. New York.
4. U.S. EPA. 2008. Memorandum (J. V. Gagliardi to D. Greenway). December 23, 2008. *Bacillus subtilis* MBI 600.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB

approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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).

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 15, 2011.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1309 is added to subpart D to read as follows:

§ 180.1309 Bacillus subtilis strain CX–9060; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the microbial pesticide *Bacillus subtilis* strain CX–9060, in or on all food commodities, when applied or used in accordance with good agricultural practices.

[FR Doc. 2012–228 Filed 1–10–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20 and 54

[WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; WT Docket No. 10–208; FCC 11–189]

Connect America Fund; Developing an Unified Intercarrier Compensation Regime; Lifeline and Link Up

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends rules regarding the attributes of ''voice telephony service'' to be supported by the Federal universal service support mechanisms. This action is necessary to reflect the evolution of the marketplace and to limit supported services. The Commission also waives certain effective dates so that intercarrier compensation for non-access traffic exchanged between Local Exchange Carriers (LEC) and Commercial Mobile Radio Service (CMRS) providers pursuant to an interconnection agreement in effect as of December 23, 2011, will be subject to a default bill-and-keep methodology on July 1, 2012, rather than on December 29, 2011. This action is necessary to limit marketplace disruption by delaying bill-and-keep until carriers are eligible to receive recovery as part of the transitional revenue recovery mechanism for this type of traffic.

DATES: Effective January 11, 2012.

FOR FURTHER INFORMATION CONTACT: Amy Bender, Wireline Competition Bureau, (202) 418–1469, or Victoria Goldberg, Wireline Competition Bureau, (202) 418–7353, or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration (Order) in WC Docket Nos. 10–90, 07–135, 05–337, 03–109, GN Docket No. 09–51, CC Docket Nos. 01–92, 96–45, WT Docket No. 10–208, FCC 11–189, released on December 23, 2011. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554.

1. In this Order, the Commission modifies on its own motion two aspects of the *USF/ICC Transformation Order,* 76 FR 73830, November 18, 2011.

2. In the *USF/ICC Transformation Order,* the Commission eliminated its former list of nine supported services and amended § 54.101 of the Commission's rules to specify that ''voice telephony service'' is supported by federal universal service support mechanisms. The Commission found this to be a more technologically neutral approach that focuses on the functionality offered instead of the technologies used, while allowing services to be provided over any platform. This approach also recognizes that many of the services enumerated in the previous rule are universal today and that the importance of operator services and directory assistance, in particular, has declined with changes in the marketplace. A number of parties have raised questions about how the amended rule should be understood to affect Lifeline-only ETCs and their compliance with section 214(e)(1)(A) of the Act, which requires a carrier to provide supported services using its own facilities, in whole or in part, in order to be eligible to receive support. Several parties have urged the Commission to take action to ensure that there is no disruption to the services currently being provided to

millions of eligible Lifeline consumers by ETCs that have already been designated based on their provision of supported services as previously defined by the Commission.

3. The Commission notes that, in adopting the new definition of ''voice telephony'' in § 54.101, it eliminated certain services and functionalities from the list of supported services, consistent with its findings regarding the evolution of the marketplace. To more clearly reflect its intent to specify the attributes of ''voice telephony'' in the new definition, the Commission amends § 54.101 to read: ''Services designated for support. Voice telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).''

4. Additionally, the Commission affirms that only carriers that provide ''voice telephony'' as defined under § 54.101(a) as amended using their own facilities will be deemed to meet the requirements of section 214(e)(1). Thus, a Lifeline-only ETC does not meet the ''own facilities'' requirement of section 214(e)(1) if its only facilities are those used to provide functions that are no longer supported ''voice telephony service'' under 47 CFR 54.101, such as access to operator service or directory assistance. Therefore, to be in compliance with the Commission's rules, Lifeline-only carriers that seek ETC designation after the December 29, 2011 effective date of the *USF/ICC Transformation Order,* as well as such carriers that had previously obtained ETC designation prior to December 29, 2011 on the basis of facilities associated solely with, for example, access to operator service or directory assistance, must either use their own facilities, in whole or in part, to provide the supported ''voice telephony service,'' or obtain forbearance from the ''own facilities'' requirement from the Commission. As discussed more fully below, the effective date of this minor modification to the language in amended § 54.101 is the date of **Federal Register** publication of the Order. To avoid disruption to consumers of previously designated ETCs, however, the Commission set July 1, 2012 as the effective date of 47 CFR 54.101 for Lifeline-only ETCs in the service areas for which they were designated prior to December 29, 2011. The Commission anticipates that it may address the ''own facilities'' requirement for Lifeline providers in the near future in a subsequent order addressing the Commission's Lifeline program. In the event that this Order is not published in the **Federal Register** before December 29, the Commission will consider the amended rule as adopted in the *USF/ICC Transformation Order* suspended with respect to this limited class of ETCs, so that the Commission's actions in the *USF/ICC Transformation Order* do not impact existing state designations.

5. In the *USF/ICC Transformation Order,* the Commission adopted bill-and-keep as the default intercarrier compensation methodology for non-access traffic exchanged between local exchange carriers (LECs) and Commercial Mobile Radio Service (CMRS) providers. Rather than implementing a more gradual transition, the *USF/ICC Transformation Order* made the default bill-and-keep methodology applicable as of the effective date of the rules (December 29, 2011). This timing reflected the Commission's balancing of the benefits of providing clarity and addressing arbitrage and, in particular, traffic pumping, against the apparently small risk of marketplace disruption from doing so. There was little, if any, evidence in the record that there would be significant harmful effects on any LECs as a result of this timing. One factor supporting the Commission's conclusion with regard to incumbent LECs was the understanding that such carriers would be eligible to receive recovery as part of the transitional recovery mechanism for reductions in net reciprocal compensation payments. Another factor was adoption of an interim rule that limited the responsibility for transport costs applicable to non-access traffic exchanged between CMRS providers and rural, rate-of-return incumbent LECs.

6. In the Order the Commission reconsiders the balancing of benefits and burdens in this context. The Commission finds it more appropriate to make the default bill-and-keep compensation methodology for LEC–CMRS non-access traffic consistent with the start of the transitional intercarrier compensation recovery mechanism for carriers that were exchanging LEC–CMRS traffic under existing interconnection agreements prior to the adoption date of the *USF/ICC Transformation Order.* Under the recovery rules as adopted in the *USF/ICC Transformation Order,* the transitional recovery mechanism does not begin until July 1, 2012, and it is unclear whether incumbent LECs will be eligible to receive recovery for reductions in revenues from December 29, 2011 through July 1, 2012. The Commission had anticipated carriers would continue to receive payment at the rates in place under existing interconnection agreements while they were being renegotiated. However, the Commission believes that this assumption is over-inclusive and not entirely accurate since interconnection agreements are negotiated between two parties and contain different terms and conditions for implementing change of law provisions—indeed, some may relate back to the effective date of the new rule, rather than when the renegotiated agreement is in place. Moreover, the Commission believed that, as a general matter, LEC–CMRS agreements contained rates at $0.0007 or less as their reciprocal compensation rate. Parties indicate, however, that many existing LEC–CMRS agreements reflect reciprocal compensation rates ''much higher than $0.0007.'' Thus, the supplemental record suggests that the Commission did not accurately assess the impact of its decision to immediately move to bill-and-keep for all LECs for this category of traffic.

7. Enabling carriers that have effective interconnection agreements governing the exchange of LEC–CMRS non-access traffic as of the adoption date of the *USF/ICC Transformation Order* to continue to exchange traffic and receive compensation pursuant to those existing agreements until July 1, 2012 will minimize market disruption, while enabling carriers to begin the process of revising such agreements immediately. In contrast, carriers exchanging LEC–CMRS non-access traffic without an interconnection agreement do not receive such compensation today, so the Commission finds no likelihood of marketplace disruption that would support reconsideration of its decision in that context. Accordingly, intercarrier compensation for non-access traffic exchanged between LECs and CMRS providers pursuant to an interconnection agreement in effect as of the adoption date of this Order, will be subject to a default bill-and-keep methodology on July 1, 2012 rather than on December 29, 2011. In the event that the Order is not published in the **Federal Register** before December 29,

2011, the Commission also finds good cause to waive these requirements to the extent necessary to preserve the status quo until such time that the Order goes into effect. The Commission may waive its rules for good cause shown. The Commission finds that waiver, if needed to preserve the status quo for a limited period consistent with the Order, will serve the public interest by protecting against the potential marketplace disruption, described above, that the Commission sought to avoid through the intercarrier compensation rule changes adopted in this Order. The Commission expects that, unless parties mutually agree otherwise, traffic will continue to be exchanged pursuant to existing interconnection agreements between the adoption date of the Order and June 30, 2012. The Commission cautions that parties should not use the Order as an opportunity to abuse the distinction between traffic subject to an interconnection agreement as of the adoption date of the *USF/ICC Transformation Order* and traffic not subject to an interconnection agreement in order to engage in arbitrage to avoid payment of intercarrier compensation charges. Indeed, the Commission will be monitoring the situation and will not hesitate to take action if it appears any such arbitrage is occurring.

8. The Commission strongly urges all parties with such agreements to immediately begin preparations for the July 1 effective date of the transitional recovery mechanism, including by commencing discussions regarding change-of-law provisions, if applicable. LECs should not view the Order as an excuse for delaying negotiations or deferring preparations. To ensure that the change the Commission adopts does not create incentives to engage in such delay, and consistent with the balance of interests discussed above, the Commission provides that, unless parties mutually agree otherwise, starting on July 1, 2012, compensation for traffic exchanged during the re-negotiation of interconnection agreements with change-of-law provisions will be subject to true-up at the level of reciprocal compensation for non-access LEC–CMRS traffic established in the resulting interconnection agreement, whether the default of bill-and-keep or other pricing negotiated by the carriers. The Commission finds that this limited departure from the Commission's prior determination not to override compensation arrangements in existing contracts is justified to ensure that the onset of bill-and-keep is not unilaterally delayed beyond the intended transition period due to delayed or extended re-negotiations under contractual change-of-law provisions. When the Commission set an immediate effective date for a default bill-and-keep methodology for this traffic in the *USF/ICC Transformation Order,* it found that re-negotiation under such provisions would help provide a reasonable transition for LECs with such agreements. Now, the change in the effective date for bill-and-keep provides a transition for non-access LEC–CMRS traffic to mitigate marketplace disruption for carriers for which these revenues may be significant today. Given that change, the Commission finds that this measure is necessary to maintain the balance of benefits to consumers and carriers from a default bill-and-keep methodology that the Commission intended in the *USF/ICC Transformation Order.* Further, because of the limited nature of this modification, the Commission finds that it will not have the harmful effects that concerned the Commission in adopting its general policy on existing agreements. The Commission also finds that adoption of this limited measure will have minimal adverse impact on carriers.

9. *Regulatory Flexibility Certification.* The Regulatory Flexibility Act (RFA) requires that agencies prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The Commission certifies that the rule revisions will not have a significant economic impact on a substantial number of small entities, because the action merely maintains the status quo for the entities affected. The Commission will send a copy of the Order, including such certification, to the Chief Counsel for Advocacy of the Small Business Administration.

10. *Paperwork Reduction Act Analysis.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

11. *Congressional Review Act.* The Commission will send a copy of the Order on Reconsideration in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (''CRA'').

12. *Effective Date.* The Commission concludes that good cause exists to make the effective date of the amendments to rule 47 CFR 54.101 effective immediately upon publication in the **Federal Register**, pursuant to § 553(d)(3) of the Administrative Procedure Act. Agencies determining whether there is good cause to make a rule revision take effect less than 30 days after **Federal Register** publication must balance the necessity for immediate implementation against principles of fundamental fairness that require that all affected persons be afforded a reasonable time to prepare for the effective date of a new rule. In this instance, no ETC will be prejudiced by the Order being effective immediately upon publication in the **Federal Register** because this action merely clarifies the intent of the *USF/ICC Transformation Order* and, by delaying the implementation date of the modified rule, restores the status quo for Lifeline-only ETCs in those states where they have already been designated that existed prior to the *USF/ICC Transformation Order* for a defined period of time. This will allow the Commission the opportunity to take further action with respect to the ''own facilities'' requirement for such providers in the context of the low-income program.

13. The Commission also concludes that good cause exists to make the revisions to §§ 20.11(e), 51.705(a), and 51.709(c) effective immediately upon publication in the **Federal Register**. As discussed above, allowing the rules subject to the Order to go into effect on December 29, 2011 may potentially result in a significant financial impact on LECs exchanging non-access LEC–CMRS traffic pursuant to interconnection agreements, contrary to the Commission's initial assumptions. Thus, the Commission finds good cause to make these rule revisions take effect upon publication in the **Federal Register**. Again, no parties will be prejudiced by this Order being effective immediately upon publication in the **Federal Register** because this action merely permits LECs and CMRS providers exchanging non-access traffic pursuant to an interconnection agreement to maintain the status quo for a defined period of time.

List of Subjects

47 CFR Part 20

Communications common carriers, Commercial mobile radio services, Interconnection, Intercarrier compensation.

47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 20 and 54 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 201, 251–254, 301, 303, 316, and 332 unless otherwise noted. Section 20.12 is also issued under 47 U.S.C. 1302.

■ 2. Section 20.11 is amended by revising paragraph (e) to read as follows:

§ 20.11 Interconnection to facilities of local exchange carriers.

* * * * *

(e) An incumbent local exchange carrier may request interconnection from a commercial mobile radio service provider and invoke the negotiation and arbitration procedures contained in section 252 of the Act. A commercial mobile radio service provider receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission.

* * * * *

PART 54—UNIVERSAL SERVICE

■ 3. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

Subpart B—Services Designated for Support

■ 4. Section 54.101 is amended by revising paragraph (a) to read as follows:

§ 54.101 Supported services for rural, insular and high cost areas.

(a) *Services designated for support.* Voice telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).

* * * * *

[FR Doc. 2012–349 Filed 1–10–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 9, 12, 42, and 52

[Correction; FAC 2005–55; FAR Case 2010–016; Item V; Docket 2010–0016, Sequence 1]

RIN 9000–AL94

Federal Acquisition Regulation; Public Access to the Federal Awardee Performance and Integrity Information System; Correction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Correction.

SUMMARY: This document contains a correction to the final rule that was published in the **Federal Register** at 77 FR 197 on January 3, 2012. An applicability date to the rule was inadvertently omitted.

DATES: The effective date for the rule published at 77 FR 197 remains January 3, 2012.

Applicability Date: The clause prescription of this rule applies to solicitations issued on or after January 17, 2012, and resultant contracts.

With regard to information entered by the Government into FAPIIS on and after January 17, 2012—

(1) There will be a 14-calendar-day delay in the posting to the publicly available segment of FAPIIS; and

(2) The notification generated when the Government posts new information to the contractor's record will inform the contractor of the 14-calendar-day delay and the contractor's right to request withdrawal of the posted information if the contractor asserts that the information is covered by a disclosure exemption under the Freedom of Information Act, as set forth in FAR 9.105–2(b)(2)(iv).

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at (202) 501–0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–55, FAR Case 2010–016; Correction.

SUPPLEMENTARY INFORMATION: This document contains a correction to the final rule that was published in the **Federal Register** at 77 FR 197 on January 3, 2012, by adding an applicability date to the rule that was inadvertently omitted.

DoD, GSA, and NASA adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement section 3010 of the Supplemental Appropriations Act, 2010. Section 3010 requires that the information in the Federal Awardee Performance and Integrity Information System (FAPIIS), excluding past performance reviews, shall be made publicly available. The interim rule notified contractors of this new statutory requirement for public access to FAPIIS.

The delayed application of the final rule will allow time for the Government to complete necessary system changes to support the 14-day wait period. The current system was designed to automatically transfer to the publicly available segment of FAPIIS all information posted by the Government (other than past performance information). As a result, until the change is implemented, there will not be an opportunity for a contractor to request withholding of the information before it is posted to the publicly available segment of FAPIIS. Any information entered into FAPIIS by the Government on or after January 17, 2012 (other than past performance information, which will not transfer to the publicly available segment of FAPIIS), will be subject to a 14-calendar-day delay before it is transferred to the publicly available segment of FAPIIS, regardless of whether the contract includes the January 2012 version or the January 2011 version of FAR 52.209–9, Updates of Publicly Available Information Regarding Responsibility Matters. This will allow all contractors opportunity to assert for the Government's consideration, within 7 calendar days of being posted, that the information is covered by a disclosure exemption under the Freedom of Information Act.

Dated: January 5, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–291 Filed 1–10–12; 8:45 am]

BILLING CODE 6820–EP–P

Proposed Rules

Federal Register
Vol. 77, No. 7
Wednesday, January 11, 2012

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 253

[FNS–2011–0036]

RIN 0584–AE05

Food Distribution Program on Indian Reservations: Income Deductions and Resource Eligibility

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend regulations for the Food Distribution Program on Indian Reservations (FDPIR). The changes are intended to simplify and improve the administration of and expand access to FDPIR, and promote conformity with the Supplemental Nutrition Assistance Program (SNAP). First, the Department proposes an amendment that would eliminate household resources from consideration when determining FDPIR eligibility. Second, to more closely align FDPIR and SNAP regulations, the Department proposes to expand the current FDPIR income deduction for Medicare Part B Medical Insurance and Part D Prescription Drug Coverage premiums to include other monthly medical expenses in excess of $35 for households with elderly and/or disabled members. This rule also proposes to establish an income deduction for shelter and utility expenses. Finally, the Department proposes verification requirements related to the proposed income deductions and revisions to the household reporting requirements that will more closely align FDPIR and SNAP regulations.

DATES: To be assured of consideration, comments must be received on or before April 10, 2012.

ADDRESSES: The Food and Nutrition Service (FNS) invites interested persons to submit comments on this proposed rule. You may submit comments identified by Regulatory Identifier Number (RIN) 0584–AE05, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* In the Enter Keyword or ID field insert ''FNS–2011–0036'', and then click on Search. Click on Submit a Comment.
- Information on using Regulations.gov, including detailed instructions for accessing documents, making comments, and viewing submitted comments is available through the site's ''FAQs'' link.
- *Fax:* Submit comments by facsimile transmission to (703) 305–2782.
- *Disk or CD–ROM:* Submit comments on disk to Laura Castro, Director, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 504, Alexandria, Virginia 22302–1594.
- *Mail:* Send comments to Laura Castro at the above address.
- *Hand Delivery or Courier:* Deliver comments to the above address.

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

FOR FURTHER INFORMATION CONTACT: Dana Rasmussen by telephone at (703) 305–2662.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background and Discussion of the Proposed Rule
III. Procedural Matters

I. Public Comment Procedures

Your written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason(s) for any change you recommend or proposal(s) you oppose. Where possible, you should reference the specific section or paragraph of the proposal you are addressing. Comments received after the close of the comment period (see **DATES**) will not be considered or included in the Administrative Record for the final rule.

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

(1) Are the requirements in the proposed regulations clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (*e.g.,* grouping and order of sections, use of heading, and paragraphing) make it clearer or less clear?

(4) Would the rule be easier to understand if it was divided into more (but shorter) sections?

(5) Is the description of the rule in the preamble section entitled ''Background and Discussion of the Proposed Rule'' helpful in understanding the rule? How could this description be more helpful in making the rule easier to understand?

II. Background and Discussion of the Proposed Rule

The Department proposes to amend the regulations for FDPIR at 7 CFR part 253. These changes are intended to improve the administration of FDPIR and service to program applicants and participants, and respond to a resolution passed by the membership of the National Association of Food Distribution Programs on Indian Reservations (NAFDPIR) in June 2009. These proposed provisions would simplify program administration and promote conformity with SNAP. The Department proposes amendments that would: (1) Eliminate household resources from consideration when determining FDPIR eligibility; (2) expand the current income deduction for Medicare Part B Medical Insurance and Part D Prescription Drug Coverage premiums to include other monthly medical expenses in excess of $35 for households with elderly and/or disabled members, as defined at 7 CFR 253.2; (3) establish an income deduction for shelter and utility expenses; and (4) establish verification requirements related to the proposed income deductions and revise household reporting requirements. The amendments are discussed in more detail below.

In the following discussion and regulatory text, the term ''State agency,'' as defined at 7 CFR 253.2, is used to include Indian Tribal Organizations (ITOs) authorized to operate FDPIR and

Food Distribution Program for Indian Households in Oklahoma (FDPIHO) in accordance with 7 CFR parts 253 and 254. The term ''FDPIR'' is used in this rulemaking to refer collectively to FDPIR and FDPIHO.

1. Eliminate the Eligibility Criterion Based on Household Resources—7 CFR 253.6(d)

Currently, the FDPIR household resource limits are $3,250 for households with at least one elderly/disabled member and $2,000 for all other households. In response to a separate rulemaking published in the **Federal Register** on April 27, 2010 (75 FR 22027), which proposed to amend FDPIR regulations by aligning provisions with changes to SNAP as a result of the Food, Conservation, and Energy Act of 2008, FNS received numerous comment letters regarding the FDPIR household resource eligibility criterion. Many of the comment letters supported elimination of the FDPIR resource test or alignment of FDPIR and SNAP policies. Based on the comments received, the Department proposes to eliminate the household resource eligibility criterion in FDPIR. In the regulatory impact analysis of this proposed rule, we estimate that eliminating the resource test would increase FDPIR participation by less than one percent. Removal of the resource test would streamline the certification process for new and currently participating households and simplify program administration, reducing the burden on State agency certification staff and improving service to those in need of nutrition assistance. To eliminate the resource standard from current regulations, the Department proposes to remove the regulatory provisions at 7 CFR 253.6(d). This proposal does not affect the requirement that households meet maximum FDPIR income limits and other eligibility criteria provided under current program regulations.

The Department also proposes conforming amendments to remove reference to the resource test throughout the current FDPIR regulations. The proposed amendments to 7 CFR 253.6(c) on categorical eligibility remove reference to resource eligibility. This rule would also remove 7 CFR 253.7(f)(2)(i), which currently references resources of disqualified household members. The rule would redesignate the current paragraphs at 7 CFR 253.7(f)(2)(ii) and (f)2)(iii) as paragraphs (f)(2)(i) and (f)(2)(ii), respectively.

The Department also proposes an amendment to 7 CFR 253.6(e)(3)(viii) (to be redesignated as 7 CFR 253.6(d)(3)(viii)), which currently references non-recurring lump sum payments, such as security deposits on rental property or utilities, tax refunds, and retroactive Social Security payments. The amendment would remove the language that provides these payments are counted as resources in the month received. Therefore, non-recurring lump sum payments would not be considered in determining the eligibility of households for FDPIR.

The Department proposes similar treatment of periodic per capita payments that are derived from the profits of Tribal enterprises and distributed to Tribal members less frequently than monthly. As with non-recurring lump sum payments, the amount and time of receipt of periodic per capita payments cannot always be anticipated by FDPIR participants in order to be considered during the household's income eligibility determination. Consequently, non-monthly per capita payments are reported upon receipt in accordance with the change reporting requirements at 7 CFR 253.7(c). In most instances, receipt of these payments does not impact household eligibility in the month of receipt because there is not sufficient time for the State agency to take action to terminate the household if the payment results in the household's ineligibility. In accordance with 7 CFR 253.7(c), households must report a change within 10 calendar days, and the State agency must act on the reported change and issue a notice of adverse action no later than 10 days after the change is reported. The notice of adverse action must provide a minimum of 10 days from the date of the notice to the date upon which the termination becomes effective. Under current regulations, funds from the per capita payment that remain available to the household in the month after receipt are considered a resource.

In accordance with the proposal to remove consideration of household resources in determining eligibility for FDPIR, the Department proposes to amend 7 CFR 253.6(e)(3)(viii) (to be redesignated as 7 CFR 253.6(d)(3)(viii)) to specify that non-recurring lump sum payments and non-monthly per capita payments would no longer be considered in determining the eligibility of households for FDPIR. Furthermore, the Department proposes to amend 7 CFR 253.6(e)(2)(ii) (to be redesignated as 7 CFR 253.6(d)(2)(ii)) to clarify that per capita payments received monthly are considered unearned income in the month received. This is consistent with current program policy.

2. Medical Expense Deduction—7 CFR 253.6(f) (To Be Redesignated as 7 CFR 253.6(e))

The Department proposes a change that would revise the provisions at 7 CFR 253.6(f)(4) (to be redesignated as 7 CFR 253.6(e)(4)) to expand the current deduction for Medicare Part B Medical Insurance and Part D Prescription Drug Coverage premiums to include other monthly medical expenses in excess of $35 incurred by any household member who is elderly or disabled as defined in 7 CFR 253.2. This change would align FDPIR and SNAP regulations. Also, this change would respond to Resolution 2009–01 passed by the membership of NAFDPIR in June 2009. That resolution requested an income deduction for unreimbursed medical expenses for prescription drugs and other medical expenses, other than for plastic surgery. As provided above, in order to reflect the proposed elimination of 7 CFR 253.6(d), we are proposing to redesignate current 7 CFR 253.6(f) as proposed paragraph (e).

The Department proposes to adopt SNAP policy at 7 CFR 273.9(d)(3) in regard to allowable medical costs. The proposed allowable medical costs are:

(a) Medical and dental care, including psychotherapy and rehabilitation services, provided by a licensed practitioner authorized by State law or other qualified health professional;

(b) Hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home, provided by a facility recognized by the State;

(c) Prescription drugs when prescribed by a licensed practitioner authorized under State law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment are deductible;

(d) Health and hospitalization insurance policy premiums. Costs that are not deductible include health and accident policies such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled;

(e) Medicare premiums related to coverage under Title XVIII of the Social Security Act; any cost-sharing or spend down expenses incurred by Medicaid recipients;

(f) Dentures, hearing aids, and prosthetics;

(g) Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;

(h) Eye glasses prescribed by a physician skilled in eye disease or by an optometrist;

(i) Reasonable cost of transportation and lodging to obtain medical treatment or services; and

(j) Maintaining an attendant, homemaker, home health aide, child care services, or housekeeper, necessary due to age, infirmity, or illness.

SNAP regulations at 7 CFR 273.9(d) include an income deduction for all Medicare premium expenses in excess of $35. Current FDPIR regulations at 7 CFR 253.6(f)(4) and program policy permit only a deduction for the full amounts of Medicare Part B Medical Insurance and Part D Prescription Drug Coverage premiums, respectively. In order to simplify program administration and in recognition of the significantly expanded range of deductible medical costs considered allowable under SNAP, the Department proposes to align the Medicare provision with SNAP by permitting deductions for all Medicare premiums in excess of $35.

The SNAP regulations at 7 CFR 273.9(d)(3)(x) allow a deduction for an amount equal to the SNAP benefit for a one-person household if the household furnishes the majority of a home care attendant's meals. The Department proposes to adopt this same provision for FDPIR.

Regarding the proposed meal-related deduction, the Department purchases the USDA foods provided under FDPIR at a reduced cost due to high volume purchases under long-term contracts with vendors. Consequently, the estimated average monthly per person FDPIR food package cost, which is adjusted annually, does not represent the retail value of the food package if identical foods were purchased by a family at a grocery store. The Department believes that it would be appropriate to adopt the SNAP policy of basing the meal-related deduction for the attendant on the maximum SNAP allotment for a one-person household. The SNAP allotments are based on the Thrifty Food Plan (TFP), which reflects current dietary recommendations, food consumption patterns, food composition data, and food prices.

The Department would provide the State agencies, on an annual basis, the updated amount of the maximum SNAP allotment for a one-person household. The State agency would not be required to update the meal-related deduction amount until the household's next scheduled recertification, but may opt to do so earlier if that amount is available. If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the State agency would treat the cost as a medical expense.

3. Shelter and Utility Expense Deduction—7 CFR 253.6(f) (To Be Redesignated as 7 CFR 253.6(e))

The Department proposes a change that would revise the provisions at 7 CFR 253.6(f) (to be redesignated as 7 CFR 253.6(e)) to establish region-specific standard income deductions for monthly shelter and utility expenses. This change would respond to Resolution 2009–01 passed by the membership of NAFDPIR in June 2009. The resolution noted that shelter expenses such as home heating fuel and utilities may impact a household's ability to obtain food, and such factors are not currently factored into FDPIR eligibility determinations. SNAP regulations under 7 CFR Part 273 allow standard income deductions for shelter expenses in determining eligibility for that program.

Under this proposal, an FDPIR applicant household would receive a standard deduction if it incurs the cost of at least one allowable shelter/utility expense. The Department proposes to indicate that allowable shelter and utility expenses would conform to those expenses allowable for SNAP under 7 CFR 273.9(d)(6)(ii). Such expenses include the following:

(a) Continuing charges for the shelter occupied by the household, including rent, mortgage, condominium and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.

(b) Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

(c) The cost of fuel for heating or cooling (i.e., the operation of air conditioning systems or room air conditioners); electricity or fuel used for purposes other than heating or cooling; water; sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; all service fees required to provide service for one telephone, including, but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, and taxes; and fees charged by the utility provider for initial installation of the utility. One-time deposits are not deductible.

(d) The shelter costs for the home if temporarily not occupied by the household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss. For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for program purposes; and the home must not be leased or rented during the absence of the household.

(e) Charges for the repair of a home that was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs cannot include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

The amount of the deduction would be regionally based. The Department proposes to implement shelter/utility expense standard deductions specific to four regions: (1) Northeast/Midwest, (2) Southeast/Southwest, (3) Mountain Plains, and (4) West. The Department would, on an annual basis, calculate the shelter/utility standard deductions for each region, starting from a region-specific baseline deduction. The proposed baseline for each FDPIR regional shelter/utility standard deduction is provided below, which assumes implementation in Fiscal Year 2013.

PROJECTED FY 2013 FDPIR STANDARD SHELTER/UTILITY EXPENSE DEDUCTIONS BASELINE BY REGION

Region	States currently with FDPIR programs	Shelter/utility deduction
Northeast/Midwest	Michigan, Minnesota, New York, Wisconsin	$350
Southeast/Southwest	Mississippi, New Mexico, North Carolina, Oklahoma, Texas	300
Mountain Plains	Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming	400

PROJECTED FY 2013 FDPIR STANDARD SHELTER/UTILITY EXPENSE DEDUCTIONS BASELINE BY REGION—Continued

Region	States currently with FDPIR programs	Shelter/utility deduction
West	Alaska, Arizona, California, Idaho, Nevada, Oregon, Washington	350

In developing the regional groupings and baseline shelter/utility standard deductions, the Department considered data from a number of sources, including national surveys of shelter costs and data on SNAP participants' shelter deductions. The Department also considered where FDPIR programs currently operate. If new programs are approved to administer FDPIR in States not listed above, the Department would identify the appropriate regional grouping for each new State.

The Department would, on an annual basis, calculate the shelter/utility standard deductions for each region. As part of the annual calculation, the Department would adjust the previous year's regional shelter/utility expense standard deduction amounts to account for changes to SNAP Quality Control data, rounding to the nearest $50. The Department would issue the revised shelter/utility standard deductions prior to October 1 each year.

Under the proposed provision, an applicant household that would qualify for a shelter/utility standard deduction would have the option to receive the appropriate deduction amount for the State in which the household resides or the State in which the State agency's central administrative office is located. These States could potentially be located in two different regions which have different shelter/utility expense standard deductions.

The Department believes that the proposed shelter/utility provisions are easy to understand and promote simplicity and efficiency in program administration. Because the Department would issue the regional shelter/utility standard deductions annually, no undue burden would be placed on State agencies to determine such amounts. Furthermore, as proposed, FDPIR households would not be required to produce documentation for all shelter/utility expenses; households would need only to provide documentation for one allowable shelter/utility expense. The State agency would apply the appropriate regional standard shelter deduction and would not be required to perform an additional calculation to determine the household's shelter deduction amount. This simplifies the application and certification processes, preventing an undue burden on applicants and State agency staff. Because the shelter/utility standard deductions would be region-specific, such deductions would recognize the variability in shelter and utility costs across the nation.

4. Verification Requirements and Household Reporting—7 CFR 253.7(a)(6)(i) and 7 CFR 253.7(c)(1)

The Department proposes new household verification requirements related to the two proposed income deductions discussed above. Amendments are proposed to 7 CFR 253.7(a)(6)(i) to revise the current verification requirements for Medicare Part B and Part D premiums to reflect the proposed expanded medical expense deduction. Also, an amendment is proposed to add a verification requirement for shelter and utility expenses at 7 CFR 253.7(a)(6)(i). As indicated above, applicant households must show proof of at least one allowable shelter/utility expense to receive the FDPIR standard deduction for shelter/utility expenses.

The Department also proposes amendments to the reporting requirements at 7 CFR 253.7(c)(1) to reorganize this section for better comprehension, and to improve the administration of FDPIR and service to program applicants and participants. First, the Department proposes a requirement for households to report a change in residence and when they no longer have shelter/utility expenses. Households that do not have shelter/utility expenses would not qualify for the standard deduction for shelter/utility expenses proposed in this rulemaking. Therefore, the Department believes it is reasonable to require households to report if they no longer have such expenses so the State agency can determine if the household continues to meet the FDPIR financial eligibility criteria. A change in residence often results in a change to shelter/utility expenses. In addition, a change in residence may also impact a household's eligibility if the household no longer meets the residency requirement under FDPIR. Eligible households must reside on a participating reservation or in approved FDPIR service areas outside of a reservation or in the state of Oklahoma. Therefore, a change in residence might result in a household becoming ineligible for FDPIR benefits.

The Department also proposes a new requirement under 7 CFR 253.7(c)(1) that households report changes in the legal obligation to pay child support. Households that do not have a legal obligation to pay child support do not qualify for the current child support deduction. Therefore, the Department believes it is reasonable to require the reporting of this change so that service providers can determine if households continue to meet the FDPIR financial eligibility criteria.

Finally, the Department proposes a revision regarding the reporting of changes in income. The current provisions at 7 CFR 253.7(c)(1) require households to report changes in income that would necessitate a change in the eligibility determination. The State agencies are required to advise each household at the time of certification the maximum monthly income limit for its household size, so the household will know to report an increase in income above that limit. The Department does not believe that this methodology is practical. A household's monthly net income amount, which is compared to the monthly income limit, is calculated by subtracting allowable deductions from the household's gross income. Households cannot be expected to know how an increase in monthly gross income will impact its monthly net income amount, because such households are not knowledgeable about the net monthly income calculation. Therefore, the Department proposes an amendment to regulations at 7 CFR 253.7(c)(1) to require households to report an increase of more than $100 in gross monthly income. This change would provide a more effective guideline for households to determine when changes in income must be reported.

III. Procedural Matters

A. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic,

environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

B. Regulatory Impact Analysis

1. Need for Action

This action is needed to ensure that regulations pertaining to income deductions are more consistent between FDPIR and SNAP. FDPIR was established by the Congress in 1977 as an alternative to SNAP for low-income households living on or near Indian reservations; these households may not have easy access to SNAP offices and authorized grocery stores. Both programs offer a standard deduction, an earned income deduction, a child support deduction, and a dependent care deduction. SNAP also offers an excess medical expense deduction and an excess shelter expense deduction. Unlike SNAP, the medical deduction currently offered in FDPIR is limited to the amount households pay for Medicare Part B and Part D premiums. FDPIR does not offer an income deduction for shelter and utility expenses.

This proposed rulemaking responds to a resolution passed by the membership of the NAFDPIR in June 2009 that requested income deductions for home heating expenses and other utilities, prescription medications, and other out-of-pocket medical expenses. The NAFDPIR resolution stated that the FDPIR income eligibility criteria unfairly penalizes households whose net monthly income is determined to be over the income standard by as little as one dollar, while many of these households have monthly shelter, utility, and/or medical expenses. NAFDPIR believes that some low-income households are forced to choose between paying for food and paying for heat and/or medicine.

FNS received numerous comment letters in response to separate proposed rulemaking supporting elimination of the FDPIR resource test or alignment of FDPIR and SNAP policies. This proposed rule would eliminate the household resource eligibility criterion for FDPIR. Removal of the resource test would streamline the certification process for new and currently participating households and simplify program administration, reducing the burden on State agency certification staff and improving service to those in need of nutrition assistance.

2. Benefits

This rule proposes to amend FDPIR regulations to improve the administration of and expand access to FDPIR. This rule also promotes parity with the eligibility requirements in SNAP. These regulatory changes are designed to help ensure that FDPIR benefits are provided to low-income households living on or near Indian reservations that are in need of nutrition assistance. The proposed changes to the FDPIR regulations could potentially increase participation, thus expanding access to FDPIR and increasing nutrition assistance for the targeted population.

FNS projects the impact of the proposed changes on FDPIR participation, as follows:

(a) *Elimination of the Household Resource Limit.* This provision is projected to increase participation ranging from approximately 189 individuals in the first year of implementation to 568 individuals 3 years later;

(b) *Medical Expense Deduction.* This provision would potentially make some elderly and/or disabled individuals with sizeable monthly medical expenses newly eligible for FDPIR. The projected increase in participation ranges from approximately 67 individuals in the first year of implementation to 201 individuals three years later; and

(c) *Shelter/Utility Expense Deduction.* This provision is projected to increase participation ranging from approximately 752 individuals in the first year of implementation to 2,257 individuals three years later.

There is some uncertainly associated with the estimates above given the limitations on relevant data pertaining to FDPIR participants. Also, the impact of each provision on participation was evaluated independently from the other provisions, so the combined effect or overlap of these provisions is unknown. It is expected that some individuals might benefit from more than one provision. For example, an elderly household may qualify for both the medical expense deduction and the shelter/utility expense deduction.

3. Cost

This action is not expected to significantly increase costs of State and local agencies, or their commercial contractors, though these costs cannot be determined with any accuracy. ITOs and State agencies that administer FDPIR are required to provide 25 percent of the funds necessary to operate the program. This requirement may be waived with FNS approval if compelling justification exists. Any increased ITO/State agency costs resulting from this rulemaking would be related to an increase in the ITO/State agency share of administrative costs to serve additional households made eligible by this rule.

FNS projects the impact of the proposed changes on federal costs (i.e., program benefits), which are attributable to potential increases in participation.

(a) *Elimination of the Household Resource Limit.* FNS estimates that this provision would cost $1,857,000 over a 5-year period.

(b) *Medical Expense Deduction.* FNS estimates that this provision would cost $656,000 over a five-year period.

(c) *Shelter/Utility Expense Deduction.* FNS estimates that this provision would cost $7,375,000 over a five-year period.

As with the estimates on the impact on participation, there is some uncertainty associated with the cost estimates above. Also, as indicated above, the impact of each provision on participation was evaluated independently from the other provisions, so the combined effect or overlap of these provisions is unknown. If individuals benefit from more than one provision, the estimated cost to the federal government would be less.

C. Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). It has been certified that this rule will not have a significant impact on a substantial number of small entities. While program participants and ITOs and State agencies that administer FDPIR and the Food Distribution Program for Indian Households in Oklahoma will be affected by this rulemaking, the economic effect will not be significant.

D. Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost/benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures by State, local, or Tribal governments, in the aggregate, or

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

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose on State, local, and Tribal governments or the private sector expenditures of $100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 12372

The program addressed in this action is listed in the Catalog of Federal Domestic Assistance under No. 10.567. For the reasons set forth in the final rule in 7 CFR part 3015, Subpart V, and related Notice published at 48 FR 29114, June 24, 1983, the donation of foods in such programs is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

F. Executive Order 13132

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132.

1. Prior Consultation With Tribal/State Officials

The programs affected by the regulatory proposals in this rule are all Tribal or State-administered federally funded programs. FNS' national and regional offices have formal and informal discussions with State agency officials and representatives on an ongoing basis regarding program issues relating to FDPIR. FNS meets annually with the NAFDPIR membership, a national group of Tribal and State-appointed FDPIR Program Directors, to discuss issues relating to FDPIR. FNS also meets with the NAFDPIR Board on a more frequent basis.

The changes proposed in this rulemaking related to the deduction for shelter and utility expenses are based on a resolution passed by the NAFDPIR membership in June 2009, and were discussed with the NAFDPIR Board and its membership. This rulemaking was also the subject of formal consultation with Tribal officials held in seven locations in October 2010 through January 2011, as discussed below.

2. Nature of Concerns and the Need To Issue This Rule

Eligible low-income households living in areas served by FDPIR may choose to participate in either FDPIR or SNAP. SNAP regulations offer an income deduction for excess shelter expenses and an income deduction for allowable monthly medical expenses in excess of $35 for households with elderly and/or disabled members. This proposed rulemaking would respond to a resolution passed by the membership of the NAFDPIR in June 2009 that requested income deductions for home heating expenses and utilities, prescription medications, and other out-of-pocket medical expenses. The NAFDPIR resolution read that the FDPIR income eligibility criteria unfairly penalizes households whose net monthly income is determined to be over the income standard by as little as one dollar, while many of these households have monthly shelter, utility and/or medical expenses. NAFDPIR believes that some low-income households are forced to choose between paying for food and paying for heat and/or medicine.

FNS also received numerous comment letters in response to separate proposed rulemaking supporting elimination of the FDPIR resource test or alignment of FDPIR and SNAP policies. This proposed rulemaking responds to the concerns raised by commenters.

3. Extent to Which We Meet Those Concerns

The Department has considered the impact of this rule on ITOs and State agencies that administer FDPIR. The Department does not expect the provisions of this rule to conflict with any State or local law, regulations, or policies. The overall effect of this rule is to ensure that low-income households living on or near Indian reservations receive nutrition assistance.

G. Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' Although the provisions of this rule are not expected to conflict with any State or local law, regulations, or policies, the rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of this rule or the applications of its provisions, all applicable administrative procedures must be exhausted.

H. Civil Rights Impact Analysis

The Department has reviewed this rule in accordance with the Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify and address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. Consistent with current SNAP regulations, the proposed provision to expand the current income deduction for Medicare Part B Medical Insurance and Part D Prescription Drug Coverage premiums to include other allowable monthly medical expenses in excess of $35 would apply only to households with elderly and/or disabled members, as defined at 7 CFR 253.2. However, after a careful review of the rule's intent and provisions, the Department has determined that this rule will not in any way limit or reduce the ability of participants to receive the benefits of donated foods in food distribution programs on the basis of an individual's or group's race, color, national origin, sex, age, political beliefs, religious creed, or disability. The Department found no factors that would negatively affect any group of individuals.

I. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; see 5 CFR part 1320) requires that OMB approve all collections of information by a Federal agency from the public before they can be implemented. Information collections related to the provisions in this proposed rule were previously approved under OMB No. 0584–0293.

This rule would impact the reporting and recordkeeping burden for ITOs and State agencies under OMB No. 0584–0293 due to an expected change in number of households participating in FDPIR as a result of this rule and related changes to verification and household reporting requirements. Documentation supporting the eligibility of all participating households must be maintained by the ITOs and State agencies.

The approved information collection estimates under OMB No. 0584–0293 are as follows:

Estimated total annual burden: 1,079,172.92.

Estimated annual recordkeeping burden: 746,400.42.

Estimated annual reporting burden: 332,772.49.

Changes resulting from this proposed rule would result in the following changes to OMB No. 0584–0293:

Estimated total annual burden: 1,081,071.76.

Estimated annual recordkeeping burden: 746,428.44.

Estimated annual reporting burden: 334,643.32.

These information collection requirements will not become effective until approved by OMB. Once they have been approved, FNS will publish a separate action in the **Federal Register** announcing OMB's approval.

J. E-Government Act Compliance

The Department is committed to complying with the E-Government Act 2002 to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

K. Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by Tribal officials or their designees concerning the effect of this and other rules on Tribes or Indian Tribal governments, or whether this rule may preempt Tribal law. In regard to the provisions of this rule, a session attendee spoke in support of the provision that would eliminate the resource eligibility criteria. Another attendee spoke about Tribal per capita payments and how receipt of these payments negatively affects the eligibility of some households under current rules.

Reports from the consultative sessions will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will offer future opportunities, such as Webinars and teleconferences, for collaborative conversations with Tribal leaders and their representatives concerning ways to improve rules with regard to their affect on Indian country.

We are unaware of any current Tribal laws that could be in conflict with the proposed rule. We request that commenters address any concerns in this regard in their responses.

List of Subjects in 7 CFR Part 253

Administrative practice and procedure, Food assistance programs, Grant programs, Social programs, Indians, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR part 253 is proposed to be amended as follows:

PART 253—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR HOUSEHOLDS ON INDIAN RESERVATIONS

1. The authority citation for 7 CFR part 253 continues to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2036).

2. In § 253.6:

a. Amend the heading of paragraph (c) by removing the words ''and resource'';

b. Amend paragraph (c)(1) by removing the words ''and resources'';

c. Amend paragraph (c)(2) by removing the words ''and resources'';

d. Remove paragraph (d) and redesignate paragraphs (e) and (f) as paragraphs (d) and (e), respectively;

e. In redesignated paragraph (d), redesignate paragraph (d)(2)(ii)(F) as paragraph (d)(2)(ii)(G), and add new paragraph (d)(2)(ii)(F);

f. Amend redesignated paragraph (d)(3)(viii) by removing the second sentence;

g. Add a new paragraph (d)(3)(xii);

h. In redesignated paragraph (e), revise paragraph (e)(4), and, add a new paragraph (e)(5).

The revision and additions read as follows:

§ 253.6 Eligibility of households.

* * * * *

(d) * * *

(2) * * *

(ii) * * *

(F) Per capita payments that are derived from the profits of Tribal enterprises and distributed to Tribal members on a monthly basis.

* * * * *

(3) * * *

(xii) Per capita payments that are derived from the profits of Tribal enterprises and distributed to Tribal members less frequently than monthly (e.g., quarterly, semiannually or annually) are excluded from consideration as income.

* * * * *

(e) * * *

(4) Households must receive a medical deduction for that portion of medical expenses in excess of $35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in § 253.2 of this chapter. Spouses or other persons receiving benefits as a dependent of a Supplemental Security Income (SSI), or disability and blindness recipient are not eligible to receive this deduction; however, persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction. The allowable medical costs are those permitted at 7 CFR 273.9(d)(3) for the Supplemental Nutrition Assistance Program (SNAP).

(5) Households that incur monthly shelter and utility expenses will receive a shelter/utility standard deduction, subject to the provisions below.

(i) The household must incur, on a monthly basis, at least one allowable shelter/utility expense. The allowable shelter/utility expenses are those permitted at 7 CFR 273.9(d)(6)(ii) for SNAP.

(ii) The shelter/utility standard deduction amounts are set by FNS on a regional basis. The standard deductions are adjusted annually to reflect changes to SNAP Quality Control data. FNS will advise the State agencies of the updates prior to October 1 of each year.

(iii) If eligible to receive a shelter/utility standard deduction, the applicant household may opt to receive the appropriate deduction amount for the State in which the household resides or the State in which the State agency's central administrative office is located.

* * * * *

3. In § 253.7:

a. Revise paragraph (a)(6)(i)(C);

b. Add new paragraph (a)(6)(i)(D);

c. Revise paragraph (c)(1);

d. Remove paragraph (f)(2)(i) and redesignate paragraphs (f)(2)(ii) and (f)(2)(iii) as paragraphs (f)(2)(i) and (f)(2)(ii), respectively.

The revisions and addition read as follows:

§ 253.7 Certification of households.

(a) * * *

(6) * * *

(i) * * *

(C) *Excess medical expense deduction.* The State agency must obtain verification for those medical expenses that the household wishes to deduct in accordance with 7 CFR 253.6(e)(4). The allowability of services

provided (e.g., whether the billing health professional is a licensed practitioner authorized by State law or other qualified health professional) must be verified, if questionable. Only out-of-pocket expenses can be deducted. Expenses reimbursed to the household by an insurer are not deductible. The eligibility of the household to qualify for the deduction (i.e., the household includes a member who is elderly or disabled) must be verified, if questionable.

(D) *Standard shelter/utility deduction.* A household must incur, on a monthly basis, at least one allowable shelter/utility expense in accordance with 7 CFR 253.6(e)(5)(i) to qualify for the standard shelter/utility deduction. The State agency must verify that the household incurs the expense.

* * * * *

(c) * * *

(1) The State agency must develop procedures for how changes in household circumstances are reported. Changes reported over the telephone or in person must be acted on in the same manner as those reported in writing. Participating households are required to report the following changes within 10 calendar days after the change becomes known to the household:

(i) A change in household composition;

(ii) An increase in gross monthly income of more than $100;

(iii) A change in residence;

(iv) When the household no longer incurs a shelter and utility expense; or

(v) A change in the legal obligation to pay child support.

* * * * *

Dated: December 29, 2011.

Janey Thornton,

Acting Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. 2012–391 Filed 1–10–12; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2011–BT–DET–0079]

RIN 1904–AC69

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Proposed Determination of Residential Central Air Conditioner Split-System Condensing Units and Residential Heat Pump Split-System Outdoor Units as a Covered Consumer Product

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

ACTION: Proposed determination.

SUMMARY: The U.S. Department of Energy (DOE) proposes to determine that Residential Central Air Conditioner Split-System Condensing Units (hereafter referred to as ''Condensing Units'') and Residential Heat Pump Split-System Outdoor Units (hereafter referred to as ''Outdoor Units) qualify as a covered product under Part A of Title III of the Energy Policy and Conservation Act (EPCA), as amended. DOE has determined that Condensing Units and Outdoor Units meet the criteria for covered products because: (1) Classifying products of such type as covered products is necessary or appropriate to carry out the purposes of EPCA, and (2) the average U.S. household energy use for Condensing Units and Outdoor Units are likely to exceed 100 kilowatt-hours (kWh) per year.

DATES: DOE will accept written comments, data, and information on this notice, but no later than February 10, 2012.

ADDRESSES: Interested persons may submit comments, identified by docket number EERE–2011–BT–DET–0079, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov* Follow the instructions for submitting comments.
- *Email: Brenda.Edwards@ee.doe.gov.* Include EERE–2011–BT–DET–0079 and/or RIN 1904–AC69 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, EERE–2011–BT–DET–0079 and/or RIN 1904–AC69, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Phone:* (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. *Phone:* (202) 586–2945. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number or RIN for this notice.

Docket: For access to the docket to read background documents, a copy of the transcript of the public meeting, or comments received, go to the U.S. Department of Energy, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586–2945 for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, 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) 586–17335. Email: *Ashley.Armstrong@ee.doe.gov.*

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

Table of Contents

I. Statutory Authority
II. Current Rulemaking Process
III. Proposed Definition(s)
IV. Evaluation of Condensing Units and Outdoor Units as a Covered Product Subject to Energy Conservation Standards
  A. Coverage Appropriate to Carry Out Purposes of EPCA
  B. Average Household Energy Use
V. Procedural Issues and Regulatory Review
  A. Review Under Executive Order 12866
  B. Review Under the Regulatory Flexibility Act
  C. Review Under the Paperwork Reduction Act of 1995
  D. Review Under the National Environmental Policy Act of 1969
  E. Review Under Executive Order 13132
  F. Review Under Executive Order 12988
  G. Review Under the Unfunded Mandates Reform Act of 1995
  H. Review Under the Treasury and General Government Appropriations Act of 1999
  I. Review Under Executive Order 12630
  J. Review Under the Treasury and General Government Appropriations Act of 2001
  K. Review Under Executive Order 13211
  L. Review Under the Information Quality Bulletin for Peer Review
VI. Public Participation
  A. Submission of Comments
  B. Issues on Which DOE Seeks Comments

I. Statutory Authority

Title III of the Energy Policy and Conservation Act (EPCA), as amended (42 U.S.C. 6291 *et seq.*), sets forth various provisions designed to improve energy efficiency. Part A of Title III of EPCA (42 U.S.C. 6291–6309) established the ''Energy Conservation Program for Consumer Products Other Than Automobiles,'' which covers consumer products and certain commercial products (hereafter referred to as ''covered products'').[1] In addition to specifying a list of covered residential and commercial products, EPCA contains provisions that enable the Secretary of Energy to classify additional types of consumer products as covered products. For a given product to be classified as a covered product, the Secretary must determine that:

(1) Classifying the product as a covered product is necessary or appropriate to carry out the purposes of EPCA;[2] and

(2) The average annual per-household energy use by products of such type is likely to exceed 100 kWh per year. (42 U.S.C. 6292(b)(1)).

For the Secretary to prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p) for covered products added pursuant to 42 U.S.C. 6292(b)(1), he must also determine that:

(1) The average household energy use of the products has exceeded 150 kilowatt-hours per household for a 12-month period,

(2) The aggregate 12-month energy use of the products has exceeded 4.2 TWh,

(3) Substantial improvement in energy efficiency is technologically feasible, and

(4) Application of a labeling rule under section 42 U.S.C. 6294 is unlikely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) that achieve the maximum energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(l)(1)).

If DOE issues a final determination that condensing units and outdoor units are covered products, DOE will consider test procedures and energy efficiency standards for these products. DOE will determine if standards for condensing units and outdoor units satisfy the provisions of 42 U.S.C. 6295(l)(1) during the course of any energy conservation standards rulemaking.

II. Current Rulemaking Process

DOE has not previously conducted an energy conservation standard rulemaking specifically for condensing units and outdoor units. DOE has, however, previously conducted two energy conservation standard rulemakings for Residential Central Air Conditioners and Heat Pumps of which the Condensing Units and Outdoor Units, respectively, are a component. If after public comment, DOE issues a final determination of coverage for condensing units and outdoor units, DOE will consider both a test procedure and an energy conservation standard for this product.

With respect to test procedures, DOE will consider a proposed test procedure for measuring the energy efficiency, energy use or estimated annual operating cost of condensing units and outdoor units during a representative average use cycle or period of use that is not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)). In a test procedure rulemaking, DOE initially prepares a notice of proposed rulemaking (NOPR) and allows interested parties to present oral and written data, views, and arguments with respect to such procedures. In prescribing new test procedures, DOE takes into account relevant information including technological developments relating to energy use or energy efficiency of condensing units and outdoor units.

With respect to energy conservation standards, DOE typically prepares initially an Energy Conservation Standards Rulemaking Framework Document (the framework document). The framework document explains the issues, analyses, and process that it is considering for the development of energy conservation standards for condensing units and outdoor units. After DOE receives comments on the framework document, DOE typically prepares an Energy Conservation Standards Rulemaking Preliminary Analysis and Technical Support Document (the preliminary analysis). The preliminary analysis typically provides initial draft analyses of potential energy conservation standards on consumers, manufacturers, and the nation. Neither of these steps is legally required.

DOE is required to publish a notice of proposed rulemaking (NOPR). The NOPR provides DOE's proposal for potential energy conservations standards and a summary of the results of DOE's supporting technical analysis. The details of DOE's energy conservation standards analysis are provided in a technical support document (TSD) that describes the details of DOE's analysis of both the burdens and benefits of potential standards, pursuant to 42 U.S.C. 6295(o). Because condensing units and outdoor units would be a product that is newly covered under 42 U.S.C. 6292(b)(1), DOE would also consider as part of any energy conservation standard NOPR whether condensing units and outdoor units satisfy the requirements of 42 U.S.C. 6295(l)(1). After the publication of the NOPR, DOE affords interested persons an opportunity during a period of not less than 60 days to provide oral and written comment. After receiving and considering the comments on the NOPR and not less than 90 days after the publication of the NOPR, DOE would issue the final rule prescribing any new energy conservation standards for condensing units and outdoor units.

III. Proposed Definition(s)

Section 430.2 in the Code of Federal Regulations defines a ''Condensing Unit'' as a component of a central air conditioner which is designed to remove the heat absorbed by the refrigerant and to transfer it to the outside environment, and which consists of an outdoor coil, compressor(s), and air moving device.

DOE proposes to revise the above definition for ''Condensing Unit'' by adding the term ''split-system'' as a component of a split-system central air conditioner which is designed to remove the heat absorbed by the refrigerant and to transfer it to the outside environment, and which consists of an outdoor coil, compressor(s), and air moving device.

Section 430.2 in the Code of Federal Regulations also defines an ''Outdoor Unit'' as a component of a split-system central air conditioner or heat pump that is designed to transfer heat between the refrigerant and the outdoor air, and which consists of an outdoor coil, compressor(s), an air moving device, and in addition for heat pumps, a heating mode expansion device, reversing valve, and defrost controls.

DOE does not propose to revise the above definition for ''Outdoor Unit.''

DOE seeks feedback from interested parties on its definitions of condensing units and outdoor units.

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[2] Specifically, the purposes of chapter 77 of title 42 of the United States Code, as set forth later in this proposed coverage determination.

IV. Evaluation of Condensing Units and Outdoor Units as a Covered Product Subject to Energy Conservation Standards

The following sections describe DOE's evaluation of whether condensing units and outdoor units fulfill the criteria for being added as a covered product pursuant to 42 U.S.C. 6292(b)(1). As stated previously, DOE may classify a consumer product as a covered product if (1) classifying products of such type as covered products is necessary and appropriate to carry out the purposes of EPCA; and (2) the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

A. Coverage Appropriate To Carry Out Purposes of EPCA

Coverage of set condensing units and outdoor units is necessary or appropriate to carry out the purposes of EPCA, which include: (1) To conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses; and (2) to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products. (42 U.S.C. 6201). The household national energy use of Residential Central Air Conditioner Split-Systems and Residential Heat Pump Split-Systems for the year 2011 is estimated to be 133.1 billion kilowatt-hours and 58.6 billion kilowatt-hours, respectively.[3] Condensing Units, which are a component of Residential Central Air Conditioner Split-Systems, represent approximately 87 percent of total system energy use. Outdoor Units, which are a component of Residential Heat Pump Split-Systems, also represent 87 percent of total system energy use.[4] Therefore, the national energy use of condensing units and outdoor units for the year 2011 is estimated to be 115.8 billion kilowatt-hours and 51.0 billion kilowatt-hours, respectively. Because there is significant variation in the annual energy consumption of different models currently available, technologies exist to reduce the energy consumption of condensing units and outdoor units.

B. Average Household Energy Use

DOE calculated average household energy use for condensing units and outdoor units, in households that used the product, based on data from DOE's June 2011 Technical Support Document (TSD) for Residential Central Air Conditioners, Heat Pumps, and Furnaces.[3] The TSD provides annual energy use for Residential Central Air Conditioner Split-Systems and Residential Heat Pump Split-Systems, and the total number of systems in operation in the U.S. The average U.S. per-household annual energy use for the stock of Residential Central Air Conditioner Split-Systems and Residential Heat Pump Split-Systems is 2851 kilowatt-hours and 4264 kilowatt-hours, respectively. As noted above, condensing units and outdoor units comprise approximately 87 percent of total system energy use. As a result, the estimated average U.S. per-household annual energy use for the stock of condensing units and outdoor units is 2480 kilowatt-hours and 3710 kilowatt-hours, respectively. Therefore, the average annual per household energy use for condensing units and outdoor units is likely to exceed 100 kWh.

V. Procedural Issues and Regulatory Review

DOE has reviewed its proposed determination of condensing units and outdoor units under the following executive orders and acts.

A. Review Under Executive Order 12866

The Office of Management and Budget has determined that coverage determination 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 proposed action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) 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 proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative effects. Also, as required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impact of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990 (February 19, 2003). DOE makes its procedures and policies available on the Office of the General Counsel's Web site at *www.gc.doe.gov.*

DOE reviewed today's proposed determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. If adopted, today's proposed determination would set no standards; they would only positively determine that future standards may be warranted and should be explored in an energy conservation standards and test procedure rulemaking. Economic impacts on small entities would be considered in the context of such rulemakings. On the basis of the foregoing, DOE certifies that the proposed determination, if adopted, would have no significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this proposed determination. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

This proposed determination, which proposes to determine that condensing units and outdoor units meets the criteria for a covered product for which the Secretary may prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p), will impose no new information or record-keeping requirements. Accordingly, the Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

In this notice, DOE proposes to positively determine that future standards may be warranted and that environmental impacts should be

[3] *See* National Impacts Analysis (NIA) spreadsheet for Furnaces, Central Air Conditioners, and Heat Pumps developed for DOE's June 27, 2011 Direct Final Rule for Energy Conservation Standards for Residential Furnaces and Residential Central Air Conditioners and Heat Pumps. (76 FR 37408). The NIA spreadsheet is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/residential/residential_furnaces_ac_hp_direct_final_rule_tools.html.*

[4] U.S. Department of Energy. ''Technical Support Document: Energy Efficiency Program for Consumer Products: Residential Central Air Conditioners, Heat Pumps, and Furnaces.'' June 2011. Chapter 7. Available at: *http://www1.eere.energy.gov/buildings/appliance_standards/residential/residential_furnaces_central_ac_hp_direct_final_rule_tsd.html.*

explored in an energy conservation standards rulemaking. DOE has determined that review under the National Environmental Policy Act of 1969 (NEPA), Public Law 91–190, codified at 42 U.S.C. 4321 *et seq.* is not required at this time. NEPA review can only be initiated ''as soon as environmental impacts can be meaningfully evaluated'' (10 CFR 1021.213(b)). This proposed determination would only determine that future standards may be warranted, but would not itself propose to set any specific standard. DOE has, therefore, determined that there are no environmental impacts to be evaluated at this time. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order (E.O.) 13132, ''Federalism'' 64 FR 43255 (August 10, 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 assess carefully 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 developing regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process that it will follow in developing such regulations. 65 FR 13735 (March 14, 2000). DOE has examined today's proposed determination and concludes that it would not preempt State law or have substantial direct effects on the States, on the relationship between the Federal 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 product that is the subject of today's proposed determination. States can petition DOE for exemption from such preemption to the extent permitted, and based on criteria, set forth in EPCA. (42 U.S.C. 6297). No further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the duty to: (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 E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation specifies the following: (1) The preemptive effect, if any; (2) any effect on existing Federal law or regulation; (3) a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) the retroactive effect, if any; (5) definitions of key terms; and (6) other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether these standards are met, or whether it is unreasonable to meet one or more of them. DOE completed the required review and determined that, to the extent permitted by law, this proposed determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, codified at 2 U.S.C. 1501 *et seq.*) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. For regulatory actions likely to result in a rule that may cause expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any 1 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) and (b)) UMRA 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.'' UMRA also requires an agency plan for giving notice and opportunity for timely input to small governments that may be potentially affected before establishing any requirement that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820 (March 18, 1997). (This policy also is available at *www.gc.doe.gov*). DOE reviewed today's proposed determination pursuant to these existing authorities and its policy statement and determined that the proposed determination contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year, so the UMRA requirements do not apply.

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

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed determination 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

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 15, 1988), DOE determined that this proposed determination 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 of 2001

The Treasury and General Government Appropriation Act of 2001 (44 U.S.C. 3516, note) requires agencies to review most disseminations of information they make to the public under guidelines established by each agency pursuant to general guidelines issued by the Office of Management and Budget (OMB). The OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's proposed determination 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

E.O. 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 promulgates a final rule or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under E.O. 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 the Office of Information and Regulatory Affairs (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 if the proposal is implemented, and of reasonable alternatives to the proposed action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that today's regulatory action proposing to determine that condensing units and outdoor units meets the criteria for a covered product for which the Secretary may prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p) would not have a significant adverse effect on the supply, distribution, or use of energy. This action is also not a significant regulatory action for purposes of E.O. 12866, and the OIRA Administrator has not designated this proposed determination as a significant energy action under E.O. 12866 or any successor order. Therefore, this proposed determination is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects for this proposed determination.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (January 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.'' 70 FR 2667 (January 14, 2005).

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *http://www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

VI. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this notice of proposed determination no later than the date provided at the beginning of this notice. After the close of the comment period, DOE will review the comments received and determine whether condensing units and outdoor units is a covered product under EPCA.

Comments, data, and information submitted to DOE's email address for this proposed determination should be provided in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format. Submissions should avoid the use of special characters or any form of encryption, and wherever possible comments should include the electronic signature of the author. No telefacsimiles (faxes) will be accepted.

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 two copies: one copy of the document should have all the information believed to be confidential deleted. DOE will make its own determination as to 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 or available from public sources; (4) whether the information has previously been made available to others without obligations concerning its confidentiality; (5) an explanation of the competitive injury to the submitting persons which would result from public disclosure; (6) a date after which such information might no longer be considered confidential; and (7) why disclosure of the information would be contrary to the public interest.

B. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed determination. DOE is particularly interested in receiving comments from interested parties on the following issues related to the proposed determination for condensing units and outdoor units:

- Definition(s) of condensing units and outdoor units;
- Whether classifying condensing units and outdoor units as a covered product is necessary or appropriate to carry out the purposes of EPCA:
- Calculations and values for household and national energy consumption; and
- Availability of technologies for improving energy efficiency of condensing units and outdoor units.

The Department is interested in receiving views concerning other relevant issues that participants believe would affect DOE's ability to establish test procedures and energy conservation standards for condensing units and outdoor units. The Department invites all interested parties to submit in writing by February 10, 2012, comments and information on matters addressed in this notice and on other matters relevant to consideration of a determination for condensing units and outdoor units.

After the expiration of the period for submitting written statements, the Department will consider all comments and additional information that is obtained from interested parties or through further analyses, and it will prepare a final determination. If DOE determines that condensing units and outdoor units qualifies as a covered product, DOE will consider a test procedure and energy conservation standards for condensing units and outdoor units. Members of the public will be given an opportunity to submit written and oral comments on any proposed test procedure and standards.

List of Subjects in 10 CFR part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

Issued in Washington, DC, on December 23, 2011.

Kathleen B. Hogan,

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

[FR Doc. 2012–328 Filed 1–10–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1453; Directorate Identifier 2009–SW–46–AD]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Agusta S.p.A. (Agusta) Model A109, A109A, A109A II, A109C, A109K2, A109E, A109S, and A119 helicopters. This proposed AD is prompted by a mandatory continuing airworthiness information (MCAI) AD issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community. The MCAI AD states that a Model A109E helicopter has experienced a failure of the tail rotor pitch control link assembly caused by a production defect. The proposed actions are intended to prevent failure of a tail rotor pitch control link and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by March 12, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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 economic 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 service information identified in this proposed AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39 (0331) 711133; fax 39 (0331) 711180; or at *http://www.agustawestland.com/technical-bullettins.* You may review copies of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aerospace Engineer, Rotorcraft Directorate, Regulations and Policy Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2006–0228–E, dated July 27, 2006, to correct an unsafe condition for Agusta Model A109A, A109A II, A109C, A109K2, A109E, A109S, A109LUH and A119 helicopters. The MCAI AD states that an Agusta Model A109E helicopter has experienced a failure of the tail rotor pitch control link assembly, part number 109–0130–05–117, with 10 flight hours. This proposed AD would require actions that are intended to prevent failure of a tail rotor pitch control link and subsequent loss of control of the helicopter. You may obtain further information by examining the MCAI AD and any related service information in the AD Docket.

FAA's Determination

These products have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, the EASA, their technology agents have notified us of the unsafe condition described in the MCAI AD and service information. We are proposing this AD because we evaluated all information provided by the EASA and determined the unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Related Service Information

Agusta has issued Alert Bollettino Tecnico (ABT) No. 109S–5, dated July 26, 2006, for Model A109S helicopters; ABT No. 109EP–70, dated July 27, 2006, for Model A109E helicopters; ABT No. 109K–47, dated July 27, 2006, for Model A109K2 helicopters; ABT No. 109–122, dated July 27, 2006, for Model A109A, A109A II, and A109C helicopters; and ABT No. 119–15, dated July 27, 2006, for Model A119 helicopters. These ABTs specify performing a one-time inspection of the subject link assembly for excessive friction of the spherical bearing of the bearing ball and for a crack. The EASA classified these ABTs as mandatory and issued EASA AD 2006–0228–E, to ensure the continued airworthiness of these helicopters.

Proposed AD Requirements

This proposed AD would require compliance with specified portions of the manufacturer's service bulletin including:

- Before further flight, inspect the affected link assembly for freedom of movement of the links while it is installed on the helicopter. If a rotation

resistance or binding occurs, before further flight, remove the link assembly from the helicopter, and either:

• Replace it with an airworthy link assembly with a ''T'' marked after the serial number, or

• Inspect the link assembly for the torsion value force of the ball bearing.

• If not immediately required by the previous paragraph, within 5 hours time-in-service, remove the link assembly from the helicopter and inspect the torsion value force of the ball bearing rotation.

• If the torsion value force in either end of the link assembly is greater than 7.30 N, the link assembly is unairworthy.

• If the torsion value force of the ball bearing in both ends of the link assembly is equal to or less than 7.30 N, inspect the stem of the link assembly for a crack. If a crack is found, the link assembly is unairworthy.

• For a link assembly that has been inspected and determined not to have a crack, before further flight, mark a ''T'' on the link assembly after the serial number using an etch pen.

• For a link assembly which has been inspected and determined to be unairworthy, before further flight, replace the link assembly with an airworthy link assembly. Only a link assembly with a ''T'' marked after the serial number, documenting that the link assembly has been inspected for a crack, is eligible for installation.

Differences Between This Proposed AD and the EASA AD

This proposed AD does not apply to uninstalled parts whereas the EASA AD does apply to uninstalled parts. This proposed AD includes the Agusta Model A109 helicopter whereas the EASA AD does not. The EASA AD applies to the Model A109LUH helicopter, this proposal does not. This proposed AD does not require accomplishing Part III of the ABTs; the EASA AD does.

Costs of Compliance

We estimate that this proposed AD would affect 203 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this AD. It would take about 5 work-hours per helicopter to inspect each tail rotor pitch control link assembly, the average labor rate is $85 per work-hour, and required parts would cost about $3,188 per helicopter. Based on these figures, we estimate the total cost to be $733,439, assuming the tail rotor pitch control link assembly would be replaced on the entire fleet.

According to the production approval holder's (PAH's) service information 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 by the PAH. Accordingly, 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, 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 to the extent that it justifies making a regulatory distinction; 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.

We prepared an economic 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 adding the following new Airworthiness Directive (AD):

Agusta S.p.A.: Docket No. FAA–2011–1453; Directorate Identifier 2009–SW–46–AD.

(a) Applicability

This AD applies to Agusta S.p.A. (Agusta) Model A109, A109A, A109A II, A109C, A109K2, A109E, A109S, and A119 helicopters, with a tail rotor pitch control link assembly (link assembly), part number (P/N) 109–0130–05–117, with less than 100 hours time-in-service (TIS) and with a serial number (S/N) with a prefix of ''MO'' and S/N 001 through 773 and without the letter ''T'' suffix after the S/N, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a failure of the tail rotor pitch control link assembly P/N 109–0130–05–117. This condition could result in failure of the tail rotor pitch control link and subsequent loss of control of the helicopter.

(c) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(d) Required Actions

(1) Before further flight, inspect the link assembly for freedom of movement while it is installed on the helicopter. If rotation resistance or binding occurs, before further flight, remove the link assembly from the helicopter, and either:

(i) Replace it with an airworthy link assembly with a ''T'' marked after the serial number, or;

(ii) Inspect the link assembly for the torsion value force of the ball bearing rotation, in accordance with paragraph (d)(2) of this AD.

(2) If there is no rotation resistance or binding found during the inspection required by paragraph (d)(1) of this AD that required an immediate torsion value force inspection, within 5 hours TIS, remove the link assembly from the helicopter and inspect the torsion value force of the ball bearing rotation by referring to Figure 1 and following the

Compliance Instructions, Part II, paragraphs 3. through 3.2, of Agusta Alert Bollettino Tecnico (ABT) No. 109S–5, dated July 26, 2006, for Model A109S helicopters; ABT No. 109EP–70, dated July 27, 2006, for Model A109E helicopters; ABT No. 109K–47, dated July 27, 2006, for Model A109K2 helicopters; ABT No. 109–122, dated July 27, 2006, for Model A109, A109A, A109A II, and A109C helicopters; or ABT No. 119–15, dated July 27, 2006, for Model A119 helicopters.

(i) If the torsion value force of the ball bearing in either end of the link assembly is greater than 7.30 N, the link assembly is unairworthy.

(ii) If the torsion value force of the ball bearing in both ends of the link assembly is equal to or less than 7.30 N, after cleaning the link assembly stem using aliphatic naphtha, or equivalent, and a soft non-metallic bristle brush, inspect all 4 (four) faces of the stem of the link assembly for a crack using a 10x or higher magnifying glass. If you cannot determine whether there is a crack in the stem of the link assembly by using a 10x or higher magnifying glass, conduct a dye penetrant inspection by referring to Figure 1 and following the Compliance Instructions, Part II, paragraphs 6. through 6.7, of the ABT that is applicable to your model helicopter. If a crack is found, the link assembly is unairworthy.

(3) For a link assembly which has been inspected in accordance with paragraph (d)(2)(ii) of this AD and determined to be unairworthy, before further flight, replace the link assembly with an airworthy link assembly. Only a link assembly with a ''T'' marked after the serial number, documenting that the link assembly has been inspected for a crack, is eligible for installation.

(e) Alternative Methods of Compliance (AMOC)

(1) The Manager, Safety Management Group, Rotorcraft Directorate, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; *email gary.b.roach@faa.gov*.

(2) For operations conducted under a Part 119 operating certificate or under Part 91, Subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(f) Additional Information

The subject of this AD is addressed in the European Aviation Safety Agency (Italy) AD 2006–0228–E, dated July 27, 2006.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 6400: Tail Rotor System.

Issued in Fort Worth, Texas, on December 27, 2011.

M. Monica Merritt,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–367 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0117; Airspace Docket No. 09–AGL–31]

RIN 2120–AI92

Proposed Establishment of Restricted Areas R–5402, R–5403A, R–5403B, R–5403C, R–5403D, R–5403E, R–5403F; Devils Lake, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for an NPRM that was published on November 28, 2011. In that document, the FAA proposed to establish restricted area airspace within the Devils Lake East Military Operations Area (MOA), overlying Camp Grafton Range, in the vicinity of Devils Lake, ND. This extension is a result of a request from the North Dakota Aviation Council (NDAC), representing eight member groups including the Airport Association of North Dakota, North Dakota Business Aviation Association, North Dakota Pilots Association, North Dakota Professional Aviation Mechanics Association, and North Dakota Flying Farmers, to extend the comment period to the proposal.

DATES: The comment period for the NPRM published on November 28, 2011 (76 FR 72869), scheduled to close on January 12, 2012, is extended until February 12, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2011–0017 and Airspace Docket No. 09–AGL–31 using any of the following methods:

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

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov*.

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or 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.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace, Regulations and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Background

On November 28, 2011, the Federal Aviation Administration (FAA) issued Docket No. FAA–2011–0117; Airspace Docket No. 09–AGL–31, Proposed Establishment of Restricted Areas R–5402, R–5403A, R–5403B, R–5403C, R–5403D, R–5403E, R–5403F; Devils Lake, ND (76 FR 72869; November 28, 2011). Comments to that document were to be received on or before January 12, 2012.

By request submitted to the docket on January 2, 2012, the NDAC, representing eight member groups including the Airport Association of North Dakota, North Dakota Business Aviation Association, North Dakota Pilots Association, North Dakota Professional Aviation Mechanics Association, and North Dakota Flying Farmers, requested that the FAA extend the comment period for Airspace Docket FAA–2011–0117; Airspace Docket No. 09–AGL–31 from January 12, 2012, to April 30, 2012. The organizations requesting an extension stated that the comment period deadline of January 12, 2011, did not allow adequate time to respond. They noted that the comment period between the November 28, 2011 notice and the January 12, 2012 deadline provided very little opportunity to research the issue, gain comments and adequately consider the issue. The NDAC offered their eight member organization are holding their annual meetings during the Upper Midwest Aviation Symposium, scheduled for March 4–6, 2012, and plan to use the opportunity to discuss the proposal, gain insight into concerns, and receive position guidance from their members related to the proposed action; hence the extension request to April 30, 2012. Additionally, the NDAC commented the Christmas and New Year holiday season fell within the comment period which greatly reduced the ability to communicate and get meaningful coordination completed.

The FAA supports the petitioners' request for an extension of the comment period on Docket No. FAA–2011–0117; Airspace Docket No. 09–AGL–31, for an additional 30 days in lieu of the 120-day extension requested. The FAA believes a 120-day extension of the existing 45-day comment period for the proposed action to be excessive and unreasonable. The FAA must balance the length of the comment period against the need to proceed expeditiously with airspace actions that support realistic training requirements in modern tactics for the military as we manage the safe and efficient use of the National Airspace System. The FAA believes an additional 30 days would be adequate for commenters to collect cost and operational data necessary to provide meaningful comment to Docket No. FAA–2011–0117; Airspace Docket No. 09–AGL–31. The FAA does not anticipate any further extension of the comment period for this rulemaking.

Extension of Comment Period

In accordance with section 11.47(c) of title 14, Code of Federal Regulations, the FAA has reviewed the request submitted by the North Dakota Aviation Council for extension of the comment period to Docket No. FAA–2011–0117; Airspace Docket No. 09–AGL–31. This petitioner has shown a substantive interest in the proposed rule and good cause for the extension. The FAA has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, pursuant to the authority delegated to me, the comment period for Docket No. FAA–2011–0117; Airspace Docket No. 09–AGL–31 published in the **Federal Register** on November 28, 2011 (76 FR 72869), FR Doc. 2011–30495, is extended until February 12, 2012.

Issued in Washington, DC, on January 5, 2012.

Gary A. Norek,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2012–284 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

RIN 2700–AD79

Profit and Fee Under Federal Financial Assistance Awards

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA is proposing to revise the NASA Grant & Cooperative Agreement Handbook to prohibit the payment of profit or fee on Federal Financial Assistance awards, *i. e.* grants and cooperative agreements. This is an extension of the currently existing prohibition on payment of profit or fee to commercial entities under Federal Financial Assistance awards.

DATES: Interested parties should submit comments to NASA at the address identified below on or before March 12, 2012 to be considered in formulation of the final rule.

ADDRESSES: Interested parties may submit comments, identified by RIN 2700–AD79, via the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments may also be submitted to R. Todd Lacks (Room 5J75), NASA Headquarters, Office of Procurement, Contract Management Division, Washington, DC 20546. Comments may also be submitted by email to: *todd.lacks@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: R. Todd Lacks, NASA Headquarters, Office of Procurement, Contract Management Division, Room 5J75; telephone: (202) 358–0799; email: *todd.lacks@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Historically, NASA has discouraged the payment of profit or fee under its Federal Financial Assistance awards because payment in excess of costs is inconsistent with the intent of grant and cooperative agreements which provide funding in the form of financial assistance to recipients for their performance of a public purpose. In the case of awards to commercial firms, payment of profit or fee is specifically prohibited. Because the prohibition does not include other recipients such as educational and non-profit organizations, NASA's policy has been misinterpreted and inconsistent application has occurred. A recent review indicates that, in instances where the Agency has accepted such proposals and paid management fees, the payment of those fees has been inappropriate for the grant or cooperative agreement effort. While the payment of fees, historically, has occurred on less than 1 percent of Agency grants and cooperative agreements, this proposed rule which extends the prohibition on payment of profit or fees to all recipients of NASA grants and cooperative agreements, will ensure that the regulation accurately reflects Agency policy.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting

flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

NASA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule does not impose any additional requirements on small entities and currently less than 1 percent of recipients of NASA grants and cooperative agreements receive profit or management fees.

IV. Paperwork Reduction Act

The Paper Reduction Act (Pub. L. 104–13) is not applicable because the prohibition on payment of profit and management fees by NASA does not require the submission of any information by recipients that requires the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 14 CFR Part 1260

Colleges and universities, Business and Industry, Grant programs, Grants administration, Cooperative agreements, State and local governments, Non-profit organizations, Commercial firms, Recipients.

William P. McNally,

Assistant Administrator for Procurement.

Accordingly, 14 CFR Part 1260 is proposed to be amended as follows:

1. The authority citation for 14 CFR 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301, *et seq.*), and OMB Circular A–110.

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

2. In § 1260.4, paragraph (b)(2) is revised to read as follows:

§ 1260.4 Applicability.

* * * * *

(b) * * *

(1) * * *

(2) NASA does not pay profit or fee under grants or cooperative agreements.

* * * * *

3. In § 1260.10, paragraph (b)(1)(iv) is added to read as follows:

§ 1260.10 Proposals.

* * * * *

(b) * * *

(1) * * *

(iv) NASA does not pay profit or fee under its grants or cooperative agreements.

* * * * *

4. In § 1260.14, paragraph (e) is added to read as follows:

§ 1260.14 Limitations.

* * * * *

(e) NASA does not pay profit or fee under its grants or cooperative agreements.

[FR Doc. 2012–241 Filed 1–10–12; 8:45 am]

BILLING CODE 7510–01–P

FEDERAL MARITIME COMMISSION

46 CFR Part 515

[Docket No. 11–09]

RIN 3072–AC46

Adjustment of the Amount for the Optional Rider for Proof of NVOCC Financial Responsibility for Trade With the People's Republic of China

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its rules regarding the amount of bond coverage required in its optional China Bond Rider for Non-Vessel-Operating Common Carriers (NVOCCs). The proposed rule is intended to provide NVOCCs with the ability to post a bond with the Commission that satisfies the equivalent of 800,000 Chinese Renminbi, for which the equivalent dollar amount has fluctuated since the regulation was first adopted by the Commission.

DATES: Comments or suggestions are due on or before March 12, 2012.

ADDRESSES: Address all comments concerning this proposed rule to: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, Phone: (202) 523–5725.

SUPPLEMENTARY INFORMATION: *Submit Comments:* Submit an original and five (5) copies in paper form, and if possible, send a PDF of the document by email to *secretary@fmc.gov.* Include in the subject line: Docket No. 11–09, Comments on Proposed Adjustment of the Amount for the FMC Optional China Bond Rider.

Background

Under a Memorandum of Consultations pursuant to the 2003 bilateral Maritime Agreement between the United States and the People's Republic of China (China or the PRC), the PRC does not require U.S. Non-Vessel-Operating Common Carriers (NVOCCs) to make a cash deposit in a Chinese bank as would otherwise be required by Chinese regulations, so long as the NVOCC:

(1) Is a legal person registered by U.S. authorities;

(2) Obtains an FMC license as an NVOCC; and

(3) Provides evidence of financial responsibility in the total amount of Chinese Renminbi (RMB) 800,000 or U.S. $96,000.

An FMC-licensed NVOCC that voluntarily provides an additional surety bond in the amount of $21,000 (denominated in USD or RMB), which by its conditions is available for potential claims of the MOT (as well as other Chinese agencies) for violations of the Chinese Regulations on International Maritime Transportation, may register in the PRC without paying the cash deposit otherwise required by Chinese law and regulation.

In 2004, the Commission issued a Notice of Proposed Rulemaking (NPR) to explore mechanisms for NVOCCs to file proof of such additional financial responsibility. *See* 69 FR 4271 (January 29, 2004). On April 1, 2004, the Commission issued a final rule that amended its regulations governing proof of financial responsibility for ocean transportation intermediaries to allow an optional rider to be filed with a licensed NVOCC's proof of financial responsibility to provide additional proof of financial responsibility for such carriers serving the U.S. oceanborne trade with the PRC. Docket No. 04–02, *Optional Rider for Proof of Additional NVOCC Financial Responsibility,* 30 S.R.R. 179 (FMC 2004).

On April 15, 2011, the Commission received a communication from the Maritime Administration, U.S. Department of Transportation, transmitting a request from the Ministry of Transport (MOT) of the PRC to revise the Commission's regulations at Appendix E to Subpart C of Part 515—Optional Rider for Additional NVOCC Financial Responsibility (Optional Rider to Form FMC 48) [Form 48A] (China Bond Rider). MOT requested that the Commission review its financial responsibility regulations set forth in 46 CFR part 515. MOT asserts that the exchange rate between the USD and the RMB has risen from 1:8.276 in 2003 to 1:6.536 at present, an increase of approximately 21.02%. Consequently, MOT asserts, the amount of 96,000 USD is inadequate to meet 800,000 RMB at the current exchange rate. Specifically, MOT requests that the regulation be

revised to include a provision that would allow for adjustments to the USD amount required in a NVOCC optional bond rider covering transportation activities in the U.S./China trades when the USD and the RMB exchange rate fluctuates 20% higher or lower than that of the last adjustment. MOT also proposes that the adjustment be jointly approved by the U.S. and the PRC at the bilateral maritime consultative meeting of the same year. Finally, if this proposal is adopted, the MOT also proposes that the existing total required bond amount of 96,000 USD be increased to 122,000 USD, which, MOT asserts, is the equivalent amount of 800,000 RMB at the present exchange rate.

Comments

The Commission issued a Notice of Inquiry soliciting public commentary on the proposal on June 10, 2011. The NOI sought general comments on the China Bond Rider, and also presented three questions for particular study:

> 1. Describe how, and to what extent, the optional rider to the required NVOCC bond has impacted your company's business operations? Does this make for more certainty in your business operation? Has the optional rider to the required NVOCC bond impacted your overall business costs? If so, how?
> 2. What do you see as the advantages and disadvantages of an adjustment to the current optional rider to the required NVOCC bond?
> 3. Please explain whether, and if so, how significantly your business costs/operations would be affected by a provision that allows for adjustments to the U.S. Dollar amount required in a NVOCC optional China bond rider when the USD (U.S. Dollar) and the RMB (Renminbi) exchange rate fluctuates 20% higher or lower.

The Commission received three Comments, each of which is summarized below.

Econocaribe Consolidators: John Abisch, the President of Econocaribe, did not appear to oppose the suggestion that the China Bond Rider be increased to cover currency valuations. Instead, the comment focused on the effect of the China Bond Rider and other rider requirements imposed on bondholders, such as the requirement that NVOCC's obtain an additional $10,000 in bond coverage for each branch office. Econocaribe noted that if a bondholder has five additional branch offices, the total coverage would be $125,000 ($75,000 base plus $50,000 for five branch offices). Econocaribe stated that ''[i]f the FMC can get the [Chinese Government] to 'count' the entire bond currently posted, including the amount of the bond posted for the branch offices, even with the [Chinese Government] increasing the bond requirement, this would actually have a slight reduction in the cost of the bond[.]''

Mohawk Global Logistics: Richard J. Roche submitted comments on behalf of Mohawk Global Logistics. Mohawk believes that the optional rider method of conducting business is ''a fair and equitable'' solution to the alternative of posting a cash bond in China. Mohawk prefers bond coverage to cash deposit because it allows Mohawk to ''expand [its] offering in China without having to make a significant investment of cash.'' Similarly, Mohawk understands currency fluctuations, and ''agree[s] that an increase in demonstrated bond coverage is warranted due to the lower value of the U.S. dollar today.'' Mohawk did not identify disadvantages to the increase, other than the minor administrative burden of possibly prorating bonds in effect, addressing different bond premium dates, and the incremental increase in the cost of the China Bond Rider coverage. These disadvantages would be multiplied if the Commission added an automatic trigger based on a currency fluctuation of a defined percentage. If currencies fluctuated rapidly or drastically, it could cause additional administrative burdens on bondholders. Mohawk did not see this outcome as likely, and believed that an automatic trigger for additional coverage could prove workable. Mohawk also agreed with Econocaribe that many bondholders already demonstrate 800,000 RMB worth of coverage if one includes the aggregate amount posted for branch offices. In Mohawk's view:

> A more reasonable approach might be for China to set and exchange value as of a given date, and allow NVOCC's to offset the bond coverage based on total bond value, adding any additional coverage as might be required to make up any shortfall not already covered by multiple branch offices. This would limit the bond transactions significantly, while providing simplicity and stability for all involved.

National Customs Brokers and Forwarders Association (NCBFAA): The NCBFAA notes in its comments the history of the China Bond rider provision, and the role that the NCBFAA played in Docket No. 04–02, *Optional Bond Rider for Proof of Additional NVOCC Financial Responsibility.* Like Mohawk, the NCBFAA believes that the China Bond Rider has been ''extremely successful,'' and has allowed U.S. companies to provide services in China that might otherwise be difficult if the companies were required to post cash with the Chinese Government. Though U.S.-licensed NVOCCs must register in China in order to conduct business, NCBFAA indicates that the process ''has not been unduly onerous,'' and ''has not heretofore unduly increased operating costs.''

The NCBFAA also accepts that the respective currencies have fluctuated, and some justification exists for the Chinese Government's request to increase the amount of the Bond Rider. Additionally, although the NCBFAA does not object to the Commission's consideration of a Bond Rider adjustment any time the currency values fluctuate more than 20%, it does not believe that an automatic adjustment ''is necessary or appropriate.'' The NCBFAA also echoes the beliefs of Mohawk and Econocaribe that many NVOCCs already have an aggregate coverage of greater than $125,000 (which would surpass the adjusted China Bond Rider amount of $122,000). If the Chinese Government assented, NCBFAA posits that allowing the NVOCCs to count all bond coverage might actually decrease the cost for many U.S.-licensed NVOCCs who do business in China. The NCBFAA looks to the Annex to the 2003 Bilateral Maritime Agreement for support, noting that it did not require a Bond Rider of a certain amount, but instead required evidence of financial responsibility of a certain total amount ($96,000). The Agreement left open how that total may be satisfied. The NCBFAA thus suggests that the Commission seek the Chinese Government's assent to accepting a total bond amount in addition to a Bond Rider in satisfying the $122,000 amount. Each NVOCC could thus determine whether it was more cost effective to procure a Bond Rider, or simply rely on its aggregate coverage amount that exceeded $122,000. This would reduce operating costs for some NVOCCs, but would still maintain adequate coverage.

Proposed Change

In the 2003 Memorandum of Consultation between the U.S. and China, the two nations agreed that U.S. NVOCCs operating in trade with China would provide ''evidence of financial responsibility in the total amount of Chinese Renminbi (RMB) 800,000 or U.S. $96,000.'' The Memorandum specified an amount in both Chinese and U.S. currency, and did not provide for adjustment in exchange rates. Nevertheless, in recognition of the recent slight improvement in the value of the RMB against the dollar, and in the spirit of comity and good faith with our trading partner, the Commission is proposing to adjust its China bond rider so that total NVOCC financial responsibility will equal 800,000 RMB

under current exchange rates. The Commission acknowledges that all the submitted comments see value in maintaining the optional China Bond Rider, and recognize the PRC's justification for adjusting the value based on exchange rate changes that have taken place since 2004. Therefore, based on the generally favorable comments, the Commission now proposes to amend its regulations in 46 CFR Part 515 to adjust the amount of surety available in the optional China Bond Rider provided in Appendices E and F to Subpart C of Part 515 (Form FMC–48A, OMB No. 3072–0018), and provide a method for NVOCCs to demonstrate financial responsibility by aggregating the total bond coverage for all bonds.

The proposed rule amends Appendix F to Subpart C of Part 515 (group bonds) to increase the amount specified from $21,000 to $50,000. In response to the comments the Commission received, the proposed rule amends Appendix E to Subpart C of Part 515 (individual NVOCC bonds) to remove pre-specified rider amounts to account for variances in NVOCCs' combined total surety levels maintained to meet the Commission's other financial responsibility requirements, including $10,000 in bond coverage that NVOCCs maintain for each of their branch offices pursuant to 46 CFR § 515.21(a)(4). This recognition means that NVOCCs with branch offices may have rider amounts that vary to satisfy the level of coverage requested by the PRC, so long as their total coverage equals $125,000. The Commission seeks comments particularly on the feasibility of these proposed revisions.

The Commission intends to review the value of the total coverage provided by the China bond rider periodically.

Certifications

The Chairman of the Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Commission recognizes that the majority of businesses that would be affected by this rule qualify as small entities under the guidelines of the Small Business Administration. The rule, however, would encompass an optional provision for U.S. licensed NVOCCs, which may be used at their discretion. The rule would not pose an economic detriment to all NVOCCs regulated by the Commission. It would only impact those NVOCCs who choose to exercise the option, at this date approximately only 10% of the entire pool of all NVOCCs. Instead of applying to all NVOCCS (a majority of which are small entities), it adjusts the favored method of demonstrating financial responsibility for those NVOCCs who choose to use it. This method of demonstrating financial responsibility implements an agreement with the PRC that allows U.S. NVOCCs to avoid having to make a large cash deposit in a Chinese bank. As such, the rule would help continue to promote U.S. business interests in the PRC and facilitate U.S. foreign commerce.

This rule is not a ''major rule'' under 5 U.S.C. 804(2).

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980, as amended. Public reporting burden for this collection of information is estimated to be 1.25 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Ronald D. Murphy, Managing Director, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Maritime Commission, Washington, DC 20503.

List of Subjects in 46 CFR Part 515

Freight, Maritime carriers, Non-vessel-operating common carriers.

For the reasons stated in the supplementary information, the Federal Maritime Commission proposes to amend 46 CFR part 515 as follows.

PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES

1. The authority citation for part 515 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. 305, 40102, 40104, 40501–40503, 40901–40904, 41101–41109, 41301–41302, 41305–41307; Pub. L. 105–383, 112 Stat. 3411; 21 U.S.C. 862.

2. Revise Appendix E to Subpart C of Part 515 to read as follows:

APPENDIX E TO SUBPART C OF PART 515—OPTIONAL RIDER FOR ADDITIONAL NVOCC FINANCIAL RESPONSIBILITY (OPTIONAL RIDER TO FORM FMC–48) [FORM 48A]

FMC–48A, OMB No. [3072–0018, (04/06/04)]

Optional Rider for Additional NVOCC Financial Responsibility [Optional Rider to Form FMC–48]

RIDER

The undersigned [____], as Principal and [____], as Surety do hereby agree that the existing Bond No. [_____] to the United States of America and filed with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 is modified as follows:

1. The following condition is added to this Bond:

a. An additional condition of this Bond is that $____ (payable in U.S. Dollars or Renminbi Yuan at the option of the Surety) shall be available to pay any fines and penalties for activities in the U.S.-China trades imposed by the Ministry of Communications of the People's Republic of China (''MOC'') or its authorized competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government or the State Administration of Industry and Commerce pursuant to the Regulations of the People's Republic of China on International Maritime Transportation and the Implementing Rules of the Regulations of the PRC on International Maritime Transportation promulgated by MOC Decree No. 1, January 20, 2003.

b. The liability of the Surety shall not be discharged by any payment or succession of payments pursuant to section 1 of this Rider, unless and until the payment or payments shall aggregate the amount set forth in section 1a of this Rider. In no event shall the Surety's obligation under this Rider exceed the amount set forth in section 1a regardless of the number of claims.

c. The total amount of coverage available under this Bond and all of its riders, available pursuant to the terms of section 1(a.) of this rider, equals $____. The total amount of aggregate coverage equals or exceeds $125,000.

d. This Rider is effective the [____] day of [____], 20[____], and shall continue in effect until discharged, terminated as herein provided, or upon termination of the Bond in accordance with the sixth paragraph of the Bond. The Principal or the Surety may at any time terminate this Rider by written notice to the Federal Maritime Commission at its offices in Washington, DC, accompanied by proof of transmission of notice to MOC. Such termination shall become effective thirty (30) days after receipt of said notice and proof of transmission by the Federal Maritime Commission. The Surety shall not be liable for fines or penalties imposed on the Principal after the expiration of the 30-day period but such termination shall not affect the liability of the Principal and Surety for any fine or penalty imposed prior to the date when said termination becomes effective.

2. This Bond remains in full force and effect according to its terms except as modified above.

In witness whereof we have hereunto set our hands and seals on this [____] day of [____], 20[____],

[Principal], By:

[Surety], By:

* * * * *

3. Revise paragraph 1.a. of Appendix F to Subpart C of Part 515 to read as follows:

* * * * *

1. * * *

a. An additional condition of this Bond is that $ [____] (payable in U.S. Dollars or Renminbi Yuan at the option of the Surety) shall be available to any NVOCC enumerated in an Appendix to this Rider to pay any fines and penalties for activities in the U.S.-China trades imposed by the Ministry of Communications of the People's Republic of China (''MOC'') or its authorized competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government or the State Administration of Industry and Commerce pursuant to the Regulations of the People's Republic of China on International Maritime Transportation and the Implementing Rules of the Regulations of the PRC on International Maritime Transportation promulgated by MOC Decree No. 1, January 20, 2003. Such amount is separate and distinct from the bond amount set forth in the first paragraph of this Bond. Payment under this Rider shall not reduce the bond amount in the first paragraph of this Bond or affect its availability. The Surety shall indicate that $50,000 is available to pay such fines and penalties for each NVOCC listed on appendix A to this Rider wishing to exercise this option.

* * * * *

By the Commission.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2012–388 Filed 1–10–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 11–202; FCC 11–185]

Private Land Mobile Radio Service Regulations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to modify our rules to permit the implementation of foreign object debris (FOD) detection radar in the 78–81 GHz band. FOD at airports can seriously threaten the safety of airport personnel and airline passengers and can have a negative impact on airport logistics and operations. We seek comment on service and technical rules, and on whether such operations should be authorized on a licensed or unlicensed basis.

DATES: Submit comments on or before February 10, 2012 and reply comments are due on or before February 27, 2012.

ADDRESSES: You may submit comments, identified by WT Docket No. 11–202; FCC 11–185, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/*. Follow the instructions for submitting comments.
- *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: Tim Maguire, Mobility Division, Wireless Telecommunications Bureau, (202) 418–2155.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking and Order* (''NPRM'') in WT Docket No. 11–202, FCC 11–185, adopted December 15, 2011, and released December 20, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov*. Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

I. Procedural Matters

A. Ex Parte Rules-Permit-but-Disclose Proceeding

1. The proceeding this Notice initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Comment Dates

2. 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: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

▪ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov*.

▪ *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. 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 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).

C. Paperwork Reduction Act

3. This *NPRM* may contain proposed new information collection requirements dependent on which potential licensing scheme the Commission adopts. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

II. Initial Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the *Notice of Proposed Rule Making* in WT Docket No. 11–202 (*NPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* as provided on the first page of this document. The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[1] In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.[2]

5. The proposed rules in the *NPRM* are intended to permit the implementation of foreign object debris (FOD) detection radar in the 78–81 GHz band. FOD at airports can seriously threaten the safety of airport personnel and airline passengers and can have a negative impact on airport logistics and operations.

A. Legal Basis

6. Authority for issuance of this item is contained in sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 403.

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

7. Pursuant to 5 U.S.C. 603(b)(3), the RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' *Id.* In addition, according to 5 U.S.C. 601(3), the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA at 5 U.S.C. 632. Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency after consultation with the Office of Advocacy of the SBA, and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules changes proposed in this *NPRM.*

8. The SBA has developed a small business size standard for airport operations within the two broad economic census categories of ''Air Traffic Control'' and ''Other Airport Operations.'' *See* 13 CFR 121.201, NAICS codes 488111 and 488119. Under both categories, the SBA deems a business to be small if it has average annual receipts of seven million dollars or less. For the census category of Airport Operations, Census Bureau data for 2007 show that there were 1,075 firms in this category that operated for the entire year. Of this total, 899 had annual revenue of less than five million dollars, and 74 had annual revenue between five and ten million dollars. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

9. Some of the rules proposed herein may also affect small businesses that manufacture aviation radio equipment. The Commission has not developed a definition of small entities applicable to aviation radio equipment manufacturers. Therefore, the applicable definition is that for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturers. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees. *See* 13 CFR 121.201, NAICS codes 334220. For this category of manufacturers, Census data for 2007, which supersede the similar data in the 2002 Census, show that there were 398 such establishments that operated that year. Of those 398 establishments, 393 (approximately

[1] *See* 5 U.S.C. 603(a).

[2] *Id.*

99%) had fewer than 1,000 employees and 912 (approximately 97%) had fewer than 500 employees. Between these two figures, the Commission estimates that about 915 establishments (approximately 97%) had fewer than 750 employees and, thus, would be considered small under the applicable SBA size standard. Accordingly, the majority of establishments in this category can be considered small under that standard.

C. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

10. The rule changes under consideration in the *NPRM* would require manufacturers to meet certain criteria and potential users to operate the equipment as prescribed in the rules. We believe the proposed rules would have no other significant effect on the compliance burdens of regulatees. We invite comment on our tentative conclusion that the possible rule changes will not have a negative impact on small entities, or for that matter any entities, and do not impose new compliance costs on any entity. To the extent that commenters believe that any of the above possible rule changes would impose a new reporting, recordkeeping, or compliance burden on small entities, we ask that they describe the nature of that burden in some detail and, if possible, quantify the costs to small entities.

D. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

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

12. We hereby invite interested parties to address any or all of these regulatory alternatives and to suggest additional alternatives to minimize any significant economic impact on small entities. Any significant alternative presented in the comments will be considered.

E. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

13. None.

III. Ordering Clauses

14. Pursuant to sections 1, 4(i), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(f), 303(g), and 303(r), this *Notice of Proposed Rule Making Is Adopted.*

15. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Notice of Proposed Rule Making,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

16. Pursuant to sections 4(i), 302, and 303(e), of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, and 303(e), and § 1.3 of the Commission's rules, 47 CFR 1.3, the Request for Waiver filed by Trex Enterprises Corporation on November 3, 2010, *Is Granted In Part and Denied In Part t*o the extent set forth above. This action is effective upon release of the *Order.*

[3] 5 U.S.C. 603(c)(1)–(4).

List of Subjects in 47 CFR Part 90

Communications equipment, Private land mobile, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

2. Section 90.103 is amended by revising the table in paragraph (b) by inserting a new entry at the end of the table and by adding paragraph (c)(30) to read as follows:

§ 90.103 Radiolocation Service.

* * * * *

(b) * * *

RADIOLOCATION SERVICE FREQUENCY TABLE

Frequency or band	Class of stations	Limitations
* * *	* * *	*
78,000–81,000	do	30

(c) * * *

(30) Eligibility is restricted to airport authorities, or entities approved by the Federal Aviation Administration. Use is limited to foreign object debris detection.

* * * * *

[FR Doc. 2012–351 Filed 1–10–12; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 77, No. 7
Wednesday, January 11, 2012

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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0111]

Notice of Request for Extension of Approval of an Information Collection; Importation of Baby Corn and Baby Carrots From Zambia

Correction

In notice document 2011–33209 appearing on page 81467 in the issue of Wednesday, December 28, 2011 make the following correction:

In the first column, second full paragraph, **DATES:** ''We will consider all comments we receive on or before December 28, 2011.'', should read ''We will consider all comments that we receive on or before February 27, 2012.''.

[FR Doc. C1–2011–33209 Filed 1–10–12; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Forest Service

Huron-Manistee National Forests, Michigan, USA and State South Branch 1–8 Well

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to prepare an Environmental Impact Statement for the USA and State South Branch 1–8 well.

SUMMARY: The Huron-Manistee National Forests (Forest Service) and the Bureau of Land Management (BLM), as a Cooperating Agency, will prepare an environmental impact statement (EIS) to assess the environmental impacts of an industry proposal to drill one exploratory natural gas well, the USA & State South Branch 1–8 (SB 1–8) well, on National Forest System lands. The EIS will also assess the impacts of constructing necessary infrastructure, including production facility and flowline, should the well be capable of producing hydrocarbons in commercial quantities. This analysis will allow the agencies to make their respective decisions on this proposal in accordance with federal regulations. This notice revises the dates for Draft and Final Environmental Impact Statements.

DATES: The Draft EIS is expected in November 2012 and the Final EIS is expected by June 2013.

ADDRESSES: Send written comments to Lauri Hogeboom, Interdisciplinary Team Leader, Huron-Manistee National Forests, 1755 S. Mitchell Street, Cadillac, MI 49601; fax: (231) 775–5551. Send electronic comments to: *comments-eastern-huronmanistee@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Ken Arbogast, Huron-Manistee National Forests; telephone: (231) 775–2421; fax: (231) 775–5551. See address above under **ADDRESSES.** Copies of documents may be requested at the same address. Another means of obtaining information is to visit the Forest Web page at *www.fs.fed.us/r9/hmnf* then click on ''NEPA Projects and Planning,'' then ''Old Project page,'' then ''Mio projects,'' and then ''USA and State South Branch 1–8.''

Individuals who use telecommunication devices for the deaf (TTY) may call 1–(231) 775–3183.

SUPPLEMENTARY INFORMATION: The original notice of intent to prepare the environmental impact statement for the USA and State South Branch Well was published on February 24, 2010 (Vol. 75, No. 36, pages 8297–8299) with a corrected notice published on March 12, 2010 (Vol. 75, No. 48, pages 11838–11839).

Responsible Official for Lead Agency

Barry Paulson, Forest Supervisor, Huron-Manistee National Forests, 1755 S. Mitchell Street, Cadillac, MI 49601.

Responsible Official for Cooperating Agency

Mark Storzer, Field Manager, Bureau of Land Management, Milwaukee Field Office, 626 E. Wisconsin Ave. Suite 200, Milwaukee, WI 53202–4617.

Dated: December 12, 2011.

Barry Paulson,

Forest Supervisor.

[FR Doc. 2012–110 Filed 1–10–12; 8:45 am]

BILLING CODE 3410–11–M

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Friday, January 13, 2012, 2 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

SUBJECT: Correction: Notice of Meeting of the Broadcasting Board of Governors.

SUMMARY: The Broadcasting Board of Governors (BBG) will be meeting at the time and location listed above. At the meeting, the BBG will announce its meeting schedule for calendar year 2012, discuss and consider new BBG Committee assignments, and receive and consider recommendations regarding the implementation of the Agency's strategic plan for 2012–2016. The BBG will also consider a resolution on interference of BBG broadcasts as well as a resolution honoring the 70th anniversary of the Voice of America (VOA), recognize the anniversaries of Agency language services, receive a budget update, and receive and consider a proposal to repurpose Internet censorship circumvention funds. The BBG will receive reports from the International Broadcasting Bureau Director, the VOA Director, the Office of Cuba Broadcasting Director, and the Presidents of Radio Free Europe/Radio Liberty, Radio Free Asia, and the Middle East Broadcasting Networks. The meeting is open to public observation via streamed webcast, both live and on-demand, on the BBG's public Web site at *www.bbg.gov.*

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. 2012–429 Filed 1–9–12; 11:15 am]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Statement by Ultimate Consignee and Purchaser

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before March 12, 2012.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larry Hall, BIS ICB Liaison, (202) 482–4895, *Lawrence.Hall@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is necessary under the Export Administration Regulations (EAR). The EAR states that the Form BIS–711, or a statement on company letterhead, is required for exports to certain countries. These documents provide information on the foreign importer receiving the U.S. technology and how the technology will be utilized. The BIS–711 or letter provides assurances from the importer that the technology will not be misused, transferred or reexported in violation of the EAR. A copy of the statement must be submitted with the license application if the country of ultimate destination is listed in certain country groups of Supplement No. 1 to part 740 of the EAR. The Form BIS–711 or letter puts the importer on notice of the special nature of the goods proposed for export and conveys a commitment against illegal disposition. In order to effectively control commodities, BIS must have sufficient information regarding the end-use and end-user of the U.S. origin commodities to be exported. The information will assist the licensing officer in making the proper decision on whether to approve or reject the application for the license.

II. Method of Collection

Submitted electronically or on paper.

III. Data

OMB Control Number: 0694–0021.

Form Number(s): BIS–711.

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

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 286.

Estimated Time Per Response: 16 minutes.

Estimated Total Annual Burden Hours: 76.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

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

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

Dated: January 5, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–290 Filed 1–10–12; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems, Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on January 25 and 26, 2012, 9 a.m., at Qualcomm Incorporated, 5775 Morehouse Drive, Building QRC, Room 119B, San Diego, California. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, January 25

Open Session

1. Welcome and Introductions.
2. Working Group Reports.
3. Industry Presentation: Technology Export Controls.
4. Industry Presentation: Trade in Surveillance Technologies.
5. Industry Presentation: 3D003 Products and Issues.
6. New Business.

Thursday, January 26

Closed Session

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

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer(@bis.doc.gov,* no later than January 17, 2012.

A limited number of seats will be available for the public session. Reservations are not accepted. If attending in person, forward your name, Name (to appear on badge), Title, Citizenship, Organization name, Organization address, Email, and Phone to Ms. Springer. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 7, 2012, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (l0)(d))), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt

from the provisions relating to public meetings found in 5 D.S.C. app. 2 §§ 10(a)(1) and l0(a)(3). The remaining portions of the meeting will be open to the public.

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

Dated: January 5, 2012.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2012–374 Filed 1–10–12; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Nelson S. Galgoul, Av. Edison Passess 909, Rio De Janeiro, R.J., Brazil 20531–070, *Respondent; Order Relating to Nelson S. Galgoul*

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS''), has notified Nelson S. Galgoul (''Galgoul'') of its intention to initiate an administrative proceeding against Galgoul pursuant to Section 766.3 of the Export Administration Regulations (the ''Regulations''),[1] and Section 13(c) of the Export Administration Act of 1979, as amended (the ''Act''),[2] through the issuance of a Proposed Charging Letter to Galgoul that alleged that he committed one violation of the Regulations. Specifically, the charge is:

Charge 1 15 CFR 764.2(d)—Conspiracy

From on or about March 1, 1995, and continuing through on or about February 28, 2007, Galgoul conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations by agreeing to export an engineering software program from the United States to Iran via Brazil, without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, authorization was required from the Office of Foreign Assets Control, U.S. Department of the Treasury (''OFAC''), before the engineering software program, an item subject to the Regulations[3] and the Iranian Transactions Regulations (''ITR''),[4] could be exported from the United States to Iran. Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction subject to the ITR. In furtherance of the conspiracy, Galgoul and his co-conspirators devised and employed a scheme under which they would market, sell, and service the engineering software program to Iranian clients through Galgoul, who was located in Brazil. In so doing, Galgoul committed one violation of Section 764.2(d) of the Regulations.

In so doing, Galgoul committed one violation of Section 764.2(d) of the Regulations.

Whereas, BIS and Galgoul have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

Whereas, I have approved of the terms of such Settlement Agreement; *it is therefore ordered*:

First, that for a period of three (3) years from the date of entry of the Order, Nelson S. Galgoul, with a last known address of Av. Edison Passess 909, Rio De Janeiro, R.J., Brazil 20531–070, and when acting for or on his behalf, his representatives, assigns, agents, or employees (hereinafter collectively referred to as ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Fourth, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

Fifth, that this Order shall be served on Galgoul and on BIS, and shall be published in the **Federal Register**.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2011). The charged violation occurred between 1995 and 2007. The Regulations governing the violation at issue are found in the 1995–2007 versions of the Code of Federal Regulations (15 CFR parts 730–774 (1995–2007)). The 2011 Regulations set forth the procedures that apply to this matter.

[2] 50 U.S.C. app. §§ 2401–2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR part 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 FR 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*).

[3] The engineering software program is classified under Export Control Classification Number (''ECCN'') 8D992.

[4] 31 CFR 560 (1995–2007).

This Order, which constitutes the final agency action in this matter, is effective immediately.[5]

Issued this *30th* day of December, 2011.

Donald G. Salo, Jr.,

Acting Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2012–298 Filed 1–10–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Polyethylene Terephthalate Film, Sheet and Strip From India: Rescission, in Part, of Countervailing Duty Administrative Review

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

DATES: *Effective Date:* January 11, 2012.

FOR FURTHER INFORMATION CONTACT: Toni Page, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1398.

Background

On July 1, 2011, the Department of Commerce (Department) published a notice of opportunity to request an administrative review of the countervailing duty (CVD) order on polyethylene terephthalate film, sheet and strip from India covering the period January 1, 2010, through December 31, 2010. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 76 FR 38609, 38610 (July 1, 2011). The Department received a timely request from Petitioners [1] for a CVD administrative review of five companies: Ester Industries Limited (Ester), Garware Polyester Ltd. (Garware), Jindal Poly Films Limited of India (Jindal), Polyplex Corporation Ltd. (Polyplex), and SRF Limited (SRF). The Department also received timely requests for a CVD review from Vacmet India Ltd. (Vacmet) and Polypacks Industries of India (Polypacks). On August 26, 2011, the Department published a notice of initiation of administrative review with respect to Ester, Garware, Jindal, Polyplex, SRF, Vacmet, and Polypacks. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 76 FR 53404 (August 26, 2011). On August 23, 2011, Vacmet and Polypacks withdrew their requests for a review. The Department published a rescission, in part, of the CVD administrative review with respect to Vacmet and Polypacks on September 20, 2011. *See Polyethylene Terephthalate Film, Sheet and Strip From India: Rescission, In Part, of Countervailing Duty Administrative Review,* 76 FR 58248 (September 20, 2011). On November 25, 2011, Petitioners withdrew their request for CVD administrative reviews of Ester, Garware, Polyplex, and Jindal.

Rescission, in Part

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Petitioners' withdrawal was submitted within the 90-day period and, thus, is timely.[2] Because Petitioners' withdrawal of their requests for review is timely and because no other party requested a review of Ester, Garware, Polyplex, or Jindal, we are rescinding this review with respect to these companies in accordance with 19 CFR 351.213(d)(1). The administrative review of SRF continues.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. Subject merchandise exported by Ester, Garware, Polyplex, and Jindal will be assessed countervailing duties at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: January 5, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–353 Filed 1–10–12; 8:45 am]

BILLING CODE 3510–DS–P

[5] Review and consideration of this matter have been delegated to the Deputy Assistant Secretary for Export Enforcement.

[1] Petitioners are DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc. and Toray Plastics (America), Inc.

[2] The 90th day fell on November 24, 2011, a non-business day. Pursuant to 19 CFR 351.303(b), if an applicable due date falls on a non-business day, the Department will accept as timely a document that is filed on the next business day.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 111205722–1793–01]

RIN 0648–XA851

Endangered and Threatened Species; 90-Day Finding on Petition To Delist the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon Under the Endangered Species Act

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

ACTION: Notice of 90-day petition finding.

SUMMARY: We, NMFS, announce a 90-day finding on a petition to delist the Southern Oregon/Northern California Coast (SONCC) Evolutionarily Significant Unit (ESU) of coho salmon (*Oncorhynchus kisutch*) under the Endangered Species Act (ESA). We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

ADDRESSES: Copies of the petition are available at: *http://www.nmfs.noaa.gov/pr/or* upon request from the Assistant Regional Administrator, Protected Resources Division, NMFS, Southwest Regional Office, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Rosalie del Rosario, NMFS, Southwest Region Office, (562) 980–4085; or Dwayne Meadows and Margaret H.

Miller, NMFS, Office of Protected Resources (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the ESA (16 U.S.C. 1533) contains provisions allowing interested persons to petition the Secretary of Commerce (Secretary) to add a species to or remove a species from the List of Endangered and Threatened Wildlife and to designate critical habitat. The Secretary has delegated the authority for these actions to the NOAA Assistant Administrator for Fisheries.

On October 31, 2011, we received a petition from the Siskiyou County Water Users Association and Dr. Richard Gierak requesting that we delist the SONCC ESU of coho salmon under the ESA. The petitioners previously submitted three petitions requesting we delist coho salmon. We analyzed those petitions and found the petitions did not present substantial scientific or commercial information indicating the petitioned action may be warranted. The negative 90-day finding notice for the three petitions was published in the **Federal Register** on October 7, 2011 (76 FR 62375). The current petition largely reiterates the petitioners' previous arguments, including that the species is not native to the Klamath River watershed, the species is in good condition overall, and extinction is inevitable. These arguments were rejected in our response to the previous petitions, and need not be repeated here.

In the current petition, the petitioners have specified their request to delist the SONCC ESU, presented some additional information regarding the status of coho stocks before and after construction of dams, and have added citations to articles on ocean temperature, heat content and volcanic activity in the Pacific Ocean. However, the data and citations are either offered without context or relationship to the petitioned action, or relate to the entire taxonomic species of coho salmon and not specifically to the SONCC ESU. In addition, petitioners have added a discussion of threats to the species, and included the full minutes of a Karuk Tribal Council meeting that were mentioned, but not provided, in their earlier petitions, to support their argument. However, petitioners' discussion of threats to the species supports maintaining the listing, and the Karuk Tribal Council minutes provide no additional evidence indicating whether the species is or is not, as petitioners claim, native to the Klamath River basin. Accordingly, none of this additional information modifies the underlying scientific basis for our original determination or causes us to re-evaluate our earlier position.

ESA Statutory and Regulatory Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA (16 U.S.C. 1533(b)(3)(A)) requires that we make a finding as to whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating the petitioned action may be warranted. ESA implementing regulations define ''substantial information'' as the ''amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)(1)). In determining whether a petition presents substantial scientific or commercial information to list or delist a species, we take into account information submitted with, and referenced in, the petition and all other information readily available in our files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). ESA implementing regulations state that a species may be delisted only if the best scientific and commercial data available substantiate that it is neither endangered nor threatened for one or more of the following reasons: The species is extinct; the species is recovered; or subsequent investigations show the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error (50 CFR 424.11(d)).

Petition Finding

As discussed above, this subject petition does not present any new or substantial scientific or commercial information related to whether the SONCC ESU of coho salmon is recovered, extinct, or that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error. Therefore, we determine that the petition does not present substantial scientific or commercial information to indicate that the petitioned action may be warranted.

References Cited

A complete list of the references used in this finding is available upon request (see **ADDRESSES**).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: January 5, 2012.

Samuel D. Rauch III,

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

[FR Doc. 2012–393 Filed 1–10–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA778

Endangered and Threatened Species; Recovery Plan for the Southern California Steelhead Distinct Population Segment

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Availability.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the adoption of an Endangered Species Act (ESA) recovery plan for the Southern California Steelhead *(Oncorhynchus mykiss)* Distinct Population Segment (DPS), which spawn and rear in coastal rivers from the Santa Maria River to the Tijuana River California. The Final Southern California Steelhead Recovery Plan (Final Recovery Plan) and our summary of and responses to public comments are now available.

ADDRESSES: Electronic copies of the Final Recovery Plan and a summary of and response to public comments on the Final Recovery Plan are available online at *http://www.nmfs.noaa.gov/pr/recovery/plans/htm.* A CD–ROM of these documents can be obtained by emailing a request to *Penny.Ruvelas@noaa.gov* or by writing to NMFS Protected Resources Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Penny Ruvelas, National Marine Fisheries Service, (562) 980–4197.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*) requires that we develop and implement recovery plans for the conservation and survival of threatened and endangered species under our jurisdiction, unless it is determined that such plans would not result in the conservation of the species. We designated the Southern California Steelhead Evolutionarily Significant Unit (ESU) as endangered in the **Federal**

Register on August 18, 1997 (62 FR 43937). The original ESU boundaries during the initial listing of 1997 were from the Santa Maria River south to Malibu Creek. Following this initial listing, *O. mykiss* were discovered in watersheds south of Malibu Creek (Topanga Creek in Los Angeles County and San Mateo Creek in Orange, Riverside, and San Diego Counties) and genetic testing confirmed that these *O. mykiss* were most closely related to the more northern populations of the Southern California Steelhead ESU. As a result, the range for the ESU was extended south to the U.S.-Mexico border on May 1, 2002 (67 FR 21586). NMFS reaffirmed the listing of all West Coast steelhead populations and applied the DPS designation in place of the ESU designation on January 5, 2006 (72 FR 834).

We published a Notice of Availability of the proposed Draft Recovery Plan in the **Federal Register** on July 23, 2009 (74 FR 36480); and a notice of a 60-day time extension for public comments on September 11, 2009 (74 FR 46747). NMFS held eight multi-day public meetings on the threats assessment and recovery actions, and two multi-day public meetings on the proposed draft Recovery Plan to solicit public comments. We received over 90 comments on the proposed draft Recovery Plan and summarized the public comments, prepared responses, and identified the public comments that prompted revisions for the Final Recovery Plan. We revised the proposed draft Recovery Plan based on the comments received, and this final version now constitutes the Recovery Plan for the Southern California Steelhead DPS.

The ESA requires that recovery plans incorporate, to the extent practicable: (1) Objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. Our goal is to restore the endangered Southern California Steelhead DPS to the point where they are again secure, self-sustaining members of their ecosystems and no longer need the protections of the ESA.

The Final Recovery Plan provides background on the natural history of Southern California Steelhead DPS, current population trends, and the threats to their viability. The Final Recovery Plan lays out a recovery strategy to address the threats based on the best available science and includes goals that incorporate objective, measurable criteria which, when met, could result in a determination that the species may be removed from the Federal list of threatened and endangered species. The Final Recovery Plan is not regulatory, but presents guidance for use by agencies and interested parties to assist in the recovery of the Southern California Steelhead DPS. The Final Recovery Plan identifies substantive recovery actions needed to achieve recovery by addressing the systemic threats to the species, and provides a time-line and estimated costs of recovery actions. The strategy for recovery includes a linkage between conservation and management actions and an active research and monitoring program intended to fill data gaps and assess effectiveness of those actions. The Final Recovery Plan incorporates an adaptive management framework by which conservation and management actions and other elements will evolve and adapt as we gain information through research and monitoring; it describes the agency guidance for periodic review of the status of the species and the recovery plan. To address threats related to the species, the Final Recovery Plan acknowledges many of the significant efforts already underway to restore steelhead access to high-quality habitat and to improve habitat previously degraded.

We expect the Final Recovery Plan to help us and other Federal agencies take a consistent approach to section 7 consultations under the ESA and to other ESA decisions. For example, the Final Recovery Plan will provide information on the biological context for the effects that a proposed action may have on the listed DPS. The information in the Final Recovery Plan on the natural history, threats, and potential limiting factors, and priorities for recovery can be used to help assess risks and conservation actions. Consistent with the adoption of this Final Recovery Plan for the Southern California Steelhead DPS, we will implement relevant actions for which we have authority, work cooperatively on implementation of other actions, and encourage other Federal and state agencies to implement recovery actions for which they have responsibility and authority.

Recovery of the Southern California Steelhead DPS will require a long-term effort in cooperation and coordination with Federal, state, tribal and local government agencies, and the community.

Conclusion

NMFS has reviewed the Plan for compliance with the requirements of the ESA section 4(f), determined that it does incorporate the required elements and is therefore adopting it as the Final Recovery Plan for Southern California Steelhead DPS.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: January 4, 2012.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–392 Filed 1–10–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA923

Gulf of Mexico Fishery Management Council (Council); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings.

DATES: The meetings will be held January 30–February 2, 2012.

ADDRESSES: The meetings will be held at the Renaissance Riverview Hotel; 64 S. Water Street, Mobile, AL 36602; telephone: (251) 438–4000.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen Bortone, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Committees

Monday, January 30, 2012

1 p.m.–2 p.m.—Scientific & Statistical Committee (SSC) Selection Committee will discuss duties and responsibilities of the SSC.

2 p.m.–4 p.m.—Mackerel Management Committee will review scoping documents for Amendment 19—No Sale and Permits and Amendment 20—Boundaries and Transit Provisions; and select future scoping meeting locations.

4 p.m.–4:30 p.m.—Shrimp Management Committee will review the

2011 Texas Closure and decide whether to have a closure in 2012.

4:30 p.m.–5:30 p.m.—The Marine Recreational Information Program (MRIP) will give a presentation to the Full Council reviewing data reports.

5:30 p.m.–5:45 p.m.—Scientific & Statistical Committee (SSC) Selection Committee—Full Council (Closed Session) will review membership of the Spiny Lobster SSC and removal of Stone Crab Members; discuss replacement of a Member of the Shrimp SSC; and appoint additional Coral SSC Members.

—Recess—

Tuesday, January 31, 2012

8:30 a.m.–12 noon and 1:30 p.m.–5:30 p.m.—Reef Fish Management Committee will meet to discuss the Final Regulatory Amendment for Red Snapper Fall Closed Season Revision and 2012 Annual Catch Limit; review an Options Paper for a Regulatory Amendment for Red Snapper Weekend/Weekday openings; review and discuss the Gray Triggerfish update assessment; take Final Actions on Amendment 34—Crew Size and Income Requirement and Amendment 35—Greater Amberjack Rebuilding Plan Adjustments; Draft Amendment 36—Red Snapper IFQ Transferability; discuss Reef Fish Amendment 33—LAPP Program; review an Options Paper for Vermilion Snapper ACL Framework Action; discuss Reef Fish Framework Action for Red Snapper Payback Provisions for Overages; and discuss any additional SSC and AP comments.

—Recess—

Immediately following the Committee Recess will be the Informal Question & Answer Session on Gulf of Mexico Fishery Management Issues.

Wednesday, February 1, 2012

8:30 a.m.–10 a.m.—The Reef Fish Management Committee—Continued (see above).

10 a.m.–10:30 a.m.—The Joint Mackerel, Reef Fish and Red Drum Committees will discuss starting an amendment to develop Default Status Determination Criteria.

10:30 a.m.–11:30 a.m.—The Data Collection Committee will discuss the Generic Amendment for Dealer Permits and Electronic Reporting.

11:30 a.m.–12 noon—The Artificial Reef Committee will receive a presentation from Dr. Shipp on the role of artificial reefs in fishery management.

1:30 p.m.–3 p.m.—The Spiny Lobster Management Committee will take Final Action on Spiny Lobster Amendment 11.

—Recess—

Council

Wednesday, February 1, 2012

3 p.m.—The Council meeting will begin at with a Call to Order and Introductions.

3:05 p.m.–3:15 p.m.—The Council will review the agenda and approve the minutes.

3:15 p.m.–6:15 p.m.—The Council will receive public testimony on agenda items; Final Action on Reef Fish Amendment 34—Crew Size and Income Requirement; Final Action on Reef Fish Amendment 35—Greater Amberjack; Final Action on a Regulatory Amendment for Red Snapper Fall Closed Season Review and 2012 Annual Catch Limit (ACL); Final Action on Spiny Lobster Amendment 11; and exempted fishing permits (EFPs), if any. The Council will also hold an open public comment period regarding any other fishery issues of concern. People wishing to speak before the Council should complete a public comment card prior to the comment period.

Thursday, February 2, 2012

8 a.m.–8:30 a.m.—The Council will approve the Restoration Committee Membership and Develop Their Charge.

8:30 a.m.–8:45 a.m.—The Council will receive a presentation titled ''Fisheries 101''.

8:45 a.m.–9:15 a.m.—The Council will receive a presentation on Lionfish in the Flower Garden Banks Sanctuary.

9:15 a.m.—4:15 p.m.—The Council will review and discuss reports from the committee meetings as follows: Shrimp, Mackerel, Reef Fish, Spiny Lobster, Joint Mackerel/Reef Fish/Red Drum, Data Collection, Artificial Reef, and Scientific & Statistical Committee Selection.

4:15 p.m.–4:45 p.m.—Other Business items will follow. The Council will conclude its meeting at approximately 4:45 p.m.

Although other non-emergency issues not on the agendas may come before the Council and Committees for discussion, in accordance with the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the Council and Committees will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency. The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. In order to further allow for such adjustments and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date/time established in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: January 6, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–309 Filed 1–10–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA925

Endangered Species; File No. 16194

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the NMFS Southeast Fisheries Science Center (SEFSC) [Dr. Bonnie Ponwith, Responsible Party], 75 Virginia Beach Drive, Miami, FL 33149, has been issued a permit to take green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempii*), olive ridley (*Lepidochelys olivacea*), leatherback (*Dermochelys coriacea*), and unidentified hardshell sea turtles for the purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and Southeast Region, NMFS, 263 13th Ave. South, St. Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

FOR FURTHER INFORMATION CONTACT: Colette Cairns or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On August 9, 2011, notice was published in the

Federal Register (76 FR 48806) that a request for a scientific research permit to take green, loggerhead, hawksbill, leatherback, Kemp's ridley, olive ridley, and unidentified hardshell sea turtles had been submitted by the above-named organization. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The five-year permit authorizes the SEFSC to conduct research on green, loggerhead, hawksbill, leatherback, Kemp's ridley, olive ridley, and unidentified hardshell sea turtles captured under another authority during SEFSC resource assessment cruises. SEFSC personnel are authorized to handle, photograph, measure, weigh, flipper and passive integrated transponder tag, and tissue sample live sea turtles, and salvage specimens from dead sea turtles. The research will take place in the Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and their embayments and estuaries. This research would aid in the development and refinement of management efforts to recover these species.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: January 6, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–397 Filed 1–10–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Threat Reduction Advisory Committee; Notice of Meeting

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics).

ACTION: Federal Advisory Committee meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended) and the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense announces the following Federal advisory committee meeting of the Threat Reduction Advisory Committee (hereafter referred to as ''the Committee'').

DATES: Tuesday, January 31, 2012, from 8:30 a.m. to 3 p.m.

ADDRESSES: Conference Room B–1, the Pentagon.

FOR FURTHER INFORMATION CONTACT: Mr. William Hostyn, GS–15, DoD, Defense Threat Reduction Agency/SP–ACP, 8725 John J. Kingman Road, MS 6201, Fort Belvoir, VA 22060–6201. Email: *william.hostyn@dtra.mil.* Phone: (703) 767–4453. Fax: (703) 767–4206.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To obtain, review and evaluate classified information related to the Committee's mission to advise on technology security, combating weapons of mass destruction (WMD), counter terrorism and counter proliferation.

Agenda: Beginning at 8:30 a.m. through the end of the meeting, the Committee will receive SECRET-level WMD briefings throughout the duration of the meeting. The Committee will also hold classified discussions on Weapons of Mass Destruction-related national security matters as they formulate their work plan.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. The Under Secretary of Defense for Acquisition, Technology and Logistics, in consultation with the DoD FACA Attorney, has determined in writing that this meeting be closed to the public because the discussions fall under the purview of Title 5, United States Code, Section § 552b(c)(1) and are inextricably intertwined with the unclassified material which cannot reasonably be segregated into separate discussions without disclosing secret material.

Committee's Designated Federal Officer or Point of Contact: Mr. William Hostyn, GS–15, DoD, Defense Threat Reduction Agency/SP–ACP, 8725 John J. Kingman Road, MS 6201, Fort Belvoir, VA 22060–6201. Email: *william.hostyn@dtra.mil.* Phone: (703) 767–4453. Fax: (703) 767–4206.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Committee at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Committee's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.* Written statements that do not pertain to a scheduled meeting of the Committee may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all committee members.

Dated: January 5, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–260 Filed 1–10–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

OMB Approval Notice

ACTION: Notice of OMB Approval.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Department of Education would like to provide a notice of OMB approval for the Federal Educational Rights and Privacy Act (FERPA) information collection OMB #1875–0246 and FERPA Final regulation 34 CFR part 99 published in the **Federal Register**, Vol. 76, page 75639, on December 2, 2011. Because the FERPA program has been transferred from the Office of Planning, Evaluation and Policy Development (OPEPD) to the Office of Management (OM), OMB has assigned a new OMB control number #1880–0543 to this collection. This action has no impact on the FERPA information collection requirements or the FERPA regulations at 34 CFR part 99. The Department of Education would like to make note of this change in OMB control number.

Dated: January 6, 2012.

Darrin A. King,

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

[FR Doc. 2012–330 Filed 1–10–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy,

Information and Records Management Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before February 10, 2012.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or emailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: January 5, 2012.

Darrin King,

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

Office of Innovation and Improvement

Type of Review: New.

Title of Collection: Magnet Schools Assistance Program Government Performance and Results Act (GPRA) Table Form.

OMB Control Number: Pending.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: State, Local and Tribal Government.

Total Estimated Number of Annual Responses: 153.

Total Estimated Annual Burden Hours: 77.

Abstract: The Magnet Schools Assistance Program makes grants to Local Eductional Agencies to establish and operate magnet schools projects that are part of approved desegregation plans. The collection of this information is necessary for providing (1) data to the Department of Education (ED) and Congress on the progress of Government Performance and Results Act (GPRA) program indicators and ED goals; (2) a standard format for grantees to report to ED and Congress on GPRA measures; (3) a consistent format to calculate these data in the aggregate with the same mathematical procedures.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4740. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to (202) 401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800) 877–8339.

[FR Doc. 2012–332 Filed 1–10–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before February 10, 2012.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or emailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: January 5, 2012.

Darrin King,

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

Institute of Education Sciences

Type of Review: Revision.

Title of Collection: Education Longitudinal Study (ELS) 2002 Third Follow-up 2012.

OMB Control Number: 1850–0652.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Individuals and households.

Total Estimated Number of Annual Responses: 17,820.

Total Estimated Annual Burden Hours: 8,775.

Abstract: The Education Longitudinal Study of 2002 (ELS:2002) is a nationally representative study of two high school grade cohorts (spring 2002 tenth-graders and spring 2004 twelfth-graders) comprising over 16,000 sample

members. The study focuses on achievement growth in mathematics in the high school years and its correlates, the family and school social context of secondary education, transitions from high school to postsecondary education and/or the labor market, and experiences during the postsecondary years. Major topics covered for the postsecondary years include postsecondary education access, choice, and persistence; baccalaureate and sub-baccalaureate attainment; the work experiences of the non-college-bound; and other markers of adult status such as family formation, civic participation, and other young adult life course developments. Data collections took place in 2002, 2004, 2006 (two years out of high school), and now will take place in 2012, when most sample members are around 26 years of age. The third follow-up field test was conducted in 2011. This submission requests OMB's approval for the third follow-up 2012 full scale data collection.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4775. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to (202) 401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2012–331 Filed 1–10–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12711–005]

Ocean Renewable Power Company Maine, LLC; Notice of Availability of Environmental Assessment for the Proposed Cobscook Bay Tidal Energy Project

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed Ocean Renewable Power Company, LLC's application for an 8-year pilot license for the proposed Cobscook Bay Tidal Energy Project (FERC Project No. 12711–005), which would be located in Cobscook Bay in Washington County, Maine, and has prepared an environmental assessment (EA) in cooperation with the U.S. Department of Energy (DOE/EA1916). In the EA, Commission staff analyzes the potential environmental effects of constructing and operating the project 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. A copy of the EA can also be found on DOE's Public Reading Room Web site at *http://www.eere.energy.gov/golden/Reading_Room.aspx.* Please reference DOE/EA 1916 in the National Environmental Policy Act Documents section.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the 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/ferconline.asp*) under the ''eFiling'' link. 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. Although the Commission strongly encourages electronic filings, 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. Please affix Project No. 12711–005 to all comments.

For further information, contact Timothy Konnert by telephone at (202) 502–6359 or by email at *timothy.konnert@ferc.gov.*

Dated: January 4, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–272 Filed 1–10–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–28–000]

Tennessee Gas Pipeline Company, L.L.C.; Notice of Intent To Prepare an Environmental Assessment for the Proposed MPP Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the MPP Project, involving construction and operation of facilities by Tennessee Gas Pipeline Company, L.L.C. (TGP) in Potter, McKean, Mercer, and Venango Counties, Pennsylvania. The Commission will use this EA in its decisionmaking process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on February 3, 2012. At this time you may submit comments in written form.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

TGP provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (www.ferc.gov).

Summary of the Proposed Project

TGP proposes to construct and operate 7.9 miles of looped [1] 30-inch-diameter pipeline and facility modifications in northern Pennsylvania. The MPP Project would provide about 240,000 dekatherms of natural gas per day to markets in Ohio and Tennessee. According to TGP, its project would provide access to newly developed and diversified sources of natural gas in the eastern United States.

The MPP Project would consist of the following components:

- Installation of 7.9 miles of 30-inch-diameter pipeline in Potter County, designated as Loop 313;
- Miscellaneous aboveground equipment including a pig launcher; [2] and
- Facility modifications at the following four compressor stations to provide bi-directional natural gas flow:

a. Station 219, in Mercer County;
b. Station 303, in Venango County;
c. Station 310, in McKean County; and
d. Station 313, in Potter County.

The general location of the project facilities is shown in Appendix 1.[3]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 236 acres of land for the aboveground facilities and the pipeline. Following construction, TGP would maintain about 49 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. As proposed, the pipeline route parallels TGP's existing 300 Line right-of-way for the majority of its length.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [4] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use and cumulative impacts;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[5] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[6] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects,

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

[2] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[3] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[5] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[6] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before February 3, 2012.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP12–28–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (www.ferc.gov) under the link to Documents and Filings. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the eFiling feature on the Commission's Web site (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP12–28). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: January 4, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–274 Filed 1–10–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–30–002]

EasTrans, LLC; Notice Granting Extension of Time

On December 16, 2011, EasTrans, LLC (EasTrans) filed a request to extend the date for filing its next rate case pursuant to sections 284.224 and 284.123 (2011) of the Commission's regulations.[1] In support of this request, EasTrans states that in Order No. 735, the Commission modified its policy concerning periodic reviews of rates charges by section 311 and Hinshaw pipelines to extend the cycle for such reviews from three to five years.[2] Therefore, EasTrans requests that the date for its next rate filing be extended to March 31, 2014, which is five years from the date of EasTrans' most recent rate filing with this Commission.

Upon consideration, notice is hereby given that an extension of time for EasTrans to file its section 284.123 rate petition is granted to and including March 31, 2014.

Dated: January 4, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–273 Filed 1–10–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP12–130–000]

Paiute Pipeline Company; Notice of Technical Conference

Take notice that the Commission Staff will convene a technical conference in the above-referenced proceeding on Tuesday, January 24, 2012, at 10 a.m. (EST), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The technical conference will address Paiute Pipeline Company's proposed

[1] 18 CFR 284.123 and 284.224 (2011).

[2] *Contract Reporting Requirements of Intrastate Natural Gas Companies,* Order No. 735, 131 FERC ¶ 61,150 (May 20, 2010).

tariff modifications. These include Paiute's proposal to (1) To update its tariff with respect to various Commission policies and accepted principles and to reflect contemporary industry practices; (2) to add, enhance, clarify, improve, update, and/or remove various tariff provisions; and (3) to make miscellaneous minor housekeeping changes. Paiute should be prepared to address all concerns raised by the parties in their comments and to provide support for its proposed revisions.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Michelle A. Davis at (202) 502–8687 or email *Michelle.Davis2@ferc.gov.*

Dated: January 4, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–271 Filed 1–10–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2011–1017; FRL–9331–6]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review Methods for Efficacy Testing of Bed Bug Pesticide Products.

DATES: The meeting will be held on March 6–7, 2012, from approximately 8:30 a.m. to 5 p.m.

Comments. The Agency encourages that written comments be submitted by February 21, 2012, and requests for oral comments be submitted by February 28, 2012. However, written comments and requests to make oral comments may be submitted until the date of the meeting, but anyone submitting written comments after February 21, 2012, should contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT.** For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION.**

Nominations. Nominations of candidates to serve as ad hoc members of FIFRA SAP for this meeting should be provided on or before January 25, 2012.

Webcast. This meeting may be Webcast. Please refer to the FIFRA SAP's Web site, *http://www.epa.gov/scipoly/SAP* for information on how to access the Webcast. Please note that the Webcast is a supplementary public process provided only for convenience. If difficulties arise resulting in Webcasting outages, the meeting will continue as planned.

Special accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202.

Comments. Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2011–1017, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2011–1017. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The 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 regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

Nominations, requests to present oral comments, and requests for special accommodations. Submit nominations to serve as ad hoc members of FIFRA SAP, requests for special seating accommodations, or requests to present oral comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Joseph Bailey, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number:

(202) 564–2045; fax number: (202) 564–8382; email address: *bailey.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

B. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

C. How may I participate in this meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPP–2011–1017 in the subject line on the first page of your request.

1. *Written comments.* The Agency encourages that written comments be submitted, using the instructions in **ADDRESSES,** no later than February 21, 2012, to provide FIFRA SAP the time necessary to consider and review the written comments. Written comments are accepted until the date of the meeting, but anyone submitting written comments after February 21, 2012, should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**. Anyone submitting written comments at the meeting should bring 30 copies for distribution to FIFRA SAP. Written comments received after the close of the meeting may not be considered by the Panel.

2. *Oral comments.* The Agency encourages that each individual or group wishing to make brief oral comments to FIFRA SAP submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than February 28, 2012, in order to be included on the meeting agenda. Requests to present oral comments will be accepted until the date of the meeting and, to the extent that time permits, the Chair of the FIFRA SAP may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before the FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to the FIFRA SAP at the meeting.

3. *Seating at the meeting.* Seating at the meeting will be open and on a first-come basis.

4. *Request for nominations to serve as ad hoc members of the FIFRA SAP for this meeting.* As part of a broader process for developing a pool of candidates for each meeting, the FIFRA SAP staff routinely solicits the stakeholder community for nominations of prospective candidates for service as ad hoc members of the FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: Insecticide testing/bioassay design and evaluation, bed bug biology and statistical analysis and evaluation. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before January 25, 2012. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on the FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency except the EPA. Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Although financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on the FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel. In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 10 ad hoc scientists.

FIFRA SAP members are subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on the FIFRA SAP will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. The EPA will evaluate the candidates financial disclosure form to assess whether there are financial conflicts of interest, appearance of a lack of impartiality or any prior

involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on the FIFRA SAP. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP Web site at *http://www.epa.gov/scipoly/sap* or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov.*

II. Background

A. Purpose of FIFRA SAP

The FIFRA SAP serves as the primary scientific peer review mechanism of EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) and is structured to provide scientific advice, information and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a Federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act. The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. FIFRA, as amended by FQPA, established a Science Review Board consisting of at least 60 scientists who are available to the SAP on an ad hoc basis to assist in reviews conducted by the SAP. As a peer review mechanism, the FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

B. Public Meeting

The bed bug is an obligate blood-feeding pest that has been a persistent pest to people throughout recorded history. Bed bugs have lived in close proximity to humans in the United States but their populations dropped dramatically during the mid-20th century. The United States is one of many countries now experiencing a resurgence of the population of bed bugs. Though the exact cause is not known, experts suspect the resurgence is associated with increased resistance of bed bugs to available pesticides, greater international and domestic travel, lack of knowledge regarding control of bed bugs due to their prolonged absence, and the continuing decline or elimination of effective vector/pest control programs at state and local public health agencies. In recent years, public health agencies across the country have been overwhelmed by complaints about bed bugs. An integrated approach to bed bug control involving Federal, state, tribal and local public health professionals, together with pest management professionals, housing authorities and private citizens, will promote development and understanding of the best methods for managing and controlling bed bugs and preventing future infestations. Research, training and public education are critical to an effective strategy for reducing public health issues associated with the resurgence of bed bug populations.

EPA-registered pesticide products are an important part of pest management programs to accomplish bed bug control. In the past 5 years, some product users have reported failures due to the lack of bed bug susceptibility to pesticide products. Subsequently, resistance to pyrethroid insecticides was documented although it has not been directly linked to field application failures. Taken together, these conditions have raised questions about the validity and value of efficacy data submitted to EPA that are used to fulfill registration requirements for bed bug pesticide products. In response, EPA has evaluated the database for registered products and concluded that there is a need to standardize approaches to bed bug product testing methods in order to insure the efficacy of registered products. In order to accomplish this, the Agency is developing a product performance guideline for bed bug pesticide products. The Agency will be seeking advice and recommendations from the SAP on scientific issues associated with the proposed EPA Guideline ''Methods for Efficacy Testing of Bed Bug Pesticide Products.''

C. FIFRA SAP Documents and Meeting Minutes

EPA's background paper, related supporting materials, charge/questions to the FIFRA SAP, FIFRA SAP composition (i.e., members and ad hoc members for this meeting), and the meeting agenda will be available by early February 2012. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at *http://www.regulations.gov* and the FIFRA SAP homepage at *http://www.epa.gov/scipoly/sap.*

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP Web site or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov.*

List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 28, 2011.

Stephen M. Knott,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. 2012–336 Filed 1–10–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0014; FRL–9328–3]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registration has been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before July 9, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0014, by one of the following methods:

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

• *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. ATTN: Jolene Trujillo.

• *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2010–0014. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The 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 regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Jolene Trujillo, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0103; email address: *trujillo.jolene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What action is the agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 36 pesticide products registered under FIFRA section 3 or 24(c). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue orders in the **Federal Register** canceling all of the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

EPA Reg. No.	Product name	Active ingredients
000264–00438	Bronate Herbicide	MCPA, 2-ethylhexyl ester; Bromoxynil octanoate.
000264–00477	Buctril + Atrazine Herbicide	Bromoxynil octanoate; Atrazine.
000264–00586	Sedagri Batril 20W Herbicide	Bromoxynil octanoate.
000264–00699	Rhino Brand Herbicide	MCPA, 2-ethylhexyl este; Bromoxynil octanoate; Heptanoic acid, 2,6-dibromo-4-cyanophenyl ester.
000264–00799	Weco Max Brand Herbicide	2,4–D, 2-ethylhexyl ester; Heptanoic acid, 2,6-dibromo-4-cyanophenyl ester; Bromoxynil octanoate.
000264–01071	Wolverine Power Pak	Heptanoic acid, 2,6-dibromo-4-cyanophenyl ester; Bromoxynil octanoate; Pyrasulfotole Technical; Fenoxaprop-p-ethyl.
000279–03104	Commence EC	Trifluralin; Clomazone.
000279–03232	Command Xtra Herbicide	Clomazone; Sulfentrazone.
001043–00060	T.B.Q. Germicidal Detergent	Alkyl dimethyl benzyl ammonium chloride (50%C_{14}, 40%C_{12}, 10%C_{16}).
002217–00426	Formec 80 Turf & Ornamental Fungicide.	Mancozeb.
010324–00053	Maquat 2.5%	1–Decanaminium, N-decyl-N,N-dimethyl-, chloride.
010324–00054	Maquat-4.5%	1–Decanaminium, N-decyl-N,N-dimethyl-, chloride.
010324–00055	Septin CS	Alkyl dimethyl benzyl ammonium chloride (60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12}); Alkyl*dimethyl ethylbenzyl ammonium chloride *(68%C_{12}, 32%C_{14}).
010324–00106	Q–14 Disinfectant	Alkyl dimethyl benzyl ammonium chloride (50%C_{14}, 40%C_{12}, 10%C_{16}); 1–Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1–Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1–Decanaminium, N,N-dimethyl-N-octyl-, chloride.
010324–00145	Maquat FP	Alkyl dimethyl ethylbenzyl ammonium chloride (68%C_{12}, 32%C_{14}); Alkyl dimethyl benzyl ammonium chloride (60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12}).
010807–00449	Country Vet Flea & Tick Carpet Spray with Growth Inhibitor.	Phenothrin; Tetramethrin; Pyriproxyfen.
053883–00084	Pendimethalin 3.3 Herbicide	Pendimethalin.
053883–00086	Pendimethalin 0.66% + Fertilizer	Pendimethalin.
053883–00138	Permethrin 3.2 Ag II	Permethrin.
075341–00012	Hollow Heart CF	Copper naphthenate; Sodium fluoride.
075341–00013	COP–R–Plastic II Wood Preserving Compound.	Copper naphthenate; Sodium fluoride.
CA110009	Ethylene	Ethylene.
GA080007	Ridomil Gold Copper	Copper hydroxide; D–Alanine, N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-, methyl ester.
GA080011	Safari 20 SG Insecticide	Dinotefuran.
ID060014	Prozap Zinc Phosphide Pellets	Zinc phosphide (Zn_3P_2).
KY080024	Safari 20 SG Herbicide	Dinotefuran.
MI000003	Captan 50 Wettable Powder	Captan.
MI060004	Dual Magnum	S–Metolachlor.
MT950003	Zinc Phosphide Oat Bait	Zinc phosphide (Zn_3P_2).
NV040003	Zinc Phosphide Oat Bait	Zinc phosphide (Zn_3P_2).
NV060007	Prozap Zinc Phosphide Pellets	Zinc phosphide (Zn_3P_2).
NV080003	Endura Fungicide	Boscalid.
SD070001	Zinc Phosphide Oat Bait	Zinc phosphide (Zn_3P_2).
VA080007	Ridomil Gold Copper	Copper hydroxide; D–Alanine, N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-, methyl ester.
VA080009	Safari 20 SG Insecticide	Dinotefuran.
WA060011	Tristar 70 WSP Insecticide	Acetamiprid.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company name and address
264	Bayer Crop Science LP, 2 T.W. Alexander Dr., PO Box 12014, Research Triangle Park, NC 27709.
279	FMC Corp. Agricultural Products, 1735 Market St. Rm 1978, Philadelphia, PA 19103.
1043	Steris Corporation, PO Box 147, St. Louis, MO 63166–0147.
2217	PBI/Gordon Corp., 1217 West 12th St., Kansas City, MI 64101–0090.
10324	Mason Chemical Co., 721 W. Algonquin Rd., Arlington Heights, IL 60005.
10807	Amrep, Inc, Agent: Lewis & Harrison LLC, 122 C St. NW., Washington, DC 20001.
53883	Control Solutions, Inc., 5903 Genoa-Red Bluff Rd., Pasadena, TX 77507–1041.
75341	Osmose Utilities Services, Inc., 980 Ellicott St., Buffalo, NY 14209.
CA110009	Airgas Specialty Gases, Inc., 2530 Sever Rd. Suite 300, Lawrenceville, GA 30043.
GA080007, MI060004, VA080007	Syngenta Crop Protection, LLC, D/B/A Syngenta Crop Protection, Inc., PO Box 18300, Greensboro, NC 27149–8300.
GA080011, KY080024, VA080009	Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596.
ID060014, MT950003, NV040003, NV060007, SD070001.	Hacco, Inc., 110 Hopkins Dr., Randolph, WI 53956–1316.
MI000003	Arysta Lifescience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
NV080003	BASF Corporation, 26 Davis Dr., Research Triangle Park, NC 27709–3528.
WA060011	Nippon Soda Co. Ltd, Agent: Nisso America Inc., 45 Broadway, Suite 2110, New York, NY 10006.

III. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 2 of Unit II have not requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 180-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products identified in Table 1 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 13, 2011.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2012–340 Filed 1–10–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2011–0996; FRL–9331–3]

Butylate, Fenoxycarb, Sodium Tetrathiocarbonate, and Temephos Registration Review Final Decisions; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's final registration review decisions for the pesticides butylate, case no. 0071; fenoxycarb, case no. 7401; sodium tetrathiocarbonate, case no. 7009; and temephos, case no. 0006. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact:* The chemical review manager identified in the Table of Unit II. for the pesticide of interest.

For general information on the registration review program, contact: Kevin Costello, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone

number: (703) 305–5026; fax number: (703) 308–8090; email address: *costello.kevin@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2011–0996. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. Background

A. What action is the agency taking?

Pursuant to 40 CFR 155.58(c), this notice announces the availability of EPA's final registration review decisions for butylate, case no. 0071; fenoxycarb, case no. 7401; sodium tetrathiocarbonate, case no. 7009; and temephos, case no. 0006. Butylate is a thiocarbamate soil-incorporated herbicide and was registered for use on field corn, pop corn, and sweet corn. The last butylate pesticide product registered for use in the United States was cancelled on March 23, 2011. Fenoxycarb is an O-ethyl carbamate derivative insecticide used to control fire ants and big-headed ants on turf, home lawns, agricultural areas, non-agricultural areas, horse farms, and ornamental nursery stock, among other areas. Fenoxycarb is also used to control a variety of insects in greenhouses in a total release fogger product. Sodium tetrathiocarbonate is a soil fumigant used for the management of nematodes and phytophthora root rot, oak root fungus, and phylloxera. It was registered for use on grapes, citrus, almonds, peaches, prunes, and plums only in the states of Arizona, California, Oregon, and Washington. Temephos is a non-systemic organophosphate insecticide which is applied to standing water, shallow ponds, lakes, woodland pools, tidal waters, marshes, swamps, waters high in organic content, highly polluted water, catch basins (and similar areas where mosquitoes may breed), stream margins, and intertidal zones of sandy beaches. Target pests include aquatic larvae of mosquitoes, midges, gnats, punkies, and sandflies.

TABLE—REGISTRATION REVIEW CASES WITH FINAL DECISIONS

Registration review case name and no.	Pesticide docket ID no.	Chemical review manager, telephone No., email address
Butylate Case Number 0071	EPA–HQ–OPP–2008–0882	Steven Snyderman, (703) 347–0249, *snyderman.steven@epa.gov*.
Fenoxycarb Case Number 7401	EPA–HQ–OPP–2006–0111	Tom Myers, (703) 308–8589, *myers.tom@epa.gov*.
Sodium Tetrathiocarbonate Case Number 7009	EPA–HQ–OPP–2007–1084	Tom Myers, (703) 308–8589, *myers.tom@epa.gov*.
Temephos Case Number 0006	EPA–HQ–OPP–2008–0444	Tom Myers, (703) 308–8589, *myers.tom@epa.gov*.

Pursuant to 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA. EPA has considered butylate, fenoxycarb, sodium tetrathiocarbonate, and temephos in light of the FIFRA standard for registration. The butylate, fenoxycarb, sodium tetrathiocarbonate, and temephos Final Decision documents in the dockets describe the Agency's rationale for issuing registration review final decisions for these pesticides.

In addition to the final registration review decision document, the registration review dockets listed in the Table of Unit II. for butylate, fenoxycarb, sodium tetrathiocarbonate, and temephos also include other relevant documents related to the registration review of these cases. The proposed registration review decision documents were posted to the respective dockets and the public was invited to submit any comments or new information. During the 60-day comment period, no public comments were received for butylate, fenoxycarb, and sodium tetrathiocarbonate. Comments were received for temephos, from the American Mosquito Control Association, Lee County Mosquito Control District, the IR–4 Project, and Value Garden Supply. The comments emphasized the benefits of temephos as it is used in public health for mosquito control. The Agency recognizes the role of temephos in mosquito control and has agreed to a 4-year phase-out of the product registrations to accommodate the public health need and allow registrants time to develop replacement products. The current temephos products will not be cancelled until December 30, 2015. Also, Value Garden Supply requested to rescind their voluntary cancellation. In response to Value Garden Supply's request to rescind their voluntary cancellation request, the Agency has been in discussions with the registrant about the specific scientific data required to support their temephos product registrations affected by the Cancellation Order. If the required temephos data are submitted by the registrant, reviewed, and found acceptable by the Agency prior to December 30, 2015, the Agency may amend the Cancellation Order for the affected product registrations. Pursuant to 40 CFR 155.58(c), the registration review case dockets for butylate, fenoxycarb, sodium tetrathiocarbonate, and temephos will remain open until all actions required in these final decisions have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/*

registration_review. Links to earlier documents related to the registration review of these pesticide are provided at: *http://www.epa.gov/oppsrrd1/registration_review/butylate/, http://www.epa.gov/oppsrrd1/registration_review/fenoxycarb/, http://www.epa.gov/oppsrrd1/registration_review/sodium_tetrathiocarbonate/,* and *http://www.epa.gov/oppsrrd1/registration_review/temephos/.*

B. What is the agency's authority for taking this action?

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Registration review, Pesticides and pests, Butylate, Fenoxycarb, Sodium tetrathiocarbonate, and Temephos.

Dated: December 21, 2011.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2012–212 Filed 1–10–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2011–0933; FRL–9328–2]

Imidacloprid, Oxamyl, and Methomyl; Notice of Receipt of Requests to Voluntarily Amend Pesticide Registrations To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily amend certain imidacloprid product registrations to delete use on almonds, to voluntarily amend oxamyl product registrations to delete use on soybeans, and to voluntarily amend methomyl product registrations to delete use on grapes. The requests would not terminate the last imidacloprid, oxamyl, or methomyl products registered for use in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless it receives substantive comments within the comment period that would merit further review of the request, or unless one or more of the registrants withdraws its request. If the Agency grants these requests, any sale, distribution, or use of products listed in this notice will be permitted after the uses are deleted only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before February 10, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2011–0933 and pesticide active ingredient to which they pertain (imidacloprid, oxamyl, or methomyl), by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2011–0933, and identify the pesticide active ingredient (imidacloprid, oxamyl, or methomyl) to which they pertain. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The 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 regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Contact the appropriate Chemical Review Manager identified in the table in this unit for the pesticide active ingredient of interest:

Pesticide active ingredient	Chemical review manager's name and contact information
Imidacloprid	Rusty Wasem, Telephone number: (703) 305–6979, email address: *wasem.russell@epa.gov.*
Methomyl	Tom Myers, Telephone number: (703) 308–8589, email address: *myers.tom@epa.gov.*
Oxamyl	Monica Wait, Telephone number: (703) 347–8019, email address: *wait.monica@epa.gov.*

Alternatively, you can write to the appropriate Chemical Review Manager's attention at: Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including

environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How do I submit comments and other related information?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background on the Receipt of Requests To Amend Registrations To Delete Uses

This notice announces receipt by EPA of requests from Bayer CropScience, United Phosphorus, Source Dynamics, IPM Resources, Makhteshim Agan, Sharda, and Willowood to delete the almond use from imidacloprid product registrations. This notice also announces receipt by EPA of requests from DuPont Crop Protection to delete the soybean use from oxamyl product registrations and to delete the grape use from methomyl product registrations.

In letters dated February 25, 2011 (Bayer CropScience), March 10, 2011 (United Phosphorus, Source Dynamics, Willowood), March 14, 2011 (Sharda USA LLC), March 16, 2011 (Sharda Worldwide Exports PVT. LTD.), March 17, 2011 (IPM Resources), and March 18, 2011 (Makhteshim Agan), registrants requested that the EPA amend the respective imidacloprid product registrations to delete use on almonds, summarized in Table 1 of Unit III. These cancellations are not due to human health (dietary) issues. Imidacloprid is a systemic neonicotinoid insecticide used on food crops, ornamentals, turf, seed treatments, domestic pets, and structural pests. The deletion of these uses will not terminate the last imidacloprid products registered in the United States.

In a letter dated October 19, 2011, DuPont Crop Protection requested that the EPA amend the respective oxamyl product registrations to delete use on soybeans, summarized in Table 1 of Unit III. Oxamyl is a restricted use N-methyl carbamate (NMC) insecticide, acaricide, miticide, nematicide, and plant growth regulator registered for use on a variety of fruits, vegetables, and field crops. It is a member of the NMC class of chemicals that share a common mechanism of toxicity and inhibit acetylcholinesterase. Use of oxamyl on soybeans was removed from all oxamyl product labels in 2006 following the Oxamyl Reregistration Eligibility Decision. Deletion of the soybean use will not terminate the last oxamyl products registered in the United States.

In a letter dated November 18, 2010, DuPont Crop Protection requested that the EPA amend the respective methomyl product registrations to delete use on grapes, summarized in Table 1 of Unit III. Methomyl is an NMC insecticide and miticide, registered for use on a variety of fruits, vegetables, and field crops. Deletion of the grape use will not terminate the last methomyl products registered in the United States.

III. What action is the agency taking?

This notice announces receipt by EPA of requests from registrants to delete almond uses of imidacloprid product registrations, the soybean uses of oxamyl product registrations, and the grape uses of methomyl product registrations. These requests terminate the use of imidacloprid on almonds, oxamyl on soybeans, and methomyl on grapes. The affected products and the registrants making the requests are identified in Table 1 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order amending the affected registrations.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

EPA Registration No.	Product name	Active ingredient	Uses to be deleted
264–755	Imidacloprid Technical	Imidacloprid	Almonds.
264–756	Merit 75% Concentrate Insecticide	Imidacloprid	Almonds.
264–1131	Gaucho 600 Flowable Concentrate	Imidacloprid	Almonds.
66222–156	MANA Alias 4F	Imidacloprid	Almonds.
66222–228	Pasada 1.6 Flowable Insecticide	Imidacloprid	Almonds.
70506–122	UPI Imidacloprid Technical Insecticide	Imidacloprid	Almonds.
70506–153	Imidacloprid 70 DF Agricultural Insecticide	Imidacloprid	Almonds.
70506–154	Fist 1.6 F Insecticide	Imidacloprid	Almonds.
81598–5	Rotam Imidacloprid Technical	Imidacloprid	Almonds.
82542–16	Technical Imidacloprid	Imidacloprid	Almonds.
82542–25	Imidacloprid 2F Insecticide	Imidacloprid	Almonds.
82633–8	Imidacloprid Technical	Imidacloprid	Almonds.
83529–6	Midash Forte Insecticide	Imidacloprid	Almonds.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT—Continued

EPA Registration No.	Product name	Active ingredient	Uses to be deleted
87290–14	Willowood Imidacloprid 4SC	Imidacloprid	Almonds.
83558–34	Imidacloprid Technical Insecticide	Imidacloprid	Almonds.
352–372	Vydate L Insecticide/Nematicide	Oxamyl	Soybeans.
352–400	DuPont Oxamyl Technical 42 Insecticide/Nematicide	Oxamyl	Soybeans.
352–532	Vydate C–LV Insecticide/Nematicide	Oxamyl	Soybeans.
352–361	DuPont Methomyl Composition	Methomyl	Grapes.
352–366	DuPont Methomyl Technical	Methomyl	Grapes.

Table 2 of this unit includes the name and address of record for the registrants of the products listed in Table 1 of this unit, by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS REQUESTING AMENDMENT

EPA Company No.	Company name and address
264	Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.
352	E.I. Du Pont de Nemours and Co., Inc., DuPont Crop Protection, 1007 Market Street, Wilmington, DE 19898.
66222	Makhteshim Agan of North America, Inc., 4515 Falls of Neuse Road, Suite 300, Raleigh, NC 27609.
70506	United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406.
81598	IPM Resources LLC, 4032 Crockers Lake Blvd., Suite 818, Sarasota, FL 34238.
82542	Source Dynamics, Inc., 10039 E. Troon North Drive, Scottsdale, AZ 85262.
82633	Sharda Worldwide Exports, 7460 Lancaster Pike, Suite 9, Hockessin, DE 19707.
83529	Sharda USA LLC., 7460 Lancaster Pike, Suite 9, Hockessin, DE 19707.
83558	Celsius Property B.V. Amsterdam (NL), c/o Makhteshim Agan of North America, Inc., 4515 Falls of Neuse Road, Suite 300, Raleigh, NC 27609.
87290	Willowood, LLC, 1600 NW Garden Valley Blvd., Suite 130, Roseburg, OR 97471.

IV. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The imidacloprid and methomyl registrants associated with this action have requested EPA waive the 180-day comment period. The oxamyl registrant's request to delete the soybean use does not constitute a minor agricultural use, and as such, the 180-day comment period does not apply. Accordingly, EPA will provide a 30-day comment period on the proposed imidacloprid, oxamyl, and methomyl requests.

V. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation or use deletion should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, no later than 30 days from publication of this notice. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the requests for amendments to delete uses are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for amendments to delete uses, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit III.

For imidacloprid, the registrants listed in Table 1 will be permitted to sell and distribute existing stocks of products under the previously approved labeling for a period of 18 months after publication of the cancellation order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the deleted uses identified in Table 1 of Unit III., except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of products (including those of (24c) Special Local Needs Registration) whose labels include the deleted uses until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the deleted uses.

Once EPA has approved amended imidacloprid product labels reflecting the requested amendments to delete almond uses, registrants will be permitted to sell or distribute products under the previously approved labeling for a period of 18 months after the date of **Federal Register** publication of the cancellation order, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the deleted uses identified in Table 1 of Unit III., except for export consistent with FIFRA section 17 or for proper disposal.

For methomyl, now that EPA has approved amended product labels reflecting the requested amendments to delete the grape use, the registrants will be permitted to sell or distribute products under the previously approved

labeling until June 8, 2012. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the deleted uses identified in Table 1 of Unit III., except for export consistent with FIFRA section 17 or for proper disposal. For oxamyl, because the soybean use has not been included on oxamyl product labels since 2006, EPA and the registrant believe that no existing stocks period is needed.

List of Subjects

Environmental protection, Almond, Grape, Imidacloprid, Methomyl, Oxamyl, Pesticides and pests, Soybean.

Dated: December 15, 2011.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2012–229 Filed 1–10–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0986; FRL–9617–1]

EPA Workshops on Achieving Water Quality Through Integrated Municipal Stormwater and Wastewater Plans Under the Clean Water Act (CWA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is holding a series of workshops to solicit the individual views of stakeholders on the use of integrated municipal stormwater and wastewater plans to meet the water quality objectives of the CWA. The workshops are intended to assist EPA in developing an integrated planning approach framework that could be used to help municipalities prioritize their infrastructure investments in order to maximize water quality benefits and consider various innovative approaches, such as green infrastructure, that may be more sustainable. The workshops will include a facilitated discussion with representatives of organizations that represent elected local officials, publicly owned treatment works (POTW), municipal stormwater managers, state NPDES permitting and enforcement authorities, and environmental advocacy groups. EPA invites other interested members of the public to observe the workshops and to offer verbal comments at designated times during the workshops.

In addition to submitting information at the listening sessions, the public may also provide input to the Agency through email, fax or mail.

DATES: EPA is asking for statements and input from the interested public on or before February 29, 2012. The dates for the workshops are provided below.

ADDRESSES: Submit your statements or input, identified by Docket ID No. EPA–HQ–OW–2011–0986, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting input.
- *Email: OW–Docket@epa.gov*, Attention Docket ID No. EPA–HQ–OW–2011–0986.
- *Fax:* (202) 566–9744.
- *Mail:* Water Docket, U.S. Environmental Protection Agency, Mail code: 4203M, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–OW–2011–0986.
- *Hand Delivery:* Water Docket, EPA Docket Center, EPA West Building Room 3334, 1301 Constitution Ave. NW., Washington, DC, Attention Docket ID No. EPA–HQ–OW–2011–0986. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your input to Docket ID No. EPA–HQ–OW–2011–0986. EPA's policy is that all input 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 input includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. 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 input. If you send an email with input directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the input that is placed in the public docket and made available on the Internet. If you submit an electronic input, EPA recommends that you include your name and other contact information in the body of your input and with any disk or CD–ROM you submit. If EPA cannot read your input due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your input. 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.*

FOR FURTHER INFORMATION CONTACT: For further information about this notice, contact Kevin Weiss, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: (202) 564–0742 or email: *weiss.kevin@epa.gov.*

Workshop Dates and Addresses: The workshops will be held on the following dates at the listed locations:

- January 31, 2012, 10 a.m. to 3 p.m. at EPA Region 4 Office, 61 Forsyth Street SW., Atlanta, GA 30303;
- February 6, 2012, 10 a.m. to 3 p.m. at EPA Region 2 Office, 290 Broadway, New York, NY 10007–1866;
- February 13, 2012, 10 a.m. to 3 p.m. at EPA Region 10 Office, 1200 Sixth Avenue Seattle, WA 98101;
- February 15, 2012, 10 a.m. to 3 p.m. at EPA Region 7 Office, 901 N. 5th Street Kansas City, KS 66101; and
- February 17, 2012, 10 a.m. to 3 p.m. at EPA Region 5 Office, 77 West Jackson Boulevard Chicago, IL 60604–3507.

If you plan to participate in a workshop as an observer, whether or not you plan to make verbal comments, EPA requests that you preregister by January 20, 2012 at *http://www.epa.gov/npdes/integratedplans.*

SUPPLEMENTARY INFORMATION:

I. Background

Since the passage of the CWA, great progress has been made toward restoring the nation's waters. Many more streams, rivers and bays are fishable and swimmable than 40 years ago. During this time, the overall number of people served by municipal wastewater treatment facilities that either do not discharge or provide at least secondary treatment increased from 84.1 million in 1972 to 222.5 million in 2008. In addition, many municipalities have begun to make significant investments in advanced treatment, controlling combined sewer overflows (CSOs) and sanitary sewer overflows (SSOs) and are beginning to address water quality problems associated with stormwater.

While significant progress has been made in reducing pollutant discharges, much work remains to be done to restore impaired waters. The challenges municipalities face in making additional water quality improvements are particularly complex. Providing advanced treatment for nutrients and controlling combined sewer overflows (CSOs), sanitary sewer overflows

(SSOs), and stormwater can present difficult and expensive engineering challenges. Population growth, aging infrastructure, and the current economic challenges are stressing many municipalities that are implementing CWA programs. Many state and local governments face difficult financial conditions. Their ability to finance improvements by raising revenues or issuing bonds has been significantly impacted during the ongoing economic recovery. EPA is committed to work with States and municipalities to improve how CWA programs are implemented to ensure continued progress in public health and environmental protection.

EPA believes that integrated planning can better meet America's clean water objectives, create jobs and strengthen our economy by offering municipalities an opportunity to meet their CWA requirements in a more cost-effective manner. To encourage integrated planning efforts, on October 27, 2011, EPA's Office of Water and Office of Enforcement Compliance and Assurance issued a joint memorandum to the EPA Regions that expresses the Agency's commitment to and support for integrated approaches to municipal stormwater and wastewater management. The integrated approach provides interested municipalities with an opportunity to develop a comprehensive plan that balances competing CWA requirements and allows municipalities to focus their resources on the most pressing public health and environmental protection issues first. The integrated approach is voluntary and the responsibility to develop an integrated plan rests with municipalities.

The integrated planning approach maintains existing regulatory standards for the protection of public health and water quality. The approach takes advantage of the flexibilities in existing EPA regulations, policies and guidance to allow municipalities to sequence implementation of their CWA obligations to focus on the highest priorities first. EPA and/or the State will work with municipalities who are interested in this concept to develop appropriate requirements and schedules.

As part of the integrated approach, EPA encourages municipalities to pursue more innovative approaches such as green infrastructure technologies and asset management or similar utility-wide planning approaches. EPA has strongly encouraged these innovative approaches for several years. Many cities and communities have implemented green infrastructure approaches and are starting to see that the value of such projects goes beyond protecting water resources. In addition to improving water quality, green infrastructure also makes communities more livable by providing opportunities for greenways and multiuse recreational areas, improves property values, saves energy and creates green jobs. On April 29, 2011, EPA released the *Strategic Agenda to Protect Waters and Build More Livable Communities Through Green Infrastructure.* The *Strategic Agenda* outlines activities that EPA is taking to help communities implement green infrastructure approaches. This Strategy is intended to advance the wider use of green infrastructure within the regulatory and enforcement contexts through improvements in outreach and information exchange, financing, and tool development and capacity building. EPA continues to work closely with State and local governments to incorporate green infrastructure approaches within permits and enforcement actions.

II. Purpose of the Workshops on Integrated Municipal Stormwater and Wastewater Plans

In conjunction with the October 27, 2011 memorandum, EPA is developing a framework document that will more fully describe the integrated planning concept that could be used to help EPA work with State and local governments toward providing for cost-effective, integrated solutions to multiple causes of water pollution. The Agency anticipates that the framework document will identify and clarify overarching principles that EPA and states will use in working with municipalities to implement an integrated approach as well as guiding principles that EPA recommends municipalities use in the development of their integrated plans. The framework document will identify the key elements that EPA anticipates will be in an effective integrated plan. The framework will also discuss the appropriate roles of permit and enforcement authorities in addressing the regulatory requirements identified in the plan.

EPA will hold five workshops to discuss a draft of the integrated planning framework. The workshops will be facilitated discussions with individuals from a range of stakeholder groups to assist EPA in developing the framework through gaining better understanding of their individual perspectives. EPA is not seeking group recommendations, but rather seeks to hear from individuals with different perspectives. Prior to these meetings, EPA will post a draft of the framework document at *http://www.epa.gov/npdes/integratedplans.* The draft framework posted on EPA's Web site will be updated as appropriate.

III. Participation in the Workshop

Members of the public are welcome to participate as observers in the workshop. The agenda will be structured to invite specific verbal comments from observers on key issues. If you plan to participate as an observer at the workshop, whether or not you plan to make verbal comments, in order that EPA may properly anticipate the correct number of people, EPA requests that you preregister by January 20, 2012 at *http://www.epa.gov/npdes/integratedplans.*

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: January 3, 2012.

Nancy K. Stoner,

Acting Assistant Administrator, Office of Water.

[FR Doc. 2012–343 Filed 1–10–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 11–2022]

Notice of Debarment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Mr. Tyrone D. Pipkin from the schools and libraries universal service support mechanism (or ''E–Rate Program'') for a period of three years. The Bureau takes this action to protect the E–Rate Program from waste, fraud and abuse.

DATES: Debarment commences on the date Mr. Tyrone D. Pipkin receives the debarment letter or February 10, 2012, whichever date comes first, for a period of three years.

FOR FURTHER INFORMATION CONTACT: Joy M. Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–A236, 445 12th Street SW., Washington, DC 20554. Joy Ragsdale may be contacted by phone at (202) 418–1697 or by email at *Joy.Ragsdale@fcc.gov*. If Ms. Ragsdale is unavailable, you may contact Ms. Terry Cavanaugh, Acting Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by email at *Theresa.Cavanaugh@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Bureau debarred Mr. Tyrone D. Pipkin from the schools and libraries universal service support mechanism for a period of three years pursuant to 47 CFR 54.8. Attached is the debarment letter, DA 11–2022, which was mailed to Mr. Tyrone D. Pipkin and released on December 15, 2011. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov*. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via email *http://www.bcpiweb.com*.

Federal Communications Commission.

Theresa Z. Cavanaugh,

Acting Chief, Investigations and Hearings Division, Enforcement Bureau.

The debarment letter follows:

December 15, 2011

DA 11–2022

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED AND E-MAIL

Mr. Tyrone D. Pipkin
c/o Mr. Walter Francis Becker, Jr.
Chaffe McCall LLP
Energy Centre
1100 Poydras St., Suite 2300
New Orleans, LA 70163–2300

Re: Notice of Debarment
File No. EB–11–IH–1071

Dear Mr. Pipkin:

The Federal Communications Commission (Commission) hereby notifies you that, pursuant to Section 54.8 of its rules, you are prohibited from participating in the schools and libraries universal service support mechanism (E–Rate program) for three years from either the date of your receipt of this Notice of Debarment, or of its publication in the **Federal Register**, whichever is earlier in time (Debarment Date).[1]

On August 17, 2011, the Commission's Enforcement Bureau (Bureau) sent you a Notice of Suspension and Initiation of Debarment Proceeding (Notice of Suspension)[2] that was published in the **Federal Register** on September 2, 2011.[3] The Notice of Suspension suspended you from participating in activities associated with or relating to the schools and libraries universal service support mechanism and described the basis for initiating debarment proceedings against you, the applicable debarment procedures, and the effect of debarment.[4]

As discussed in the Notice of Suspension, you and others conspired to control the E–Rate application and implementation process for several schools located in four states.[5] Specifically, you obstructed the open competitive bidding process by paying school officials $79,382 in bribes and kickbacks to ensure more than $1.4 million in E–Rate contracts would be steered to your company, Global Networking Technologies, Inc.[6] For your role in the conspiracy, you were sentenced to serve one year and one day in federal prison, followed by two years of supervised release for federal crimes in connection with your participation in a scheme to defraud the E–Rate program.[7] The court ordered you to pay a $6,000 criminal fine in addition to your sentence.[8] Pursuant to Section 54.8(c) of the Commission's rules, your conviction of criminal conduct in connection with the E–Rate program serves as a basis for your debarment.[9]

In accordance with the Commission's debarment rules, you were required to file with the Commission any opposition to your suspension or its scope, or to your proposed debarment or its scope, no later than 30 calendar days from either the date of your receipt of the Notice of Suspension or of its publication in the **Federal Register**, whichever date occurs first.[10] The Commission did not receive any such opposition.

For the foregoing reasons, you are debarred for three years from the Debarment Date.[11] During this debarment period, you are excluded from participating in any activities associated with or related to the E–Rate program, including the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[12]

Sincerely,

Theresa Z. Cavanaugh
Acting Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Johnnay Schrieber, Universal Service Administrative Company (via email)
Rashann Duvall, Universal Service Administrative Company (via email)
Juan Rodriguez, Antitrust Division, United States Department of Justice (via email)
Marvin Opotowsky, Antitrust Division, United States Department of Justice (via email)

[1] 47 CFR 54.8(g) (2010). *See also* 47 CFR 0.111 (delegating authority to the Enforcement Bureau to resolve universal service suspension and debarment proceedings).

[2] Letter from Theresa Z. Cavanaugh, Acting Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission to Tyrone D. Pipkin, Notice of Suspension and Initiation of Debarment Proceeding, DA 11–1424, 26 FCC Rcd 11389 (Inv. & Hearings Div., Enf. Bur. 2011).

[3] 76 FR 54768 (September 2, 2011).

[4] *Supra* note 2.

[5] Notice of Suspension, 26 FCC Rcd at 11390.

[6] *Id.*

[7] *See United States* v. *Tyrone D. Pipkin,* Criminal Case Nos. 10–325 and 11–15 ''A'', Judgment (E.D. La. filed June 21, 2011).

[8] Notice of Suspension, 26 FCC Rcd at 11391.

[9] 47 CFR 54.8(c).

[10] 47 CFR 54.8 (e)(3), (4). Any opposition had to be filed no later than September 16, 2011.

[11] 47 CFR 54.8(e)(5), (g).

[12] 47 CFR 54.8(a)(1), (5), (d).

[FR Doc. 2012–348 Filed 1–10–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL LABOR RELATIONS AUTHORITY

Public Availability of Federal Labor Relations Authority FY 2011 Service Contract Inventory

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of Public Availability of FY 2011 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Federal Labor Relations Authority (FLRA) is publishing this notice to advise the public of the availability of the FY 2011 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2011. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf*. The FLRA has posted its inventory and a summary of the inventory on the FLRA homepage at the following link: *http://www.flra.gov/webfm_send/555*.

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Dennis Dorsey, Director, Administrative Services Division, Federal Labor Relations Authority, at (202) 218–7764.

Dated: January 6, 2012.

Sonna Stampone,

Executive Director, Federal Labor Relations Authority.

[FR Doc. 2012–363 Filed 1–10–12; 8:45 am]

BILLING CODE 6727–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984.

Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012150.

Title: COSCON/POS Space Charter and Sailing Agreement.

Parties: COSCO Container Lines Company, Ltd. and Hainan P.O. Shipping Co., Ltd.

Filing Party: Robert B. Yoshitomi, Esq.; Nixon Peabody LLP; 555 West Fifth Street, 46th Floor; Los Angeles, CA 90013.

Synopsis: The agreement authorizes COSCO to charter space to Hainan POS in the trade between U.S. West Coast ports and ports in China and Vietnam.

Agreement No.: 012151.

Title: Maersk Line/MSC WCCA Space Charter Agreement.

Parties: A.P. Moller-Maersk A/S and MSC Mediterranean Shipping Company, S.A.

Filing Party: Wayne R. Rohde, Esquire; Cozen O'Connor; 1627 I Street, NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The agreement authorizes Maersk to charter space to MSC in the trade between Los Angeles and ports in Mexico and Panama.

Dated: January 6, 2012.

By Order of the Federal Maritime Commission.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2012–390 Filed 1–10–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 10:30 a.m. (Eastern Time), January 13, 2012.

PLACE: 4th Floor Conference Room, 1250 H Street NW., Washington, DC 20005.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

1. Procurement.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: January 9, 2012.

Thomas K. Emswiler,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. 2012–444 Filed 1–9–12; 4:15 pm]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED DECEMBER 1, 2011 THRU DECEMBER 30, 2011

ET date	Trans. No.	ET reg. status	Party name
12/01/2011	20120158	G	HMS Holdings Corp.; Redhills Ventures, LLC; HMS Holdings Corp.
	20120209	G	AMERIGROUP Corporation; Lutheran Medical Center; AMERIGROUP Corporation
	20120214	G	Quantum (Choctaw) Utility Investments I, LLC; GDF SUEZ S.A.; Quantum (Choctaw) Utility Investments I, LLC
	20120215	G	Riverstone/Carlyle Renewable & Alternative Energy Fund 11–C; Boralex Inc.; Riverstone/Carlyle Renewable & Alternative Energy Fund II–C
	20120216	G	High Liner Foods, Incorporated; Icelandic Group hf.; High Liner Foods, Incorporated
	20120220	G	TPG Partners VI, L.P.; Michael Cardone, Jr; TPG Partners VI, L.P.
	20120224	G	General Electric Company; Carlyle U.S. Growth Fund III, L.P.; General Electric Company
	20120235	G	Inergy, LP; Albion Mezzanine Fund II, LLC; Inergy, LP
12/02/2011	20120194	G	Greeneden Topco S.C.A.; Alcatel Lucent; Greeneden Topco S.C.A.
	20120225	G	Marcelino dos Anjos Nascimento; Veolia Environment S.A.; Marcelino dos Anjos Nascimento
	20120230	G	News Corporation; Pan American Sports Partners Company; News Corporation
	20120231	G	T. Boone Pickens; Clean Energy Fuels Corp.; T. Boone Pickens
	20120238	G	Enterprise Products Partners L.P.; Enbridge, Inc.; Enterprise Products Partners L.P.

EARLY TERMINATIONS GRANTED DECEMBER 1, 2011 THRU DECEMBER 30, 2011—Continued

ET date	Trans. No.	ET reg. status	Party name
	20120239	G	Lynn Tilton; Hussey Copper Ltd.; Lynn Tilton
	20120241	G	Enbridge Inc.; ConocoPhillips; Enbridge Inc.
	20120242	G	Cerberus Institutional Partners, L.P; GlaxoSmithKline plc; Cerberus Institutional Partners, L.P.
	20120245	Y	MidOcean Partners III, L.P.; BB&T Corporation; MidOcean Partners III, L.P.
	20120246	G	AEA Investors Small Business Fund II; LLR Equity Partners II, L.P.; AEA Investors Small Business Fund
	20120247	G	JLL Partners Fund VI, L.P.; American Dental Partners, Inc.; JLL Partners Fund VI, L.P.
	20120248	G	New Enterprise Associates 13, L.P.; Fisker Automotive Holdings, Inc.; New Enterprise Associates 13, L.P.
	20120249	G	Kleiner Perkins Caufield & Byers XIII, LLC; Fisker Automotive Holdings, Inc.; Kleiner Perkins Caufield & Byers XIII, LLC
	20120250	G	Kleiner Perkins Caufield & Byers XII, LLC; Fisker Automotive Holdings, Inc.; Kleiner Perkins Caufield & Byers XII, LLC
	20120251	G	The Resolute Fund II, L.P.; H.I.G. Capital Partners IV, L.P.; The Resolute Fund II, L.P.
	20120254	G	Richard D. Kinder; Kinder Morgan, Inc.; Richard D. Kinder
	20120255	G	FS Equity Partners VI, L.P.; Marwit Capital Partners II, LP; FS Equity Partners VI, L.P.
	20120260	G	The Weir Group PLC; Industrial Growth Partners III, L.P.; The Weir Group PLC
12/05/2011	20120152	G	Coventry Health Care, Inc.; Children's Mercy's Family Health Partners, Inc.; Coventry Health Care, Inc.
	20120160	G	United Technologies Corporation; Rolls-Royce plc; United Technologies Corporation
	20120178	G	JP Morgan Chase & Co.; Wright Medical Group, Inc.; JP Morgan Chase & Co.
12/06/2011	20111253	G	Hellman & Friedman Capital Partners VI, L.P.; SunGard Capital Corp.; Hellman & Friedman Capital Partners VI, L.P.
	20120164	G	TransDigm Group Incorporated; Harco Laboratories, Inc.; TransDigm Group Incorporated
	20120285	G	American Industrial Partners Capital Fund IV, L.P.; Dover Corporation; American Industrial Partners Capital Fund IV, L.P.
12/07/2011	20120191	G	WMB Holdings, Inc.; Warburg Pincus Private Equity IX, L.P.; WMB Holdings, Inc.
	20120226	G	Titan Private Holdings I, LLC; Tekelec; Titan Private Holdings I, LLC
	20120268	G	Francois Pinault; Brioni S.p.A.; Francois Pinault
	20120275	G	Plains All American Pipeline, L.P.; Western Refining, Inc.; Plains All American Pipeline, L.P.
12/08/2011	20110767	G	Laboratory Corporation of America Holdings; Orchid Cellmark, Inc.; Laboratory Corporation of America Holdings
	20120222	G	SCP III MV One, L.P.; MOSAID Technologies Incorporated; SCP III MV One, L.P.
12/09/2011	20111224	G	Valeant Pharmaceuticals International, Inc.; Johnson & Johnson; Valeant Pharmaceuticals International, Inc.
	20111225	G	Valeant Pharmaceuticals International, Inc.; Sanofi; Valeant Pharmaceuticals International, Inc.
	20120253	G	METLIFE, Inc.; MEMC Electronic Materials, Inc.; METLIFE, Inc.
	20120259	G	Snow Phipps II AIV, L.P.; Gary D. and Marcia Nelson; Snow Phipps II MV, L.P.
	20120263	G	WPP plc; The Glover Park Group Holdings, LLC; WPP plc
	20120266	G	FS Equity Partners VI, L.P.; First Watch Restaurants, Inc.; FS Equity Partners VI, L.P.
	20120287	G	Sterling Group Partners III, L.P.; E.I. du Pont de Nemours and Company; Sterling Group Partners III, L.P.

EARLY TERMINATIONS GRANTED DECEMBER 1, 2011 THRU DECEMBER 30, 2011—Continued

ET date	Trans. No.	ET reg. status	Party name
	20120288	G	Automatic Data Processing, Inc.; David Blundin; Automatic Data Processing, Inc.
	20120289	G	Harvest Partners VI, L.P.; Equity Investor Acquisition LLC; Harvest Partners VI, L.P.
	20120291	G	West Corporation; HyperCube LLC; West Corporation
	20120292	G	CARTERA GESTAMP, S.L.; Morgan Stanley; CARTERA GESTAMP, S.L.
	20120294	G	Bain Capital Fund X, L.P.; Medtronic, Inc.; Bain Capital Fund X, L.P.
	20120296	G	Ares Corporate Opportunities Fund III, L.P.; Potomac Fusion, Inc.; Ares Corporate Opportunities Fund III, L.P.
12/12/2011	20120067	G	Iochpe-Maxion S.A.; Hayes Lemmerz International, Inc.; Iochpe-Maxion S.A.
	20120269	G	Helen of Troy Limited; The Procter & Gamble Company; Helen of Troy Limited
	20120282	G	Citigroup Inc.; KHOF Holdings, Inc.; Citigroup Inc.
	20120295	G	Shahid Rafig Khan; Jacksonville Jaguars, Ltd.; Shahid Rang Khan
	20120298	G	Brazos Equity Fund III, L.P.; FS Equity Partners V. L.P.; Brazos Equity Fund III, L.P.
	20120299	G	Global Partners LP; AE Holdings Corp.; Global Partners LP
	20120302	G	EnCap Energy Infrastructure Fund, L.P.; Harold G. Hamm; EnCap Energy Infrastructure Fund, L.P.
12/14/2011	20120233	G	TPG–Axon Partners, LP; Equinix, Inc.; TPG–Axon Partners, LP
12/15/2011	20120234	G	TPG–Axon Partners (Offshore), Ltd.; Equinix, Inc.; TPG–Axon Partners (Offshore), Ltd.
	20120229	G	American Securities Partners V. L.P.; INX Inc.; American Securities Partners V, L.P.
	20120267	G	General Dynamics Corporation; Force Protection Inc.; General Dynamics Corporation
12/16/2011	20120276	G	Windy City Investments Holdings, LLC; Gresham Asset Management LLC; Windy City Investments Holdings, LLC
	20120277	G	Windy City Investments Holdings, LLC; Gresham Investment Management LLC; Windy City Investments Holdings, LLC
	20120303	G	Jeffrey A. Honickman; Terrence J. McGlinn, Sr.; Jeffrey A. Honickman
	20120304	G	Dominic Origlio, Jr.; Terrence J. McGlinn, Sr.; Dominic Origlio, Jr.
	20120305	G	Wells Fargo & Company; MC Gro, LLC; Wells Fargo & Company
	20120308	G	Leucadia National Corporation; U.S. Premium Beef, LLC; Leucadia National Corporation
	20120309	G	Romano Volta and Lucia Fantini; Danaher Corporation; Romano Volta and Lucia Fantini
	20120311	G	W.M. Barr & Company, Inc.; Microban International, Ltd.; W.M. Barr & Company, Inc.
	20120314	G	Harbinger Group Inc.; HKW Capital Partners III, L.P.; Harbinger Group Inc.
	20120315	G	Mason Wells Buyout Fund III, LP; Ronald and Joan Beeman; Mason Wells Buyout Fund III, LP
	20120316	G	Genstar Capital Partners V, L.P.; Goldman Sachs Group, Inc.; Genstar Capital Partners V. L.P.
	20120318	G	Keyera Corp.; Chevron Corporation; Keyera Corp.
	20120319	G	Keyera Corp.; Neste Oil Corporation; Keyera Corp.
	20120320	G	Markel Corporation; Gregory S. Thompson; Markel Corporation
	20120326	G	Alleghany Corporation; Transatlantic Holdings, Inc.; Alleghany Corporation
	20120327	G	NICE–Systems Ltd.; Merced Systems, Inc.; NICE–Systems Ltd.
12/19/2011	20120335	G	Siemens Aktiengesellschaft; eMeter Corporation; Siemens Aktiengesellschaft

EARLY TERMINATIONS GRANTED DECEMBER 1, 2011 THRU DECEMBER 30, 2011—Continued

ET date	Trans. No.	ET reg. status	Party name
12/20/2011	20120252	G	KKR Samson Investors L.P.; Stacy Schusterman; KKR Samson Investors L.P.
	20120256	G	CareGroup, Inc.; Milton Hospital Foundation, Inc.; CareGroup, Inc.
	20120331	G	CHS Private Equity V LP; Royall & Company Holding, Inc.; CHS Private Equity V LP
12/22/2011	20120307	G	Raytheon Company; Henggeler Computer Consultants, Inc.; Raytheon Company
	20120317	G	Adobe Systems Incorporated; Efficient Frontier, Inc.; Adobe Systems Incorporated
	20120324	G	Francisco Partners III (Cayman), LP.; American Industrial Capital Fund IV, LP; Francisco Partners III (Cayman), L.P.
12/23/2011	20120261	G	The Williams Companies, Inc.; ASP V Alternative Investments, L.P.; The Williams Companies, Inc.
	20120301	G	UnitedHealth Group Incorporated; MatlinPatterson Global Opportunities Partners III L.P.; UnitedHealth Group Incorporated
	20120321	G	Toyota Tsusho Corporation; Tokyo Electric Power Company; Toyota Tsusho Corporation
	20120328	G	SAP AG; SuccessFactors, Inc.; SAP AG
	20120330	G	KKR 2006 Fund (Overseas), Limited Partnership; Redwing LP; KKR 2006 Fund (Overseas), Limited Partnership
	20120333	G	TPG Partners V, LP.; Kirin Holdings Company, Limited; TPG Partners V, L.P.
	20120336	G	Court Square Capital Partners II, L.P.; The 2001 Wasserstein Family Trust; Court Square Capital Partners H, L.P.
	20120344	G	FREI Bravo MV, L.P.; ArcLight Energy Partners Fund IV, L.P.; FREI Bravo MV, L.P.
	20120345	G	FREI Bravo MV, L.P.; ArcLight Energy Partners Fund III; FREI Bravo MV, L.P.
	20120347	G	Starr International Company, Inc.; Starr Insurance Group, Inc.; Starr International Company, Inc.
	20120350	G	KGHM Polska Miedz S.A.; Quadra FNX Mining Ltd.; KGHM Polska Miedz S.A.
	20120353	G	Greenbriar Equity Fund II, L.P.; KRG Capital Fund III, L.P.; Greenbriar Equity Fund II, L.P.
	20120356	G	Epiq Systems, Inc.; De Novo Legal LLC; Epiq Systems, Inc.
	20120359	G	Brazos Equity Fund III, L.P.; Global Private Equity IV Limited Partnership; Brazos Equity Fund III, L.P.
12/27/2011	20120343	G	AGS Topco Holdings, LP; Advantage Waypoint LLC; AGS Topco Holdings, LP
12/28/2011	20120340	G	Partners Limited; Terra-Gen Power Holdings, LLC; Partners Limited
12/29/2011	20120349	G	Brown & Brown, Inc.; Spectrum Equity Investors V. L.P.; Brown & Brown, Inc.
12/30/2011	20120337	G	Western Gas Partners, LP; Anadarko Petroleum Corporation; Western Gas Partners, LP

FOR FURTHER INFORMATION CONTACT: Renee Chapman, Contact Representative, or Theresa Kingsberry, Legal Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–231 Filed 1–10–12; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Proposed Collection; Comment Request; State Annual Long-Term Care Ombudsman Report and Instructions for Older Americans Act Title VII

AGENCY: Administration on Aging, HHS.

ACTION: Notice

SUMMARY: The Administration on Aging (AoA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to State Annual Long-Term Care Ombudsman Report and Instructions for Older Americans Act Title VII.

DATES: Submit written or electronic comments on the collection of information by March 12, 2012.

ADDRESSES: Submit electronic comments on the collection of information to: *louise.ryan@aoa.hhs.gov.*

Submit written comments on the collection of information to: U.S. Department of Health and Human Services: Administration on Aging, Washington, DC 20201. Attention: Louise Ryan.

FOR FURTHER INFORMATION CONTACT: Louise Ryan by telephone: (202) 357–3503 or by email: *louise.ryan@aoa.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, AoA is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, AoA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of AoA's functions, including whether the information will have practical utility; (2) the accuracy of AoA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Under section 712(c), and section 712(h) (1)-(3) of the Older Americans Act, as amended, states are required to provide information on ombudsmen activities to AoA, which AoA is then required to present to Congress. The reporting system, the National Ombudsman Reporting System (NORS), was developed in response to these directives and other needs pertaining to the Long Term Care Ombudsman Program and approved by the Office of Management and Budget for use for the first time in FY 1995–96; it was extended a second time with slight modifications for use in FY 1997–2001 and extended for the third time with no change for use from FY 2002–2006. It was extended, with modifications, a fourth time for use from FY 2007–2008. It was extended a fifth time with no modifications. This current (sixth) request is to extend, with no modifications, use of the existing State Annual Long-Term Care Ombudsman Report (and Instructions) for use from FY 2012–2014. The current form and instructions are posted on the AoA Web site at: *http://www.aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Ombudsman/index.aspx.* AoA estimates the burden of this collection of information as follows: Approximately one and one-half hour per respondent, with 52 State Agencies on Aging responding annually for a total of 78 hours.

Dated: January 6, 2012.

Kathy Greenlee,

Assistant Secretary for Aging.

[FR Doc. 2012–323 Filed 1–10–12; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Head Start Health Managers Descriptive Study.

OMB No.: New Collection.

Description

The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing a data collection activity that will provide descriptive data about the Head Start Health Component. The goals of the Head Start Health Manager Descriptive Study are (1) to describe the characteristics of Health Managers and related staff in Head Start (HS) and Early Head Start (EHS) programs; (2) to identify the current landscape of health programs and services being offered to children and families; (3) to determine how health initiatives are prioritized, implemented, and sustained; and (4) to identify the programmatic features and policy levers that exist to support health services including staffing, environment, and community collaboration. These objectives will be accomplished through an online survey of all HS/EHS Health Managers, including American Indian/Alaskan Native and Migrant and Seasonal Head Start grantees. The survey responses will be further informed by semi-structured interviews conducted with a subsample of Head Start Health Managers, teachers, and family service workers.

Respondents

The target respondents for this data collection are Head Start Health Managers at the grantee and delegate level; however data will also be collected from Head Start Directors, Teachers, and Family Service Workers.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Head Start Health Managers Survey	2,879	1	1.25	3,599
Head Start Director Survey	2,879	1	.25	720

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Semi-structured interviews Head Start Health Managers	40	1	.75	30
Semi-structured interviews Head Start Teachers and Family Service Workers	60	1	.75	45

Estimated Total Annual Burden Hours: 4394.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 4, 2012.

Steven M. Hanmer,

Reports Clearance Officer.

[FR Doc. 2012–262 Filed 1–10–12; 8:45 am]

BILLING CODE 4184–22–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2011–P–0743 and FDA–2011–P–0822]

Determination That AVALIDE (Hydrochlorothiazide and Irbesartan), Oral Tablets, 25 Milligrams/300 Milligrams and 12.5 Milligrams/75 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 milligrams (mg)/300 mg and 12.5 mg/75 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for hydrochlorothiazide and irbesartan, oral tablets, 25 mg/300 mg and 12.5 mg/75 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Jane Inglese, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6210, Silver Spring, MD 20993–0002, (301) 796–3601.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg and 12.5 mg/75 mg, are the subject of NDA 20–758, held by Sanofi-Aventis, and initially approved on September 30, 1997. AVALIDE is indicated for treatment of hypertension in patients whose blood pressure is not adequately controlled on monotherapy. AVALIDE is also indicated for initial therapy for hypertension in patients who are likely to need multiple drugs to achieve their blood pressure goals.

AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg and 12.5 mg/75 mg are currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

EAS Consulting Group, LLC on behalf of Aurobindo Pharmaceuticals, Ltd. submitted a citizen petition dated October 11, 2011 (Docket No. FDA–2011–P–0743), under § 10.30 (21 CFR 10.30), requesting that the Agency

determine whether AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg, were withdrawn from sale for reasons of safety or effectiveness. In addition, Lupin Pharmaceuticals, Inc. submitted a citizen petition dated November 10, 2011 (Docket No. FDA–2011–P–0822), under § 10.30, also requesting that the Agency determine whether AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg, were withdrawn from sale for reasons of safety or effectiveness. Although the citizen petitions did not address the 12.5 mg/75 mg strength, that strength has also been discontinued. On our own initiative, we have also determined whether that strength was withdrawn for safety or effectiveness reasons.

After considering the citizen petitions and reviewing Agency records, and based on the information we have at this time, FDA has determined under § 314.161 that AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg and 12.5 mg/75 mg were not withdrawn for reasons of safety or effectiveness. The petitioners have identified no data or other information suggesting that AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg and 12.5 mg/75 mg were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg and 12.5 mg/75 mg from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg and 12.5 mg/75 mg were not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg and 12.5 mg/75 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to AVALIDE (hydrochlorothiazide and irbesartan), oral tablets, 25 mg/300 mg and 12.5 mg/75 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: January 5, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–312 Filed 1–10–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Advisory Committee for Pharmaceutical Science and Clinical Pharmacology; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee for Pharmaceutical Science and Clinical Pharmacology.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 14, 2012, from 7:30 a.m. to 3 p.m.

Location: Gaylord National Hotel and Convention Center, Maryland Ballroom C, 201 Waterfront St., National Harbor, MD 20745. The hotel's phone number is (301) 965–4000.

Contact Person: Yvette Waples, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, (301) 796–9001, FAX: (301) 847–8533, email: *ACPS–CP@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–(800) 741–8138 ((301) 443–0572 in the Washington, DC area), and follow prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the clinical pharmacology aspects of pediatric clinical trial design and dosing to optimize pediatric drug development. FDA will seek input on how to strategically inform pediatric clinical trial design and dosing by utilizing existing knowledge, including available adult and nonclinical data. The discussion will include the role of modeling and simulation including physiologically-based pharmacokinetic modeling in pediatric drug development. Modeling and simulation is the application of mathematical approaches to predicting what will happen in a clinical trial with pediatric patients when a particular dose of a drug is used.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 29, 2012. Oral presentations from the public will be scheduled between approximately 10:45 a.m. and 11:45 a.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 21, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 22, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to

accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Yvette Waples at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 5, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–324 Filed 1–10–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Arthritis Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Arthritis Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 12, 2012, from 8 a.m. to 5:30 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room, (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm*; under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Philip A. Bautista, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, (301) 796–9001, FAX: (301) 847–8533, email: *AAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–(800) 741–8138 ((301) 443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the anti-nerve growth factor (Anti-NGF) drug class that is currently under development and the safety issues possibly related to these drugs. These drugs are being developed for the treatment of a variety of chronic painful conditions including osteoarthritis, chronic lower back pain, diabetic peripheral neuropathy, post-herpetic neuralgia, chronic pancreatitis, endometriosis, interstitial cystitis, vertebral fracture, thermal injury, and cancer pain. The committee will be asked to determine whether reports of joint destruction represent a safety signal related to the Anti-NGF class of drugs, and whether the risk benefit balance for these drugs favors continued development of the drugs as analgesics.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 27, 2012. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 16, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 17, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Philip A. Bautista at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 5, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–326 Filed 1–10–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Agency Information Collection Activities: Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery: IHS Web Site Customer Service Satisfaction Survey

AGENCY: Indian Health Service, HHS.

ACTION: 30-Day notice of submission of information collection approval from the Office of Management and Budget (OMB) and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, Indian Health Service has submitted a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*).

DATES: Comments must be submitted by February 10, 2012.

ADDRESSES: Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Management and Budget, Office of Regulatory Affairs, Attention: Desk Officer for IHS, New Executive Office Building, Room 10235, Washington, DC 20503.

Send Requests for Further Information: Requests for more information on the proposed collection or requests to obtain a copy of the data collection instrument(s) and instructions may be directed to Tamara Clay, Acting Reports Clearance Officer, 801 Thompson Avenue, TMP, Suite 450, Rockville, MD 20852; via non-toll free phone (301) 443–4750; via facsimile to (301) 443–9879; or via email to *tamara.clay@ihs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery: IHS Web site Customer Service Satisfaction Survey.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

In the **Federal Register** Notice of December 22, 2010 (75 FR 80542), OMB published a 60-day notice requesting public comment on the proposed collection of information. The Agency received zero (0) comments in response to the 60 day notice. Below we provide Indian Health Service's projected annual average estimates for the next three years: [1]

Current Actions: New collection of Information.

Type of Review: New Collection.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of Activities: 1.

Respondents: 500.

Annual Responses: 500.

Frequency of Response: Once per request.

Average Minutes per Response: 15 minutes.

Burden Hours: 125 hours.

IHS estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

Type of collection	Number of respondents	Number of responses per respondent	Average burden per response (in hours) [2]	Total hours
Web site Customer satisfaction survey (web-based)	500	1	15/60	125
Total	500	1	15/60	125

[1] The 60-day notice included the following estimate of the aggregate burden hours for this generic clearance federal-wide:

Average Expected Annual Number of activities: 25,000.

Average number of Respondents per Activity: 200.

Annual Responses: 5,000,000.

Frequency of Response: Once per request.

Average minutes per response: 30.

Burden hours: 2,500,000.

[2] Burden estimates of less than one hour are expressed as a fraction of an hour in the format ''[number of minutes per response]/60''.

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.

Comment Due Date: Your comments regarding this information collection are best assured of having full effect if received within 30 days of the date of this publication.

Dated: December 11, 2011.

Yvette Roubideaux,

Director, Indian Health Service.

[FR Doc. 2012–396 Filed 1–10–12; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; 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 Council of Councils.

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 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: Council of Councils.

Date: February 1, 2012.

Open: 8:30 a.m. to 3 p.m.

Agenda: Call to order, Overview of Office of Research Infrastructure Program (ORIP), Division of Program Coordination, Planning, and Strategic Initiatives Update, and Scientific Presentation.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 3 p.m. to 4:40 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Open: 4:40 p.m. to 5 p.m.

Agenda: Overall discussion and adjournment.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Robin Kawazoe, Executive Secretary, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, Building 1, Room 260B, Bethesda, MD 20892, *KAWAZOER@MAIL.NIH.GOV.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Information is also available on the Council of Council's home page at *http://dpcpsi.nih.gov/council/*. Where an agenda and proposals to be discussed will be posted before the meeting date.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–381 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review: Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Brain Injury and Neurovascular Pathologies Study Section.

Date: February 9–10, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington, DC Dupont Circle Hotel, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, (301) 435–1254, *yakovleva@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Gastrointestinal Mucosal Pathobiology Study Section.

Date: February 9–10, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter J Perrin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroplasticity and Neurotransmitters Study Section.

Date: February 9–10, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

Contact Person: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, (301) 435–1259, *nadis@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: February 9–10, 2012.

Time: 8 a.m. to 5 p.m..

Agenda: To review and evaluate grant applications.

Place: Hilton—Long Beach, 701 West Ocean Boulevard, Long Beach, CA 90831.

Contact Person: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252, *cinquej@csr.nih.gov.*

[2] Burden estimates of less than one hour are expressed as a fraction of an hour in the format ''[number of minutes per response]/60''.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Electrical Signaling, Ion Transport, and Arrhythmias Study Section.
Date: February 9, 2012.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westin, 1900 5th Avenue, Seattle, WA 98101.
Contact Person: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435–1195, *Chengy5@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Biomarkers Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, (301) 357–9318, *ngkl@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Molecular and Integrative Signal Transduction Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.
Contact Person: Raya Mandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MSC 7840, Bethesda, MD 20892, (301) 402–8228, *rayam@csr.nih.gov*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.
Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, (301) 435–1146, *jig@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 5 p.m..
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Washington, 1515 Rhode Island Ave. NW., Washington, DC 20005.
Contact Person: Monica Basco, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3220, MSC 7808, Bethesda, MD 20892, (301) 496–7010, *bascoma@mail.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Chemo/Dietary Prevention Study Section
Date: February 9–10, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Crowne Plaza Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Sally A Mulhern, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 408–9724, *mulherns@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Muscle and Exercise Physiology Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Long Beach and Executive Center, 701 West Ocean Boulevard, Long Beach, CA 90831.
Contact Person: Richard Ingraham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7814, Bethesda, MD 20892, (301) 496–8551, *ingrahamrh@mail.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.
Date: February 9, 2012.
Time: 8 a.m. to 8 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Washington, 1515 Rhode Island Avenue NW., Washington, DC 20005.
Contact Person: William A. Greenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Risk, Prevention and Intervention for Addictions Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The St. Regis Washington DC, 923 16th Street NW. Washington, DC 20006.
Contact Person: Gabriel B Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Cardiac Contractility, Hypertrophy, and Failure Study Section.
Date: February 9, 2012.
Time: 8 a.m. to 7 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.
Contact Person: Olga A Tjurmina, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4030B, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Development—2 Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Luxury Hotel and Suites, 2033 M Street NW., Washington, DC 20036.
Contact Person: Rass M Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Hypersensitivity, Autoimmune, and Immune-mediated Diseases Study Section.
Date: February 9, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Marina del Rey, 13534 Bali Way, Marina del Rey, CA 90292.
Contact Person: Bahiru Gametchu, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 408–9329, *gametchb@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Pathogenic Eukaryotes Study Section.
Date: February 9–10, 2012.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Marina del Rey Hotel, 13534 Bali Way, Marina del Rey, CA 90292.
Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–2306, *boundst@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Virology—B Study Section.
Date: February 9–10, 2012.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications
Place: Marina del Rey Marriott, 4100 Admiralty Way, Marina del Rey, CA 90292.
Contact Person: John C Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1206, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.
Date: February 9–10, 2012.
Time: 8:30 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: Barbara J Thomas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2218, MSC 7890, Bethesda, MD 20892, (301) 435–0603, *bthomas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Parasites and Vectors.
Date: February 9–10, 2012.
Time: 10 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, (301) 435–1167, *pandyaga@mai.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–377 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review: Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Radiation Therapeutics and Biology Study Section.
Date: January 30–31, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue Bethesda, MD 20814.
Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, (301) 996–6208, *hongb@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Vaccines Against Microbial Diseases Study Section.
Date: February 2–3, 2012.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Long Beach & Executive Meeting Center, 701 W. Ocean Blvd., Long Beach, CA 90831.
Contact Person: Jian Wang, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Child Psychopathology and Developmental Disabilities Study Section.
Date: February 6–7, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.
Contact Person: Jane A Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Kidney and Diabetes Epidemiology.
Date: February 7, 2012.
Time: 8 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW., Washington, DC 20008.
Contact Person: Valerie Durrant, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 827–6390, *durrantv@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry B Study Section.
Date: February 7–8, 2012.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.
Contact Person: Kathryn M Koeller, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, (301) 435–2681, *koellerk@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Cognition and Perception Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.
Contact Person: Dana Jeffrey Plude, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–2309, *pluded@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Innate Immunity and Inflammation Study Section.
Date: February 9–10, 2012.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard Riverwalk Marriott, 207 N. St Mary's Street, San Antonio, TX 78205.
Contact Person: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, (301) 594–6375, *mcintyrt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular Epidemiology.
Date: February 9, 2012.
Time: 5 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Washington DC Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.
Contact Person: Valerie Durrant, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 827–6390, *durrantv@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.
Date: February 10, 2012.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.
Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–375 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIAMS.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Arthritis and Musculoskeletal and Skin Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIAMS.

Date: February 1, 2012.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate the Molecular Immunology and Inflammation Branch and the Laboratory of Skin Biology.

Place: National Institutes of Health, Building 31, 31 Center Drive, Room 4C32, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: John J. O'Shea, MD, Ph.D., Scientific Director, National Institute of Arthritis & Musculoskeletal and Skin Diseases, Building 10, Room 9N228, MSC 1820, Bethesda, MD 20892, (301) 496–2612, *osheaj@arb.niams.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: January 3, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–380 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke 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 the National Advisory Neurological Disorders and Stroke Council.

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 materials, 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 Neurological Disorders and Stroke Council.

Date: February 16–17, 2012.

Open: February 16, 2012, 8 a.m. to 2:30 p.m.

Agenda: Report by the Director, NINDS; Report by the Associate Director for Extramural Research, NINDS; Other Administrative and Program Developments.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference Room 10, Bethesda, MD 20892.

Closed: February 16, 2012, 2:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference Room 10, Bethesda, MD 20892.

Closed: February 17, 2012, 8 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Conference Room 10, Bethesda, MD 20892.

Contact Person: Robert Finkelstein, Ph.D., Associate Director for Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, 6001 Executive Blvd., Suite 3309, MSC 9531, Bethesda, MD 20892, (301) 496–9248.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.ninds.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–379 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of 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 Heart, Lung, and Blood Advisory Council.

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 Heart, Lung, and Blood Advisory Council.

Date: February 15, 2012.
Open: 8 a.m. to 12 p.m.
Agenda: To discuss program policies and issues.
Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.
Closed: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.
Contact Person: Stephen C. Mockrin, Ph.D., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, (301) 435–0260, *mockrins@nhlbi.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–378 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the NCI-Frederick Advisory Committee, January 25, 2012, 10:30 a.m. to January 25, 2012, 4 p.m., NCI Frederick Library and Conference Center, Building 549, 549 Sultan Drive, Executive Board Room, Frederick, MD 21702, which was published in the Federal Register on December 21, 2011, 76 FR 79200.

This notice is amended to add additional instructions for members of the public entering the NCI-Frederick Campus. All visitors must enter through the Old Farm gate entrance located at the intersection of Old Farm Drive and Rosemont Avenue and have their vehicles searched. Additionally, individuals will also need to provide the officers at Old Farm with proof of identification (*e.g.,* driver's license, NIH ID, or passport), proof of vehicle insurance and registration. This meeting is open to the public.

Dated: January 3, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–268 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed 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 Heart, Lung, and Blood Institute Special Emphasis Panel Program Project Grant Review in Vascular Medicine.
Date: January 31, 2012.
Time: 9 a.m. to 12 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: Shelley S. Sehnert, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892–7924, (301) 435–0303, *ssehnert@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Reagents for Human Lung Cell Biology.
Date: January 31, 2012.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Stephanie L Constant, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, (301) 443–8784, *constantsl@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: December 30, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–266 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Clinical Trials and Translational Research Advisory Committee.
Date: March 7, 2012.
Time: 9 a.m. to 4 p.m.
Agenda: Strategic Discussion of NCI's Clinical and Translational Research Programs.
Place: National Institutes of Health, Building 31, C–Wing, 6th Floor, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.
Contact Person: Sheila A. Prindiville, MD, MPH, Director, Coordinating Center for Clinical Trials, Office of the Director, National Cancer Institute, National Institutes of Health, 6120 Executive Blvd., 3rd Floor Suite, Bethesda, MD 20892, (301) 451–5048, *prindivs@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when

applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/ctac/ctac.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: January 3, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–265 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Addiction, Learning and Sleep.

Date: January 24–25, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7844, Bethesda, MD 20892, (301) 435–1033, *hoshawb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Gastrointestinal Pathophysiology.

Date: January 25, 2012.

Time: 2 p.m. to 6 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: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function D Study Section.

Date: February 8, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: James W. Mack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Cardiovascular and Sleep Epidemiology Study Section.

Date: February 9, 2012.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington, DC Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Fungai Chanetsa, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, (301) 408–9436, *fungai.chanetsa@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Collaborative: Cardiovascular Disease and Epidemiology.

Date: February 9, 2012.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Fungai Chanetsa, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, (301) 408–9436, *fungai.chanetsa@nih.hhs.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Clinical Research and Field Studies of Infectious Diseases Study Section.

Date: February 10, 2012.

Time: 8 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Marina del Rey Hotel, 13534 Bali Way, Marina del Rey, CA 90292.

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, (301) 435–0903, *saadisoh@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 4, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–389 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurosignaling and Neurodevelopment.

Date: January 27, 2012.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Mental Disorders and Traumatic Brain Injury.

Date: February 1, 2012.

Time: 11 a.m. to 1 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: Samuel C. Edwards, Ph.D., IRG Chief, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846 Bethesda, MD 20892, (301) 435–1246 *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Selected Topics in Transfusion Medicine.

Date: February 1–2, 2012.

Time: 11:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bukhtiar H Shah, DVM, Ph.D. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, (301) 806–7314, *shahb@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Molecular Neuropharmacology and Signaling Study Section.

Date: February 6–7, 2012.

Time: 8 a.m. to 4 p.m.

*Agenda:*To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

Contact Person: Deborah L Lewis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, (301) 408–9129, *lewisdeb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; R15: Musculoskeletal Tissue Engineering, Oral, Bone and Skeletal Muscle Biology.

Date: February 7–8, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aruna K Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, (301) 435–6809, *beheraak@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 4, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–387 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development (NICHD); 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 Child Health and Human Development Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. A portion of this 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 for the review and discussion of grant applications. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed below in advance of the meeting.

Name of Committee: National Advisory Child Health and Human Development Council.

Date: January 26, 2012.

Open: January 26, 2012, 8 a.m. to 12:30 p.m.

Agenda: The agenda will include: (1) A report by the Director, NICHD; (2) a discussion and public comment on the reorganization plans for NICHD; (3) a National Children's Study presentation; (4) an overview of the NICHD Board of Scientific Counselors; and (5) other business of the Council.

Closed: January 26, 2012, 12:30 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Center Drive, C–Wing, Conference Room 6, Bethesda, MD 20892.

Contact Person: Yvonne T. Maddox, Ph.D., Deputy Director, Eunice Kennedy Shriver National Institute of Child Health, and Human Development, NIH, 9000 Rockville Pike MSC 7510, Building 31, Room 2A03, Bethesda, MD 20892, (301) 496–1848.

Any interested person may file written comments with the committee by forwarding the statement to the contact person listed on this notice. The statement should include the name, address, telephone number, and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles, will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's home page: *http://www.nichd.nih.gov/about/overview/advisory/nachhd/,* where an agenda and any additional information for the meeting will be posted when available.

In order to facilitate public attendance at the open session of Council, additional seating will be available in the meeting overflow rooms, Conference Rooms 7, 8 and 10. Individuals will also be able to view the meeting via NIH Videocast. Please go to the following link for Videocast access instructions at: *http://nichd.nih.gov/about/overview/advisory/nachhd/virtual-meeting.cfm.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment program, National Institutes of Health, HHS).

Dated: January 4, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–385 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

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/or contract Proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Fogarty International Center Advisory Board.

Date: February 6–7, 2012.

Closed: February 6, 2012, 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, Room B2C07, Bethesda, MD 20892.

Open: February 7, 2012, 9 a.m. to 3 p.m.

Agenda: Discussion of Fogarty's partnerships with other NIH Institutes and Centers.

Place: National Institutes of Health, Lawton L. Chiles International House, Bethesda, MD 20892.

Contact Person: Robert Eiss, Public Health Advisor, Fogarty International Center, National Institutes of Health, 31 Center Drive, Room B2C02, Bethesda, MD 20892, (301) 496–1415, *EISSR@MAIL.NIH.GOV.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nih.gov/fic/about/advisory.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health HHS)

Dated: January 4, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–384 Filed 1–10–12; 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; Neuroscience Review Subcommittee.

Date: March 8, 2012.

Time: 8 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm 2081, Rockville, MD 20852, (301) 443–0800, *bbuzas@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: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–383 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroendocrinology, Neuroimmunology, Rhythms and Sleep Study Section.

Date: January 30–31, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, (301) 435–1119, *mselmanoff@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurotoxicology and Alcohol Study Section.

Date: January 30, 2012.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7844, Bethesda, MD 20892, (301) 435–1033, *hoshawb@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Somatosensory and Chemosensory Systems Study Section.

Date: January 31–February 1, 2012.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: M Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, (301) 435–1766, *bennettc3@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section.

Date: February 1, 2012.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason StreetSan Francisco, CA 94102.

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181 MSC 7846, Bethesda, MD 20892–7846, (301) 435–1236, *zhaow@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Motivated Behavior Study Section.

Date: February 2, 2012.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.
Contact Person: Edwin C Clayton, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 408–9041, *claytone@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.
Date: February 8, 2012.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.
Contact Person: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1191, *ipws@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–382 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Review of an R25 and a K01 Application.
Date: February 2, 2012.
Time: 1 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Robert Bird, Ph.D., Chief, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8113, Bethesda, MD 20892–8328, (301) 496–7978, *birdr@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Core Infrastructure and Methodological Research for Cancer Epidemiology Cohorts.
Date: February 21, 2012.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6116 Executive Boulevard, Rm. 707, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Lalita D. Palekar, Ph.D., Scientific Review Officer, Special Review And Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7141, Bethesda, MD 20892, (301) 496–7575, *palekarl@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.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: January 3, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–263 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program (NTP) Final Process for Preparation of the Report on Carcinogens (RoC)

AGENCY: Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), HHS.

ACTION: Notice.

SUMMARY: The NTP announces the final process for preparation of the RoC. The process is available on the NTP Web site (*http://ntp.niehs.nih.gov/go/rocprocess*) or by contacting Dr. Ruth Lunn (see **ADDRESSES**).

ADDRESSES: Dr. Ruth Lunn, Director, Office of the Report on Carcinogens, DNTP, NIEHS, P.O. Box 12233 MD K2–14, Research Triangle Park, NC 27709; telephone: (919) 316–4637 or email: *lunn@niehs.nih.gov.* Courier address: NIEHS, Room 2138, 530 Davis Drive, Morrisville, NC 27560.

FOR FURTHER INFORMATION CONTACT: Dr. Ruth Lunn (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background Information on the Process

On October 31, 2011, the NTP released its proposed process for preparation of the RoC (76 FR 67200 and 76 FR 71037) and invited written public comment. The NTP also held a listening session on November 29, 2011, to receive oral comment on the proposed process. The NTP considered all input, made some revisions, and presented a revised process at the NTP Board of Scientific Counselors public meeting (76 FR 68461) on December 15, 2011 (*http://ntp.niehs.nih.gov/go/9741*). The NTP now announces the final process for preparation of the RoC. The RoC process is available on the NTP Web site (*http://ntp.niehs.nih.gov/go/rocprocess*) or by contacting Dr. Lunn (see **ADDRESSES**).

Background Information on the RoC

The RoC is a science-based, public health document, required by Congress to be published every two years (Public Health Services Act sec. 301(b)(4), 42 U.S.C. 241(b)(4)). It identifies agents, substances, mixtures, and exposure circumstances (hereafter referred to as ''substances'') in our environment that may potentially put people in the United States at increased risk for cancer. Each edition of the report is cumulative and includes newly listed substances in addition to those listed in previous editions (for more information see *http://ntp.niehs.nih.gov/go/roc*). Substances are listed in the report as either known or reasonably anticipated human carcinogens. The NTP prepares the RoC on behalf of the Secretary of Health and Human Services. The 12th RoC was published in June 2011 (*http://ntp.niehs.nih.gov/go/roc12*).

Dated: December 21, 2011.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2012–395 Filed 1–10–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board (DTAB) will meet on January 31 and February 1, 2012. The DTAB will convene in both open and closed sessions over these two days.

On January 31, 2012 from 9 a.m. to 3 p.m. EST, the meeting will be open to the public to discuss the science of synthetic opioids as potential analytes in the Mandatory Guidelines for Federal Workplace Drug Testing Programs.

The public is invited to attend the open session in person or to listen via teleconference. Due to the limited seating space and call-in capacity, registration is requested. Public comments are welcome. To register, make arrangements to attend, obtain the teleconference call-in numbers and access codes, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register at the SAMHSA Advisory Committees' Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx* or contact the CSAP DTAB Designated Federal Official, Dr. Janine Denis Cook (see contact information below).

On January 31, 2012 between 3 p.m.–5 p.m. EST and February 1, 2012 between 8:30 a.m. and 1 p.m. EST, the Board will meet in closed session to discuss proposed revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs. This portion of the meeting is closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(9)(B) and 5 U.S.C. App. 2, Section 10(d).

Substantive program information, a summary of the meeting, and a roster of DTAB members may be obtained as soon as possible after the meeting by accessing the SAMHSA Advisory Committees' Web site, *http://www.nac.samhsa.gov/DTAB/meetings.aspx*, or by contacting Dr. Cook. The transcript for the open meeting will also be available on the SAMHSA Committee Web site within three weeks after the meeting.

Committee Name: Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention, Drug Testing Advisory Board.

Dates/Time/Type: January 31, 2012 from 9 a.m. to 3 p.m. E.S.T.: Open. January 31, 2012 from 3 p.m. to 5 p.m. E.S.T.: Closed. February 1, 2012 from 8:30 a.m. to 1 p.m. E.S.T.: Closed.

Place: Sugarloaf Conference Room, SAMHSA Office Building, 1 Choke Cherry Road, Rockville, Maryland 20857.

Contact: Janine Denis Cook, Ph.D., Designated Federal Official, CSAP Drug Testing Advisory Board, 1 Choke Cherry Road, Room 2–1045, Rockville, Maryland 20857, Telephone: (240) 276–2600, Fax: (240) 276–2610, Email: *janine.cook@samhsa.hhs.gov*.

Janine Denis Cook,

Designated Federal Official, DTAB, Division of Workplace Programs, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration.

[FR Doc. 2012–246 Filed 1–10–12; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2011–1167]

Cooperative Research and Development Agreement: Technology To Provide Wireless Precise Time; Alternatives to Global Positioning Systems

AGENCY: Coast Guard, DHS.

ACTION: Notice of intent; request for public comments.

SUMMARY: The Coast Guard is announcing its intent to enter into a Cooperative Research and Development Agreement (CRADA) with UrsaNav, Inc., to research, evaluate, and document at least one alternative to Global Positioning Systems (GPS) as a means of providing precise time. The alternative under consideration is a wireless technical approach for providing precise time using U.S. government facilities and frequency authorizations. The Coast Guard invites public comment on the proposed CRADA and also invites other non-Federal participants, who have the interest and capability to bring similar contributions to this type of research, to consider entry into similar CRADAs.

DATES: Comments and related material on the proposed CRADA must either be submitted to our online docket via *http://www.regulations.gov* on or before February 10, 2012, or reach the Docket Management Facility by that date.

Notifications from parties interested in participating as a non-Federal participant in a CRADA similar to the one described in this notice must reach the Docket Management Facility on or before February 10, 2012.

Do not submit detailed proposals for different CRADAs to the Docket Management Facility. Instead, if you are interested in being a non-Federal participant in a different CRADA, you may submit detailed proposals to LT Helen Y. Millward, U.S. Coast Guard Research and Development Center, 1 Chelsea Street, New London, CT 06320, telephone: (860) 271–2815, email: *Helen.Y.Millward@uscg.mil.*

ADDRESSES: You may submit written comments on this notice identified by docket number USCG–2011–1167 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* (202) 493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning this notice or desire to submit a CRADA proposal, please contact LT Helen Y. Millward, U.S. Coast Guard Research and Development Center, 1 Chelsea Street, New London, CT 06320, telephone: (860) 271–2815, email: *Helen.Y.Millward@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on this notice. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this notice (USCG–2011–1167), and provide a reason for each suggestion or recommendation. You may submit your comments and material online via *http://www.regulations.gov,* or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and type ''USCG–2011–1167'' in the ''Keyword'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing Comments and Related Material

To view the comments and related material, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box, insert ''USCG–2011–1167'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Cooperative Research and Development Agreements

Cooperative Research and Development Agreements (CRADAs), are authorized by the Federal Technology Transfer Act of 1986 (Pub. L. 99–502, codified at 15 U.S.C. 3710(a)). A CRADA promotes the transfer of technology to the private sector for commercial use as well as specified research or development efforts that are consistent with the mission of the Federal parties to the CRADA. The Federal party or parties agree with one or more non-Federal parties to share research resources, but the Federal party does not contribute funding. The Department of Homeland Security (DHS), as an executive agency under 5 U.S.C. 105, is a Federal agency for purposes of 15 U.S.C. 3710(a) and may enter into a CRADA. DHS delegated its authority to the Commandant of the Coast Guard (see DHS Delegation No. 0160.1, para. 2.B(34)), and the Commandant has delegated his authority to the Coast Guard's Research and Development Center (R&DC).

CRADAs are not procurement contracts. Care is taken to ensure that CRADAs are not used to circumvent the contracting process. CRADAs have a specific purpose and should not be confused with other types of agreements such as procurement contracts, grants, and cooperative agreements.

Goal of Proposed CRADA

Under the proposed CRADA, the Coast Guard's R&DC would collaborate with non-Federal participants. Together, the R&DC and the non-Federal participants would research, evaluate, and document at least one alternative to Global Positioning Systems (GPS) as a means of providing precise time. The alternative under consideration is a wireless technical approach for providing precise time using U.S. government facilities and frequency authorizations.

The CRADA participants will determine the viability of certain wireless alternative timing approaches by conducting live, on-air tests that will be broadcast from former Long Range Navigation (LORAN) sites, using existing government-provided and non-Federal CRADA participant-provided transmitting equipment. On-air testing may also be conducted from other sites as deemed necessary during CRADA testing. Reception of these test broadcasts are planned at both on-shore and off-shore locations. The testing will be conducted in four phases. The first phase will consist of testing on LORAN frequencies (90–110 kHz); the second phase will be conducted on dGPS frequencies (283.5–325 kHz); the third phase will be conducted on HA-dGPS frequencies (435–490 kHz); and the fourth phase will be conducted on a former international calling and distress frequency (500 kHz). All four phases may be tested concurrently.

Party Contributions

We anticipate that the Coast Guard's contributions under the proposed CRADA will include the following:

(1) Provide CRADA participants with access to, and appropriate use of, the facilities at former LORAN Stations, present dGPS sites, and other government locations for the conduct of CRADA work;

(2) Provide CRADA participants with all necessary frequency authorizations for their broadcast within the frequency bands identified for the CRADA work;

(3) Provide CRADA participants with all necessary approvals and access for their installation of the ''precise time'' receivers and automated/remotely operated data collection equipment aboard at least one Coast Guard vessel; and

(4) Develop the Technology Demonstration Description document, Test Plan, and Project Report for each phase of the CRADA work.

We anticipate that the non-Federal participants' contributions under the proposed CRADA will include the following:

(1) Provide appropriate input to the R&DC for the development of the Technology Demonstration Description document, and Test Plan for each phase of the CRADA work;

(2) Provide, install, operate, maintain, and remove all material (including hardware, software, and test equipment), along with the associated labor, needed for the Technology Demonstration as set forth within the Test Plan for each phase of the CRADA work;

(3) Provide the R&DC with a Test Report as set forth within the Test Plan for each phase of the CRADA work; and

(4) Provide input into the Coast Guard-developed, Project Report for each phase of the CRADA work.

Selection Criteria

The Coast Guard reserves the right to select for CRADA participants all, some, or none of the proposals in response to

this notice. The Coast Guard will provide no funding for reimbursement of proposal development costs. Proposals (or any other material) submitted in response to this notice will not be returned. Proposals submitted are expected to be unclassified and have no more than four single-sided pages (excluding cover page and resumes). The Coast Guard will select proposals at its sole discretion on the basis of:

(1) How well they communicate an understanding of, and ability to meet, the proposed CRADA's goal; and

(2) How well they address the following criteria:

(a) Technical capability to support the non-Federal party contributions described; and

(b) Resources available for supporting the non-Federal party contributions described.

Currently, the Coast Guard is considering UrsaNav, Inc., for participation in this CRADA. This consideration is based on UrsaNav, Inc.'s: (1) Expertise, experience, and interest in low-frequency ''precise time'' technology; and (2) capability to provide the significant contributions required for the CRADA work. However, we do not wish to exclude other viable participants from this or future similar CRADAs.

This is a technology transfer/development effort. Presently, the Coast Guard has no plan to acquire, operate, or provide alternative wireless time technology or services. Since the goal of this CRADA is to identify and investigate the advantages, disadvantages, performance, costs, and other issues associated with using alternative wireless time technology, and not to set future Coast Guard acquisition requirements for the same, non-Federal CRADA participants will not be excluded from any future Coast Guard procurements based solely on their participation in this CRADA.

Special consideration will be given to small business firms/consortia, and preference will be given to business units located in the U.S.

Authority

This notice is issued under the authority of 15 U.S.C. 3710(a), 5 U.S.C. 552(a), and 33 CFR 1.05–1.

Dated: January 3, 2012.

Alan N. Arsenault,

Capt, USCG, Commanding Officer, U.S. Coast Guard Research and Development Center.

[FR Doc. 2012–307 Filed 1–10–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2011–0975]

National Maritime Security Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting; correction.

SUMMARY: The Coast Guard published in the **Federal Register** of January 9, 2012, a notice announcing a National Maritime Security Advisory Committee (NMSAC) public meeting on January 18–19, 2012, in Arlington, VA. This notice corrects that previous notice to add an explanation for why 15-days advance notice was not given.

DATES: The Committee will meet on Wednesday, January 18, 2012 from 9 a.m. to 3 p.m. and Thursday, January 19, 2012 from 9 a.m. to 12 p.m. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach us on or before January 13, 2012.

ADDRESSES: The Committee will meet at the American Bureau of Shipping, 1400 Key Blvd., Suite 800, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Owens, ADFO of NMSAC, 2100 2nd Street SW., Stop 7581, Washington, DC 20593–7581; telephone (202) 372–1108 or email *ryan.f.owens@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard's January 9, 2012 notice of the January 18–19, 2012, NMSAC meeting inadvertently failed to contain an explanation for its publication less than 15 calendar days prior to the meeting, as required by General Services Administration rules 41 CFR 102–3.150(b). The reason the notice was published only 9 calendar days prior to the meeting was an administrative delay due to the Federal holidays. The Coast Guard regrets the delay in publication, but notes that the notice was publicly available on the **Federal Register** Web site 13 calendar days prior to the meeting. Additionally, all known interested parties were made aware of the meeting with sufficient time for planning purposes.

It is critical that this meeting be held on the announced meeting date because delays in committee discussions could have significant ramifications for ongoing Coast Guard studies and evaluations on the agenda for the upcoming meeting. Maintaining the current meeting schedule allows the Coast Guard to continue deliberations and forward progress regarding multiple maritime security initiatives.

If you have been adversely affected by the delay in publishing the notice, contact Mr. Ryan Owens (see **FOR FURTHER INFORMATION CONTACT**) and the Coast Guard will make every effort to accommodate you.

Dated: January 6, 2012.

Erin H. Ledford,

Lieutenant Commander, U.S. Coast Guard, Acting Chief, Office of Regulations and Administrative Law (CG–0943), U.S. Coast Guard.

[FR Doc. 2012–402 Filed 1–6–12; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2510–11; DHS Docket No. USCIS 2007–0028]

RIN 1615–ZB06

Extension of the Designation of El Salvador for Temporary Protected Status and Automatic Extension of Employment Authorization Documentation for Salvadoran TPS Beneficiaries

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This Notice announces that the Secretary of Homeland Security (Secretary) has extended the designation of El Salvador for temporary protected status (TPS) for 18 months from its current expiration date of March 9, 2012 through September 9, 2013. The Secretary has determined that an extension is warranted because the conditions in El Salvador that prompted the TPS designation continue to be met. There continues to be a substantial, but temporary, disruption of living conditions in El Salvador resulting from a series of earthquakes in 2001, and El Salvador remains unable, temporarily, to handle adequately the return of its nationals.

This Notice also sets forth procedures necessary for nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) with TPS to re-register and to apply for an extension of their Employment Authorization Documents (EADs) (Forms I–766) with U.S. Citizenship and Immigration Services (USCIS). Re-

registration is limited to persons who previously registered for TPS under the designation of El Salvador and whose applications have been granted or remain pending. Certain nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) who have not previously applied for TPS may be eligible to apply under the late initial registration provisions.

USCIS will issue new EADs with a September 9, 2013 expiration date to eligible Salvadoran TPS beneficiaries who timely re-register and apply for EADs under this extension. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that all re-registrants may not receive new EADs until after their current EADs expire on March 9, 2012. Accordingly, this Notice automatically extends the validity of EADs issued under the TPS designation of El Salvador for 6 months, through September 9, 2012, and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and their impact on Form I–9 and E–Verify processes.

DATES: The 18-month extension of the TPS designation of El Salvador is effective March 10, 2012 and will remain in effect through September 9, 2013. The 60-day re-registration period begins January 9, 2012 and will remain in effect until March 9, 2012.

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the TPS Web page at *http://www.uscis.gov/tps.* You can find specific information about this extension and about TPS for El Salvador by selecting ''TPS Designated Country—El Salvador'' from the menu on the left of the TPS Web page. From the El Salvador page, you can select the El Salvador TPS Questions & Answers Section from the menu on the right for further information.
- You can also contact the TPS Operations Program Manager at Status and Family Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW. Washington, DC 20529–2060; or by phone at (202) 272–1533 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS notice. It is not for individual case status inquiries.
- Applicants seeking information about the status of their individual cases can check Case Status Online available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 1–(800) 375–5283 (TTY 1–(800) 767–1833).
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

Act—Immigration and Nationality Act
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
Government—U.S. Government
IDB—Inter-American Development Bank
OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
Secretary—Secretary of Homeland Security
TPS—Temporary Protected Status
USAID—U.S. Agency for International Development
USCIS—U.S. Citizenship and Immigration Services

What is temporary protected status (TPS)?

- TPS is an immigration status granted to eligible nationals of a country designated for TPS under the Act (or to persons without nationality who last habitually resided in the designated country).
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States and may obtain work authorization, so long as they continue to meet the requirements of TPS status.
- The granting of TPS does not lead to permanent resident status.
- When the Secretary of Homeland Security (Secretary) terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS (unless that status has since expired or been terminated) or to any other lawfully obtained immigration status they received while registered for TPS.

When was El Salvador designated for TPS?

On March 9, 2001, the Attorney General designated El Salvador for TPS based on an environmental disaster within that country, specifically a series of earthquakes that occurred in 2001. *See* 66 FR 14214 and section 244(a)(b)(1)(B) of the Immigration and Nationality Act (Act), 8 U.S.C. 1254a(b)(1)(B). The last extension of TPS for El Salvador was announced on July 9, 2010, based on the Secretary's determination that the conditions warranting the designation continued to be met. This announcement is the eighth extension of TPS for El Salvador.

What authority does the Secretary of Homeland Security have to extend the designation of El Salvador for TPS?

Section 244(b)(1) of the Act, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). *See* section 244(a)(1)(A) of the Act, 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* section 244(b)(3)(A) of the Act, 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation is extended for an additional 6 months (or in the Secretary's discretion for 12 or 18 months). *See* section 244(b)(3)(C) of the Act, 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* section 244(b)(3)(B) of the Act, 8 U.S.C. 1254a(b)(3)(B).

Why is the Secretary extending the TPS designation for El Salvador through September 9, 2013?

Over the past year, the Department of Homeland Security (DHS) and the Department of State (DOS) have continued to review conditions in El Salvador. Based on this review and after consulting with DOS, the Secretary has determined that an 18-month extension is warranted because there continues to be a substantial, but temporary, disruption of living conditions in El Salvador resulting from the series of earthquakes that struck the country in 2001, and El Salvador remains unable, temporarily, to adequately handle the return of its nationals.

The 2001 earthquakes resulted in the loss of over 1000 lives, displacement of

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the Immigration and Nationality Act describing functions transferred from the Department of Justice to the Department of Homeland Security ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying HSA, tit. XV, sec. 1517).

thousands more, the extensive destruction of physical infrastructure, and severe damage to the country's economic system. *See* 66 FR 14214 (Mar. 9, 2001) (describing the devastation caused by earthquakes). El Salvador's recovery from the earthquakes is still incomplete, and significant damage remains to the country's infrastructure and public services.

In response to the devastation caused by the 2001 earthquakes, the U.S. Agency for International Development (USAID), the Inter-American Development Bank (IDB), the World Bank, and the European Union initiated reconstruction efforts in areas throughout El Salvador. Recovery has been slow and encumbered by Hurricanes Adrian and Stan in 2005, Hurricane Felix in 2007, Hurricane Ida in 2009, and most recently Tropical Storm Agatha in 2010.

While all major roads damaged by the earthquakes appear to have been reconstructed and are functioning, El Salvador's road networks remain vulnerable to adverse climatic conditions. Of the approximately 276,000 homes destroyed, only about half have been reconstructed or repaired through assistance from USAID, the Salvadoran government and international donors, including an estimated 12,512 houses built or reconstructed through European Union and Habitat-for-Humanity efforts. The IDB has also initiated reconstruction efforts in areas throughout the country, but it is believed that the program is still far from completion.

El Salvador's Ministry of Education reported that while over 2,300 schools had been rebuilt as of July 2004, the remaining 270 schools damaged by the earthquakes will require $21.7 million in financing to complete construction. According to the USAID Reconstruction Office, that funding was not available.

In the immediate aftermath of the earthquake, seven hospitals and 113 of 361 health facilities were severely damaged; these numbers represented 55 percent of the country's capacity to deliver health services. In June 2011, 10 years after the earthquake, the last damaged hospital was reopened.

The National Water Institution estimated that 40–50 percent of the population is without access to potable water on account of a continued lack of electricity and damage to the water system resulting from the earthquakes. Despite international funding for reconstruction of water systems, there was no accurate record at the national level that stated how many water and sanitation systems had been repaired since the destruction caused by the 2001 earthquakes. Reports further indicate that water treatment services in urban areas have improved since the 2001 earthquakes, and around four fifths of the urban population has access to clean water. However, there are reports that only about 21 percent of rural households had continuous water services.

El Salvador is still rebuilding from the devastating 2001 earthquakes. However, rebuilding efforts have been further complicated by more recent natural disasters and by sluggish economic growth. Due to these environmental factors, United Nations Development Programme recently classified El Salvador among the most vulnerable countries in the world. Given the ongoing challenges faced by the country, El Salvador remains temporarily unable to handle adequately the return of its nationals from the United States.

While the U.S. government has significantly invested in the recovery from the damage caused by the 2001 earthquakes and in the overall development of El Salvador, the Salvadoran economy remains fragile and suffers from infrastructure shortcomings. An influx of TPS returnees would further strain already overburdened health and education sectors in El Salvador's rural communities which have yet to fully recover from the 2001 earthquakes. Due to these conditions, there continues to be a substantial, but temporary, disruption in living conditions in El Salvador, and the country continues to be unable, temporarily, to handle adequately, the return of its nationals.

Based upon this review and after consultation with appropriate Government agencies, the Secretary finds that:

- The conditions that prompted the March 9, 2001, designation of El Salvador for TPS continue to be met. *See* section 244(b)(3)(A) of the Act, 8 U.S.C. 1254a(b)(3)(A).
- There continues to be a substantial, but temporary, disruption in living conditions in El Salvador as a result of an environmental disaster. *See* section 244(b)(1)(B) of the Act, 8 U.S.C. 1254a(b)(1)(B).
- El Salvador continues to be unable, temporarily, to handle adequately the return of its nationals (or aliens having no nationality who last habitually resided in El Salvador). *See* section 244(b)(1)(B) of the Act, 8 U.S.C. 1254a(b)(1)(B).
- The designation of El Salvador for TPS should be extended for an additional 18-month period. *See* section 244(b)(3)(C) of the Act, 8 U.S.C. 1254a(b)(3)(C).
- There are approximately 212,000 nationals of El Salvador (or aliens having no nationality who last habitually resided in El Salvador) who may be eligible to re-register for TPS under this extended designation.

Notice of Extension of the TPS Designation of El Salvador

By the authority vested in me as Secretary of Homeland Security under section 244 of the Act, 8 U.S.C. 1254a, I have determined after consultation with the appropriate Government agencies, that the conditions that prompted the designation of El Salvador for temporary protected status (TPS) on March 9, 2001 continue to be met. *See* section 244(b)(3)(A) of the Act, 8 U.S.C. 1254a(b)(3)(A). On the basis of this determination, I am extending the TPS designation of El Salvador for 18 months from its current expiration on March 9, 2012 through September 9, 2013.

Janet Napolitano,

Secretary.

Required Application Forms and Application Fees To Register or Re-register for TPS

To register or re-register for TPS for El Salvador, an applicant must submit:

1. Application for Temporary Protected Status, Form I–821.

- You only need to pay the Form I–821 application fee if you are filing an application for late initial registration. *See* 8 CFR sec. 244.2(f)(2) and information on late initial filing on the USCIS TPS Web page at *www.uscis.gov/tps.*
- You do not need to pay the Form I–821 fee for a re-registration; and

2. Application for Employment Authorization, Form I–765.

- If you are applying for re-registration, you must pay the Form I–765 application fee only if you want an Employment Authorization Document (EAD) (Form I–766).
- If you are applying for late initial registration and want an EAD, you must pay the Form I–765 fee only if you are age 14 through 65. No EAD fee is required if you are under the age of 14 or over the age of 65 and applying for late initial registration.
- You do not pay the Form I–765 fee if you are not requesting an EAD.

You must submit both completed application forms together. If you are unable to pay, you may apply for application and/or biometrics fee waivers by completing a Request for Fee Waiver (Form I–912) or submitting a

personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps* and click on Temporary Protected Status for El Salvador. Fees for Form I–821, Form I–765, and biometric services are also described in 8 CFR 103.7(b).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay, you may apply for a biometrics fee waiver by completing a Form I–912, or a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS Web site at *http://www.uscis.gov.* If necessary, you may be required to visit an Application Support Center to have your biometrics captured.

Refiling After Receiving a Denial of a Fee Waiver Request

USCIS urges all re-registering applicants to file as soon as possible within the 60-day re-registration period so that USCIS can promptly process the applications and issue EADs. Filing early will also allow those applicants who may receive denials of their fee waiver requests to have time to refile their applications before the re-registration deadline. If, however, an applicant receives a denial of his or her fee waiver request and is unable to refile by the re-registration deadline, the applicant may still refile his or her applications. This situation will fall under good cause for late re-registration. However, applicants are urged to refile within 45 days of the date on their USCIS fee waiver denial notice, if at all possible. *See* section 244(c)(3)(A)(iii) of the Act; 8 U.S.C. 1254a(c)(3)(A)(iii); 8 CFR 244.17(c). For more information on good cause for late re-registration, please look at the Questions & Answers for El Salvador TPS found on the USCIS TPS Web page for El Salvador.

Mailing Information

Mail your application for TPS to the proper address in Table 1:

TABLE 1—MAILING ADDRESSES

If ...	Mail to ...
You are applying for re-registration and you live in the following states/territories: Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington DC, West Virginia.	*U.S. Postal Service:* USCIS Attn: TPS El Salvador P.O. Box 8635 Chicago, IL 60680–8635. *Non-U.S. Postal Delivery Service:* USCIS Attn: TPS El Salvador 131 S. Dearborn—3rd Floor Chicago, IL 60603–5517.
You are applying for re-registration and you live in the following states/territories: Alabama, Alaska, American Samoa, Arkansas, Colorado, Guam, Hawaii, Idaho, Iowa, Kansas, Louisiana; Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Northern Mariana Islands, Oklahoma, Puerto Rico, South Dakota, Tennessee, Texas, Utah, Virgin Islands, Wisconsin, Wyoming.	*U.S. Postal Service:* USCIS Attn: TPS El Salvador P.O. Box 660864 Dallas, TX 75266. *Non-U.S. Postal Delivery Service:* USCIS 2501 S. State Highway, 121 Business Suite 400 Lewisville, TX 75067.
You are applying for re-registration and you live in the following states/territories: Arizona, California, Nevada, Oregon, Washington.	*U.S. Postal Service:* USCIS Attn: TPS El Salvador P.O. Box 21800 Phoenix, AZ 85036. *Non-U.S. Postal Delivery Service:* USCIS 1820 E. Skyharbor, Circle S, Suite 100 Phoenix, AZ 85034.
You are applying for the first time as a late initial registrant through US Postal Service.	*U.S. Postal Service:* USCIS Attn: TPS El Salvador P.O. Box 8670 Chicago, IL 60680–8670. *Non-U.S. Postal Delivery Service:* USCIS Attn: TPS El Salvador 131 S. Dearborn—3rd Floor Chicago, IL 60603–5517.

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA), and you wish to request an EAD or are re-registering for the first time following a grant by the IJ or BIA, please mail your application to the proper address for TPS re-registration based on the state/territory where you live.

E-Filing

If you are re-registering for TPS during the re-registration period and you do not need to submit any supporting documents or evidence, you are eligible to file your applications electronically. For more information on e-filing, please visit the USCIS E-Filing Reference Guide at the USCIS Web site at *http://www.uscis.gov.*

Employment Authorization Document (EAD)

May I request an interim EAD at my local USCIS office?

No. USCIS will not issue interim EADs to TPS applicants and re-registrants at local offices.

Am I eligible to receive an automatic 6-month extension of my current EAD from March 9, 2012 through September 9, 2012?

You will receive an automatic 6-month extension of your EAD if you:

- Are a national of El Salvador (or an alien having no nationality who last habitually resided in El Salvador);
- Received an EAD under the last extension of TPS for El Salvador; and
- Have not had TPS withdrawn or denied.

This automatic extension is limited to EADs with an expiration date of March 9, 2012. These EADs must also bear the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification, Form I–9?

You can find a list of acceptable document choices on page 5 of the Employment Eligibility Verification, Form I–9. Employers are required to verify the identity and employment authorization of all new employees by using Form I–9. Within three days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). An EAD is an acceptable document under ''List A.''

If you received a 6-month automatic extension of your EAD by virtue of this **Federal Register** notice, you may choose to present your automatically extended EAD, as described above, to your employer as proof of identity and employment authorization for Form I–9 through September 9, 2012 (see the subsection below titled ''*How do I and my employer complete Form I–9 (i.e., verification) using an automatically extended EAD for a new job?''* for further information). To minimize confusion over this extension at the time of hire, you may also show your employer a copy of this **Federal Register** notice confirming the automatic extension of employment authorization through September 9, 2012. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, or List B plus List C.

What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?

You must present any document from List A or any document from List C on Form I–9 to reverify employment authorization. Employers are required to reverify on Form I–9 the employment authorization of current employees upon the expiration of a TPS-related EAD.

If you received a 6-month automatic extension of your EAD by virtue of this **Federal Register** notice, your employer does not need to reverify until after September 9, 2012. However, you and your employer do need to make corrections to the employment authorization expiration dates in section 1 and section 2 of the Form I–9 (see the subsection below titled ''*What corrections should I and my employer at my current job make to Form I–9 if my EAD has been automatically extended?''* for further information). In addition, you may also show this **Federal Register** notice to your employer to avoid confusion about whether or not your expired TPS-related document is acceptable. After September 9, 2012, when the automatic extension expires, your employer must reverify your employment authorization. You may show any document from List A or List C on Form I–9 to satisfy this reverification requirement.

What happens after September 9, 2012 for purposes of employment authorization?

After September 9, 2012, employers may not accept the EADs that were automatically extended by this **Federal Register** notice. However, USCIS will issue new EADs to TPS re-registrants. These EADs will have an expiration date of September 9, 2013 and can be presented to your employer as proof of employment authorization and identity. The EAD will bear the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.'' Alternatively, you may choose to present any other legally acceptable document or combination of documents listed on the Form I–9 to prove identity and employment authorization.

How do I and my employer complete Form I–9 (i.e., verification) using an automatically extended EAD for a new job?

When using an automatically extended EAD to fill out Form I–9 for a new job prior to September 9, 2012, you and your employer should do the following:

(1) For Section 1, you should:

a. Check ''An alien authorized to work'';

b. Write your alien number (A-number) in the first space (your EAD or other document from DHS will have your A-number printed on it); and

c. Write the automatic extension date in the second space.

(2) For Section 2, employers should:

a. Record the document title;

b. Record the document number; and

c. Record the automatically extended EAD expiration date.

After September 9, 2012, employers must reverify the employee's employment authorization in Section 3 of Form I–9.

What corrections should I and my employer at my current job make to Form I–9 if my EAD has been automatically extended?

If you are an existing employee who presented a TPS EAD that was valid when you first started your job, but that EAD has now been automatically extended, you and your employer should correct your previously completed Form I–9 as follows:

(1) For Section 1, you should:

a. Draw a line through the expiration date in the second space;

b. Write ''September 9, 2012'' above the previous date;

c. Write ''TPS Ext.'' in the margin of Section 1; and

d. Initial and date the correction in the margin of Section 1.

(2) For Section 2, employers should:

a. Draw a line through the expiration date written in Section 2;

b. Write September 9, 2012, above the previous date;

c. Write ''TPS Ext.'' in the margin of Section 2; and

d. Initial and date the correction in the margin of Section 2.

After September 9, 2012, when the automatic extension of EADs expires, employers must reverify the employee's employment authorization in Section 3.

If I am an employer enrolled in E–Verify, what do I do when I receive a ''Work Authorization Documents Expiring'' alert for an automatically extended EAD?

If you are an employer who participates in E–Verify, you will receive a ''Work Authorization Documents Expiring'' case alert when a TPS beneficiary's EAD is about to expire. Usually, this message is an alert to complete Section 3 of Form I–9 to reverify an employee's employment authorization. For existing employees with TPS EADs that have been automatically extended, employers

should disregard the E–Verify case alert and follow the instructions above explaining how to correct Form I–9. After September 9, 2012, employment authorization needs to be reverified in Section 3. You should never use E–Verify for reverification.

Can my employer require that I produce any other documentation to prove my status, such as proof of my Salvadoran citizenship?

No. When completing the Form I–9, employers must accept any documentation that appears on the lists of acceptable documentation, and that reasonably appears to be genuine and that relates to you. Employers may not request documentation that does not appear on the Form I–9. Therefore, employers may not request proof of Salvadoran citizenship when completing Form I–9. If presented with EADs that have been automatically extended pursuant to this **Federal Register** notice or EADs that are unexpired on their face, employers should accept such EADs as valid ''List A'' documents so long as the EADs reasonably appear to be genuine and to relate to the employee. *See* below for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you because or your citizenship or immigration status, or national origin.

Note to All Employers

Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For questions, employers may call the USCIS Customer Assistance Office at 1–(800) 357–2099. The USCIS Customer Assistance Office accepts calls in English and Spanish only. Employers may also call the Department of Justice (DOJ) Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 1–(800) 255–8155.

Note to Employees

Employees or applicants may call the DOJ OSC Worker Information Hotline at 1–(800) 255–7688 for information regarding employment discrimination based upon citizenship or immigration status, and national origin, unfair documentary practices related to the Form I–9, and discriminatory practices related E–Verify. Employers must accept any document or combination of documents acceptable for Form I–9 completion if the documentation reasonably appears to be genuine and to relate to the employee. Employers may not require extra or additional documentation beyond what is required for Form I–9 completion. Further, employees who receive an initial mismatch via E–Verify must be given an opportunity to challenge the mismatch, and employers are prohibited from taking adverse action against such employees based on the initial mismatch unless and until E–Verify returns a final non-confirmation. The Hotline accepts calls in multiple languages. Additional information is available on the OSC Web site at *http://www.justice.gov/crt/osc/.*

Note Regarding Federal, State and Local Government Agencies (Such as Departments of Motor Vehicles)

State and local government agencies are permitted to create their own guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. If you are applying for a state or local government benefit, you may need to provide the state or local government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your expired EAD that has been automatically extended, or your EAD that has a valid expiration date;

(2) A copy of this **Federal Register** notice if your EAD is automatically extended under this notice;

(3) A copy of your Application for Temporary Protected Status, Form I–821 Receipt Notice (Form I–797) for this re-registration;

(4) A copy of your past or current Form I–821 Approval Notice (Form I–797), if you receive one from USCIS; and

(5) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS TPS Web site that provides information on the automatic extension.

Check with the state or local agency regarding which document(s) the agency will accept.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response following completion of all required SAVE verification steps, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has completed all SAVE verification and you do not believe the response is correct, you may make an Info Pass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request can be found at the SAVE Web site at www.uscis.gov/save, then by choosing ''How to Correct Your Records'' from the menu on the right.

[FR Doc. 2012–143 Filed 1–10–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–01]

Notice of Submission of Proposed Information Collection to OMB Tribal Colleges and University Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: February 10, 2012.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528–0215) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; email *OIRA-Submission@omb.eop.gov* fax: (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the

Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Tribal Colleges and University Programs.

OMB Approval Number: 2528–0215.

Form Numbers: SF_424, SF_424_SUPP, HUD_424_CB, SF_LLL, HUD_2880, HUD_2990, HUD_2993, HUD_40077, HUD_96010, HUD_96011.

Description of the Need for the Information and Its Proposed Use:

The information is being collected to select applicants for award in this statutorily created competitive grant program and to monitor performance of grantees to ensure they meet statutory and program goals and requirements.

Frequency of Submission: Yearly.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	10	6		6.17		370

Total Estimated Burden Hours: 370.

Status: 2528–0215.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 5, 2012.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–346 Filed 1–10–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2011–N219; BAC–4311–K9–S3]

James River National Wildlife Refuge, Prince George County, VA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a comprehensive conservation plan (CCP) and environmental assessment (EA) for James River National Wildlife Refuge (the refuge, NWR), which is located in Prince George County, Virginia. We provide this notice in compliance with our CCP policy to advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed planning on this refuge.

DATES: We will announce opportunities for public input throughout the CCP process in the **Federal Register**, local news media, and on our refuge planning Web site at: *http://www.fws.gov/northeast/planning/jamesriver/ccphome.html.*

ADDRESSES: Send your comments or requests for more information by any of the following methods.

Email: fw5rw_evrnwr@fws.gov. Include ''James River CCP'' in the subject line of the message.

Fax: Attn: Meghan Carfioli, (804) 829–9606.

U.S. Mail: U.S. Fish and Wildlife Service, Eastern Virginia Rivers National Wildlife Refuge Complex—Charles City Sub-Office, 11116 Kimages Road, Charles City, VA 23030.

In-Person Drop-off: You may drop off comments during regular business hours at the address above.

FOR FURTHER INFORMATION CONTACT: Meghan Carfioli, Planning Team Leader, (804) 829–5413 (phone) or Andy Hofmann, Project Leader, Eastern Virginia Rivers National Wildlife Refuge Complex, (804) 333–1470 (phone), *fw5rw_evrnwr@fws.gov (email).*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for James River NWR, in Prince George County, Virginia. This notice complies with our CCP policy to advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed planning on this refuge.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing to the mission of the National Wildlife Refuge System (NWRS), consistent with sound principles of fish and wildlife conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Each unit of the NWRS was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the NWRS, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge's establishing purposes and the mission of the NWRS.

Our CCP process provides participation opportunities for Federal, Tribal, State, and local governments, organizations, and the public. Throughout the process, we will have formal comment periods and hold public meetings to gather comments, issues, concerns, and suggestions for the future management of James River NWR. You may also send comments

during the planning process by mail, email, or fax (see **ADDRESSES**).

We will conduct the environmental review of this project and develop an EA in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

James River National Wildlife Refuge

James River NWR is one of four refuges that comprise the Eastern Virginia Rivers National Wildlife Refuge Complex. James River NWR lies in the Chesapeake Bay watershed and is located along the James River in Prince George County, Virginia, approximately 8 miles southeast of the City of Hopewell and 30 miles southeast of the City of Richmond.

The refuge was established in 1991 to protect nationally significant nesting and roosting habitat for the bald eagle (*Haliaeetus leucocephalus*). The 4,325-acre refuge consists of riparian, wetland, and forested habitats, including loblolly pine plantations. These habitats support a variety of songbirds, raptors, rare plants, and other species of conservation concern. The federally threatened plant, sensitive joint-vetch (*Aeschynomene virginica*), occurs in wetlands on the refuge. The refuge also has a rich cultural history, illustrated by the numerous archaeological and historical sites on the refuge.

James River NWR also provides opportunities for the public to engage in wildlife-dependent recreation. Popular activities on the refuge include wildlife observation, nature photography, and onsite environmental education and interpretive programs. The refuge also offers an annual white-tailed deer hunt. Public access to the refuge is by permit to limit disturbance to bald eagles, as well as to minimize risks to public safety while habitat management activities (e.g., prescribed burning, timber management) are underway.

Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified several preliminary issues, concerns, and opportunities that we intend to address in the CCP. These include the following:

- Opportunities to restore the native southern pine ecosystem and maintain a healthy riparian corridor along the James River and its tributaries;
- The potential to manage suitable habitat for red-cockaded woodpeckers (*Picoides borealis*), a federally listed species not currently known on the refuge but known to occur in an adjacent county;
- The protection of bald eagles and management of their nesting and roosting habitat;
- The protection of sensitive joint-vetch, a federally threatened wetland plant;
- The protection of cultural resources, including historical and archaeological sites;
- The amount and distribution of compatible public uses to allow;
- The potential for climate change to impact refuge resources;
- The potential for boundary expansion, including land acquisition and conservation easements;
- Opportunities to collaborate with partner organizations for interpretation and education programming.

We expect that members of the public, our conservation partners, and Federal, State, Tribal, and local governments may identify additional issues during public scoping.

Public Meetings

During the planning process, we will hold meetings for the public to provide comments, issues, concerns, and suggestions about refuge management. When we schedule formal comment periods and public meeting(s), we will announce them in the **Federal Register**, local news media, and on our refuge planning Web site at: *http://www.fws.gov/northeast/planning/jamesriver/ccphome.html.*

You can also obtain the schedule from the planning team leader or project leader (see **FOR FURTHER INFORMATION CONTACT**).

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 made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 5, 2011.

Salvatore M. Amato,

Acting Regional Director, Northeast Region, U.S. Fish and Wildlife Service.

[FR Doc. 2012–376 Filed 1–10–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2011–N258; FXHC113003000005B–123–FF03E00000]

Notice of Availability; Draft Springfield Plateau Regional Restoration Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: The United States Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (FWS), and the State of Missouri, acting through the Missouri Department of Natural Resources, have written a Draft Springfield Plateau Regional Restoration Plan and Environmental Assessment (Plan), which describes proposed alternatives for restoring injured natural resources in the Springfield Plateau ecoregion, and an environmental assessment, as required pursuant to the National Environmental Policy Act (NEPA). The purpose of this notice is to inform the public of the availability of the Draft Plan and to seek written comments. This notice is provided pursuant to Natural Resource Damage Assessment and Restoration (NRDAR) regulations and NEPA regulations.

DATES: To ensure consideration, please send your written comments on or before February 27, 2012.

ADDRESSES: Send comments via U. S. mail to: John Weber, Restoration Coordinator, U.S. Fish and Wildlife Service, 101 Park DeVille Dr., Suite A, Columbia, MO 65203; or Frances Klahr, Natural Resource Damages Coordinator, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102–0176; or by electronic mail (email) to *John_S_Weber@fws.gov, or frances.klahr@dnr.mo.gov.*

FOR FURTHER INFORMATION CONTACT:

Case Management and Logistical Information: Dave Mosby, (573) 234–2132 (x113).

Technical Information: John Weber, (573) 234–2132 (x177).

Missouri Natural Resource Damages Coordinator: Frances Klahr, (573) 522–1347.

SUPPLEMENTARY INFORMATION: The U.S. Department of the Interior (represented by the U.S. Fish and Wildlife Service) and the State of Missouri (represented by the Missouri Department of Natural Resources) (Trustees) are trustees for natural resources considered in this restoration plan, pursuant to subpart G of the National Oil and Hazardous

Substances Pollution Contingency Plan (40 CFR 300.600 and 300.610) and Executive Order 12580. The *Memorandum of Understanding Between the Missouri Department of Natural Resources and U.S. Department of the Interior* establishes a Trustee Council charged with developing and implementing a restoration plan for ecological restoration in the Springfield Plateau of southwest Missouri.

The Trustees followed the NRDAR regulations found at 43 CFR part 11 for the development of the Plan. The draft Springfield Plateau Regional Restoration Plan and Environmental Assessment will be finalized prior to implementation, after all public comments received during the public comment period are considered. Any significant additions or modifications to the Plan as restoration actions proceed will be made available for public review before any additions or modification are undertaken.

The objective of the NRDAR process in the Springfield Plateau is to compensate the public, through environmental restoration, for losses to natural resources that have been injured by releases of hazardous substances into the environment. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, more commonly known as the Federal ''Superfund'' law; 42 U.S.C. 9601, *et seq.*), and the Federal Water Pollution Control Act (commonly known as the Clean Water Act (CWA); 33 U.S.C. 1251 *et seq.*) authorize States, federally recognized tribes, and certain Federal agencies that have authority for natural resources ''belonging to, managed by, controlled by or appertaining to the United States'' to act as ''trustees'' on behalf of the public, to restore, rehabilitate, replace, and/or acquire natural resources equivalent to those injured by releases of hazardous substances.

The Trustees worked together, in a cooperative process, to identify appropriate restoration activities to address natural resource injuries caused by releases of hazardous substances into the Springfield Plateau environment. The results of this administrative process are contained in the planning and decision document being published for public review under CERCLA. Natural resource damages received, either through negotiated settlements or adjudicated awards, must be used to restore, rehabilitate, replace, and/or acquire the equivalent of those injured natural resources. The Plan addresses the Trustees' overall approach to restore, rehabilitate, replace, and/or acquire the equivalent of natural resources injured by the release of hazardous substances into the Springfield Plateau environment.

Public Involvement

Interested members of the public are invited to review and comment on the Plan. Copies of the Plan can be requested from the address listed below or can viewed online at *http://www.fws.gov/midwest/nrda/motristate/ or http://www.dnr.mo.gov/env/hwp/sfund/nrda.htm.* You may also submit requests for copies of the Plan by sending electronic mail (email) to: *John_S_Weber@fws.gov,* or frances.klahr@dnr.mo.gov. Persons without access to the Internet may obtain copies of the Plan by contacting John Weber, Restoration Coordinator, U.S. Fish and Wildlife Service, 101 Park DeVille Dr., Suite A, Columbia, MO 65203.

Copies will also be available for on-site review at the following locations:

- *Joplin Public Library:* 300 S. Main Street, Joplin, MO;
- *Neosho Public Library:* 201 W. Spring Street, Neosho, MO;
- *Springfield Public Library:* 4653 S. Campbell Ave, Springfield, MO;
- *U.S. Fish and Wildlife Service:* 101 Park DeVille Dr. Suite A, Columbia, MO; and *Missouri Department of Natural Resources:* 1730 E. Elm St., Jefferson City, MO.

Availability of Comments

The U.S. Fish and Wildlife Service will provide copies of all comments to the other Trustees. All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's NEPA regulations (40 CFR 1506.6(f)), as well as the State of Missouri's Sunshine Law (Chapter 610, RSMo.). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment, including your personal identifying information, may be available at any time. While individual respondents may request that the Fish and Wildlife Service and State of Missouri withhold their personal identifying information from public review, we cannot guarantee we will be able to do so.

Authority

This notice is provided pursuant to Natural Resource Damage Assessment and Restoration (NRDAR) regulations (43 CFR 11.81(d)(4)) and NEPA regulations (40 CFR 1506.6).

Dated: December 20, 2011.

Charlie Wooley,

Acting Regional Director, Midwest Region, Bloomington, MN.

[FR Doc. 2012–311 Filed 1–10–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–MB–2011–N272; FF09M21200–123–FXMB1231099BPP0L2]

Migratory Bird Hunting; Service Regulations Committee Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Fish and Wildlife Service (hereinafter Service) will conduct an open meeting on February 1, 2012, to identify and discuss preliminary issues concerning the 2012–13 migratory bird hunting regulations.

DATES: The meeting will be held February 1, 2012.

ADDRESSES: The Service Regulations Committee will meet at the Holiday Inn Hotel and Suites Denver Airport Hotel, 6900 Tower Road, Denver, CO 80249; (303) 574–1300.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms–4107–ARLSQ, 1849 C Street NW., Washington, DC 20240; (703) 358–1714.

SUPPLEMENTARY INFORMATION: Under the authority of the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Service regulates the hunting of migratory game birds. We update the migratory game bird hunting regulations, located at 50 CFR part 20, annually. Through these regulations, we establish the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. To help us in this process, we have administratively divided the nation into four Flyways (Atlantic, Mississippi, Central, and Pacific), each of which has a Flyway Council. Representatives from the Service, the Service's Migratory Bird Regulations Committee, and Flyway Council Consultants will meet on February 1, 2012, at 8:30 a.m. to identify preliminary issues concerning the 2012–13 migratory bird hunting regulations for discussion and review by the Flyway Councils at their March meetings.

In accordance with Department of the Interior (hereinafter Department) policy

regarding meetings of the Service Regulations Committee attended by any person outside the Department, these meetings are open to public observation.

Dated: December 29, 2011.

Jerome Ford,

Assistant Director, Migratory Birds, U.S. Fish and Wildlife Service.

[FR Doc. 2012–357 Filed 1–10–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L14200000–BJ0000]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on February 10, 2012.

DATES: Protests of the survey must be filed before February 10, 2012 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009, *Marvin_Montoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339 to contact the 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: This survey was executed at the request of the Bureau of Land Management, Dillon Field Office, and was necessary to determine federal interest lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 5 S., R. 3 W.

The plat, in one sheet, representing the dependent resurvey of Mineral Survey No. 8818, Princess Lode, Township 5 South, Range 3 West, Principal Meridian, Montana, was accepted December 21, 2011.

We will place a copy of the plat, in one sheet, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in one sheet, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in one sheet, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. chap. 3.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2012–373 Filed 1–10–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L14200000–BJ0000]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on February 10, 2012.

DATES: Protests of the survey must be filed before February 10, 2012 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009, *Marvin_Montoya@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339 to contact the 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: This survey was executed at the request of the Regional Land Surveyor, Region 6, U.S. Fish and Wildlife Service., and was necessary to determine the Lee Metcalf National Wildlife Refuge lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 9 N., R. 20 E.

The plat, in six sheets, representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, the subdivision of sections 2, 3, 10, 11,14, and 15, and the survey of portions of the easterly and westerly rights-of-way of the Montana Rail Link Railroad, through sections 2, 11, and 14 and certain parcels in Township 9 North, Range 20 West, Principal Meridian, Montana, was accepted December 21, 2011.

We will place a copy of the plat, in six sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in six sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in six sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2012–371 Filed 1–10–12; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA 942000 L57000000 BX0000]

Filing of Plats of Survey: California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey and supplemental plats of lands described below are scheduled to be officially filed in the Bureau of Land Management California State Office, Sacramento, California, thirty (30) calendar days from the date of this publication.

ADDRESSES: A copy of the plats may be obtained from the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, upon required payment.

Protest: A person or party who wishes to protest a survey must file a notice that they wish to protest with the California State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California, 95825.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Geographic Services, Bureau of Land Management, California State Office, 2800 Cottage Way, Room W–1623, Sacramento, California 95825, (916) 978–4310.

SUPPLEMENTARY INFORMATION: These surveys and supplemental plats were executed to meet the administrative needs of various federal agencies; the Bureau of Land Management, Bureau of Indian Affairs, General Services Administration or US Forest Service. The lands surveyed are:

Humboldt Meridian, California

T. 13 N., R. 1 E., dependent resurvey, subdivision of sections and metes-and-bounds survey accepted December 6, 2011.

Mount Diablo Meridian, California

T. 29 S., R. 39 E., protraction diagram for unsurveyed area accepted December 6, 2011.

T. 12 N., R. 9 E., supplemental plat of the SW ¼ of section 5 accepted December 14, 2011.

T. 14 N., R. 9 E., supplemental plat of the S ½ of section 35 accepted December 20, 2011.

T. 15 N., R. 9 W., dependent resurvey, subdivision, and metes-and-bounds survey accepted December 27, 2011.

San Bernardino Meridian, California

T. 9 N., R. 20 W., amended plat of dependent resurvey, subdivision of sections 34 and 35, and metes-and-bounds survey accepted December 20, 2011.

Dated: January 4, 2012, Authority: 43 U.S.C., Chapter 3.

Lance J. Bishop,

Chief Cadastral Surveyor, California.

[FR Doc. 2012–369 Filed 1–10–12; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNML00000 L12200000.DF0000]

Notice of Public Meeting, Las Cruces District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Las Cruces District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting date is January 25, 2012, at the BLM Las Cruces District Office, 1800 Marquess Street, Las Cruces, NM 88005, from 10 a.m.–4 p.m. The public may send written comments to the RAC at the above address.

FOR FURTHER INFORMATION CONTACT: Rena Gutierrez, BLM Las Cruces District, 1800 Marquess Street, Las Cruces, NM 88005, (575) 525–4338. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in New Mexico.

Planned agenda items include opening remarks from the District Manager, recreation fees, renewable energy projects, access issues, and future project work for the RAC. A half-hour public comment period during which the public may address the Council will begin at 2:30 p.m. on January 25, 2012. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and time available, the time for individual oral comments may be limited.

Bill Childress,

District Manager, Las Cruces.

[FR Doc. 2012–370 Filed 1–10–12; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–ROCR–0911–7945; 2310–0052–422]

Final Environmental Impact Statement for the White-Tailed Deer Management Plan, Rock Creek Park

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service (NPS) announces the availability of a Final Environmental Impact Statement (FEIS) for the White-tailed Deer Management Plan (Plan), Rock Creek Park, Washington, DC The Plan will support long-term protection, preservation, and restoration of native vegetation and other natural and cultural resources in Rock Creek Park.

DATES: The NPS will execute a Record of Decision (ROD) no sooner than 30 days from the date of publication of the Notice of Availability of the FEIS and Plan by the Environmental Protection Agency.

ADDRESSES: The FEIS and Plan is available in electronic format online at *http://parkplanning.nps.gov/rocr.* A limited number of compact discs and hard copies of the FEIS and Plan are available at Rock Creek Park Headquarters, 3545 Williamsburg Lane NW., Washington, DC 20008. You may also request a CD or hard copy by contacting Tara Morrison, Superintendent of Rock Creek Park, at Rock Creek Park Headquarters, 3545 Williamsburg Lane NW., Washington, DC 20008, or by telephone at (202) 895–6000.

FOR FURTHER INFORMATION CONTACT: Tara Morrison, Superintendent, Rock Creek Park, at Rock Creek Park Headquarters, 3545 Williamsburg Lane NW., Washington, DC 20008, or by telephone at (202) 895–6000.

SUPPLEMENTARY INFORMATION: The FEIS and Plan responds to, and incorporates, agency and public comments received on the Draft Environmental Impact Statement (DEIS) and Plan which was available for public review from July 13, 2009, to November 2, 2009. A public meeting was held on September 2, 2009, to gather input on the DEIS and Plan. Over 400 pieces of correspondence were received during the public review period. Agency and public comments and NPS responses are provided in Appendix G of the FEIS and Plan.

The FEIS and Plan evaluates four alternatives for managing white-tailed deer in the park. The document describes and analyzes the environmental impacts of the no-action alternative and three action alternatives. When approved, the Plan will guide deer management actions in Rock Creek Park over the next 15 years. Alternative A (no action) would continue the existing deer management actions and policies of monitoring vegetation, deer density and relative numbers; using limited-protection fencing and deer repellents to protect rare plants in natural areas and small areas in landscaped and cultural areas; data management; and continuing current educational and interpretive measures as well as inter-jurisdictional communication. No new deer

management actions would be implemented.

Alternative B would include all actions described under Alternative A, but would incorporate several nonlethal actions to protect forest seedlings, promote forest regeneration, and gradually reduce the deer numbers in the park. Additional actions under Alternative B would include large-scale exclosures (fencing) and reproductive control of does via sterilization and immunocontraceptives when feasible.

Alternative C would include all actions described under Alternative A, but would also incorporate two lethal deer management actions to reduce the herd size. Additional actions under Alternative C would include reduction of the deer herd by either sharpshooting or capture and euthanasia of individual deer. Capture and euthanasia of individual deer would be an approach used in limited circumstances where sharpshooting may not be appropriate.

Alternative D (the NPS preferred alternative) would include all actions described under Alternative A, but would also include a combination of certain additional lethal and non-lethal actions from Alternatives B and C to reduce deer herd numbers. The lethal actions would include both sharpshooting and capture/euthanasia and would be taken initially to quickly reduce the deer herd numbers. Population maintenance would be conducted via reproductive control methods if these are available and feasible. Sharpshooting would be used as a default option for maintenance if reproductive control methods are unavailable and/or infeasible. Alternative D would fully meet the plan objectives and has more certainty of success than the other alternatives analyzed. The relatively rapid reduction in both deer density and browsing pressure on native plant communities and species of special concern would provide beneficial impacts to the natural and cultural resources of the park.

Dated: July 22, 2011.

Stephen E. Whitesell,

Regional Director, National Capital Region.

[FR Doc. 2012–276 Filed 1–10–12; 8:45 am]

BILLING CODE 4312–34–P

DEPARTMENT OF INTERIOR

National Park Service

[1700–SZM]

Notice of February 6, 2012, Meeting for Acadia National Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting Notice.

SUMMARY: This notice sets the date of February 6, 2012, meeting of the Acadia National Park Advisory Commission.

DATES: The public meeting of the Advisory Commission will be held on Monday, February 6, 2012, at 1 p.m. (Eastern).

Location: The meeting will be held at Headquarters, Acadia National Park, Bar Harbor, Maine 04609.

Agenda:

The February 6, 2012, Commission meeting will consist of the following:

1. Committee reports:

—Land Conservation

—Park Use

—Science and Education

—Historic

2. Old Business
3. Superintendent's Report
4. Chairman's Report
5. Public Comments

FOR FURTHER INFORMATION CONTACT: Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone (207) 288–3338.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 9, 2011.

Sheridan Steele,

Superintendent, Acadia National Park.

[FR Doc. 2012–275 Filed 1–10–12; 8:45 am]

BILLING CODE 4310–2N–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–HPPC–9204; 1843–PAGR–409]

Paterson Great Falls National Historical Park Federal Advisory Commission Meetings

AGENCY: National Park Service, Interior.

ACTION: Notice of meetings.

SUMMARY: Notice is hereby given for the 2012 meetings of the Paterson Great Falls National Historical Park Federal Advisory Commission.

DATES: The Commission will meet on the following dates in 2012:

- Thursday, January 12, 2012, 2:00–5 p.m. (Snow date: Thursday, January 19, 2012, 2:00–5 p.m.);
- Thursday, April 12, 2012, 2:00–5 p.m.;
- Thursday, July 12, 2012, 2:00–5 p.m.; and
- Thursday, October 11, 2012, 2:00–5 p.m.

ADDRESSES: All meetings will be held at the Paterson Museum, 2 Market Street (intersection of Market and Spruce Streets), Paterson, NJ.

FOR FURTHER INFORMATION CONTACT: Superintendent; Paterson Great Falls National Historical Park; 72 McBride Avenue; Paterson, NJ 07501; (973) 523–2630.

SUPPLEMENTARY INFORMATION: The Paterson Great Falls National Historical Park (NHP) Federal Advisory Commission was authorized by Congress and signed by the President on March 30, 2009, (Pub. L. 111–11, Title VII, Subtitle A, Section 7001, Subsection e) ''to advise the Secretary in the development and implementation of the management plan.'' Agendas for these meetings will be provided on the Paterson Great Falls NHP Web site (*http://www.nps.gov/pagr/parkmgmt/federal-advisory-commission.htm*) and published by press release.

The meetings will be open to the public and time will be reserved during each meeting for public comment. Oral comments will be summarized for the record. If individuals wish to have their comments recorded verbatim, they must submit them in writing. Written comments and requests for agenda items may be sent to: Federal Advisory Commission Chair; Paterson Great Falls National Historical Park; 72 McBride Avenue; Paterson, NJ 07501.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your

personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 5, 2011.

Darren Boch,

Superintendent, Paterson Great Falls NHP and Designated Federal Official for the Commission.

[FR Doc. 2012–277 Filed 1–10–12; 8:45 am]

BILLING CODE 4310–25–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–1212–9138; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before December 17, 2011. Pursuant to § 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, (202) 371–6447. Written or faxed comments should be submitted by January 26, 2012. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ALABAMA

Baldwin County

Magnolia Springs Historic District, Roughly along Oak, Spring, Bay, Jessamine, Magnolia, Pine, & Rock Sts., Island, Cedar, & Holly Aves., & Magnolia Spgs. Hyw. Magnolia Springs, 11001046

ARKANSAS

Chicot County

Crenshaw—Burleigh House, 108 N. Main, Dermott, 11001047

Perry County

Perryville Commercial Historic District, Roughly bounded by AR 10, Magnolia, Main, & Plum Sts., Perryville, 11001048

Pope County

Latimore Tourist Home, (Arkansas Highway History and Architecture MPS) 318 S. Houston Ave., Russellville, 11001049

Pulaski County

Capitol—Main Historic District, 500 blk. Main St., 100–200 blks. W. Capitol Ave., 500 blk. Center, & 100–200 blks. W. 6th Sts., Little Rock, 11001050

Sevier County

DeQueen Commercial Historic District, Roughly bounded by W. DeQueen Ave., N. 2nd St., W. Stilwell Ave., & N. 4th Ave., DeQueen, 11001051

Gillham City Jail, Approx. 325 ft. SE. of Hornberg Ave. & Front St., Gillham, 11001052

CALIFORNIA

Sonoma County

Comstock House, 767 Mendocino Ave., Santa Rosa, 11001053

GEORGIA

Coweta County

Oak Hill Cemetery, 96 Jefferson St., Newman, 11001054

DeKalb County

Pearce, William and Minnie, House, 125 Madison Ave., Decatur, 11001055

IOWA

Hardin County

Civilian Conservation Corps—Prisoner of War Recreation Hall, 301 11th Ave., Eldora, 11001056

Winneshiek County

Decorah Municipal Bathhouse and Swimming Pool, 701 College Dr., Decorah, 11001057

MAINE

Oxford County

West Paris Lodge No. 15, I.O.O.F., 221 Main St., West Paris, 11001058

York County

Berwick High School, 45 School St., Berwick, 11001059

MICHIGAN

Calhoun County

Battle Creek Sanitarium (Boundary Increase), 74 N. Washington St., Battle Creek, 11001060

NEW YORK

Montgomery County

Smith, John, Farm, 1059 NY 80, Hallsville, 11001061

Saratoga County

Royal Blockhouse, The, Address Restricted, Moreau, 11001062

OREGON

Multnomah County

Brick House Beautiful, 4005 NE. Davis St., Portland, 1001063

Livingston, C.J., House, 407 NW. Albemarle Terr., Portland, 11001064

Yamhill County

Buchanan Cellars Mill, 855 NE. 5th St., McMinnville, 11001065

PENNSYLVANIA

Allegheny County

Mexican War Streets Historic District (Boundary Increase II), Bounded by W. North Ave. & Reddour, Eloise, & Federal Sts., Pittsburgh, 11001066

UTAH

Salt Lake County

Beck, Reid, House, (Draper, Utah MPS) 12542 S. 900 East, Draper, 11001067

Crossgrove House, (Draper, Utah MPS) 12736 S. Boulder St., Draper, 11001068

Liberty Wells Historic District (Boundary Increase), Bounded by State St., 900 South, 500 East & 1300 South, Salt Lake City, 11001069

VIRGINIA

Rappahannock County

Flint Hill Historic District, Jct. of US 522, Fodderstack, Crest Hill, & Ben Venue Rds., Flint Hill, 11001070

WISCONSIN

Ozaukee County

Milwaukee Falls Lime Company, 2020 Green Bay Rd., Grafton, 11001071

A request to move has been made for the following resource:

VERMONT

Addison County

Monkton Town Hall, N. of Monkton on Monkton Ridge Rd., Monkton, 78000225

A request for removal has been made for the following resources:

ARKANSAS

Conway County

Solgohachia Bridge, Cty. Rd. 67, Solgohachia, 04000498

Washington County

Strengthen the Arm of Liberty Monument, North St., NE of jct. with Park Ave., Fayetteville, 00001264

INDIANA

Lake County

Wynant, Wilbur, House, 600 Fillmore St. Gary, 02001168

Posey County

I.O.O.F. and Barker Buildings, 402–406 Main St.,Vernon, 85002133

[FR Doc. 2012–289 Filed 1–10–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–POHE–0911–7946; 3991–0101–SZS]

Notice of Availability, Potomac Heritage National Scenic Trail

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of a ''Foundation for Planning, Administration, Management and Interpretation of Potomac Heritage National Scenic Trail Segments and for Coordination among Trail Segment Management Partners.''

SUMMARY: Pursuant to the National Trails System Act of 1968 (as amended), the National Park Service (NPS) announces the availability of a ''Foundation for Planning, Administration, Management and Interpretation of Potomac Heritage National Scenic Trail Segments and for Coordination among Trail Segment Management Partners (Foundation).'' This document is intended to serve as a resource for NPS staff and Potomac Heritage National Scenic Trail (Trail) segment management partners and to help create continuity of experience throughout the Trail network.

DATES: The ''Foundation'' is available for review and reference on the NPS Web site as of January 11, 2012.

ADDRESSES: The ''Foundation'' and appendices are available online at *http://www.nps.gov/pohe/parkmgmt/planning.htm*.

FOR FURTHER INFORMATION CONTACT: Donald E. Briggs, Superintendent, Potomac Heritage National Scenic Trail, National Capital Region, National Park Service, at (304) 535–4016 or by email at *don_briggs@nps.gov*.

SUPPLEMENTARY INFORMATION: In 1983, based on a feasibility study completed by the Bureau of Outdoor Recreation in 1974, Congress amended the National Trails System Act of 1968, designating a corridor for the Trail between the mouth of the Potomac River and the Allegheny Highlands in western Pennsylvania. Based on extensive coordination among the staff of local, regional, state and other federal agencies; representatives of non-profit organizations; volunteers; and other Trail stakeholders, the Trail network today includes over 830 miles of existing and planned Trail segments for non-motorized travel. Communities have invested in the Trail concept for a variety of reasons, including a desire to increase opportunities for outdoor recreation, non-motorized transportation, education and/or heritage tourism.

The Foundation assembles in one document decisions and recommendations made over the past 11 years and establishes a basis for future local, regional, state and Federal planning; NPS administration of the Federal interest in the Trail; management of individual Trail segments, including Trail segment marking; interpretation; coordination among Trail management partners; and creating ''continuity of experience'' through the diverse Trail network.

The document recognizes a change in authorizing legislation—Trail segments are recognized through cooperative management agreements between the NPS and Trail segment management partners, replacing an application process—and emphasizes that Trail blazes, where used to mark Trail routes, should employ a color used in the official Trail marker. The Foundation, along with regional and state plans to be added in the future as appendices, will serve as a comprehensive management plan for the Trail network, will reflect accurately the Trail as a set of partnerships, and will provide a means to address efficiently the need for adaptive planning and management.

Dated: July 21, 2011.

Stephen E. Whitesell

Regional Director, National Capital Region.

[FR Doc. 2012–280 Filed 1–10–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

Proposed Concession Contract for Shenandoah National Park—Alternative Formula for Calculating Leasehold Surrender Interest

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service invites public comments on a proposed alternative formula for the value of leasehold surrender interest to be included in its proposed ten-year concession contract for Shenandoah National Park. The contract will cover operation of the lodging, food and beverage, retail sales, gasoline, and horseback riding operations at the Park.

DATES: Public comments will be accepted on or before February 10, 2012.

ADDRESSES: Send comments to Ms. Jo A. Pendry, Chief, Commercial Services Program, National Park Service, 1201 Eye Street NW., 11th Floor, Washington, DC 20005 or via email at *jo_pendry@nps.gov* or via fax at (202) 371–2090.

FOR FURTHER INFORMATION CONTACT: Jo A. Pendry, (202) 513–7156.

SUPPLEMENTARY INFORMATION:

The National Park Service will be soliciting proposals for operation of the lodging, food and beverage, retail sales, gasoline, and horseback riding operations at Shenandoah National Park in 2012. The new contract is intended to be for a term of 10 years and will include an alternative formula for calculating leaseholder surrender interest. In this notice, we are soliciting comments on our use of this alternative formula. While we aren't required by law to solicit comments on this alternative formula, we are providing an opportunity for public comment because this is only the second time that we have proposed using an alternative LSI formula.

Leasehold surrender interest (LSI) is the interest in real property improvements that a concessioner provides under an NPS concession contract. Public Law 105–391 of 1998 (the 1998 Act) established the standard LSI valuation formula. The formula is generally as follows:

- The initial construction cost of the related capital improvement.
- adjusted by the percentage increase or decrease in the Consumer Price Index (CPI).
- less physical depreciation of the related capital improvement.

The 1998 Act also allows alternative LSI-value formulas for contracts with an LSI value over $10 million. Because the new contract for Shenandoah National Park will exceed $10 million, we are proposing to use an alternative LSI formula. Under our proposed alternative formula, the LSI value of all eligible capital improvements will be depreciated annually, in equal portions, on a forty (40) year, straight-line basis during the contract's 10-year term.

We Have Made Two Determinations

We have determined, subject to consideration of public comments, that:

- The proposed alternative LSI formula, in comparison to the standard LSI formula, is necessary to provide a fair return to the Government and to foster competition for the new contract by providing a reasonable opportunity for profit to the new concessioner.

• The proposed alternative LSI formula is consistent with the objectives of the 1998 Act, particularly, as discussed below, with respect to the fair return it will provide to the Government and the new concessioner and the enhanced competition it will foster. The 1998 Act does not require these determinations and this **Federal Register** notice for alternative LSI formulas (such as the one we propose) that are based on annual straight line depreciation of the initial value as provided under 1998 Federal income tax laws and regulations. However, because this is only the second time that we have proposed using an alternative LSI formula, we have made these determinations and are publishing this notice to solicit public comment.

If we adopt the alternative LSI formula, it will apply only to the new contract, SHEN001–13. We have made no decision to apply the proposed LSI formula or any other LSI alternative to future concession contracts. If we consider using an alternative LSI formula for any other contracts, we will ask for public comments if required or appropriate.

First Determination: Fair Return to the Government

We have determined, subject to consideration of public comments, that the proposed alternative LSI formula is necessary to provide a fair return to the Government, as well as helping to provide a fair return to the new concessioner.

We consider that ''fair return'' to the Government includes the requirement of the 1998 Act that we include in concession contracts a franchise fee payable to the Government that is based upon consideration of the probable value to the concessioner of the privileges granted by the contract. However, under the standard LSI formula, the amount of money that we would pay (directly or indirectly) for LSI as of the expiration of the new contract is inevitably speculative as of the time of contract solicitation, contract award, and during the contract term. This is because we and prospective concessioners must estimate in advance the future CPI rate, the amount of depreciation that will occur over the term of the contract, and the cost to cure the depreciation.

Thus, if we use the standard LSI formula to establish the required minimum franchise fee for the new contract, that fee will reflect speculative estimates of CPI and depreciation rates over the term of the contract. Likewise, when a prospective concessioner offers to meet or exceed the minimum franchise fee that we would establish under the standard LSI formula, this business decision relies on speculative estimates of future CPI and depreciation rates. A more dependable LSI value will allow us to better project the long-term cost of the concessioner's investment and to calculate a franchise fee that provides a fair return.

For these reasons, we consider it necessary to include the proposed alternative LSI formula in the new contract in order to provide a fair return to the Government.

Second Determination: Fostering Competition

Elimination of the speculative nature of LSI value by using the proposed LSI formula is also considered necessary to foster competition for the new contract by providing a reasonable opportunity for the concessioner to make a profit under the new contract. This is because prospective concessioners will know with a high degree of certainty (subject only to estimates of the value of any new capital improvements constructed or installed during the term of the contract) how much money they will be paid for initial LSI upon the expiration of the new contract. The proposed LSI formula eliminates speculation regarding CPI and depreciation required under the standard LSI formula. The resulting lower risk and greater certainty in the business opportunity provides the concessioner reasonable opportunity for profit under the terms of the new contract. It should also encourage businesses to apply for the new contract, thereby fostering competition.

Private firms not familiar with the NPS concession program have indicated that the complexities and uncertainty of the standard LSI formula have deterred them from submitting offers for concessions. We believe that using the proposed alternative LSI formula in the new contract will foster competition by providing interested entities with a reasonable opportunity for profit that, with respect to LSI, is assured, understandable, and more comparable to practices in the private sector.

In addition, the estimated lower LSI payment under the alternative formula (as opposed to a higher estimated value provided by the standard LSI formula) allows us to charge a lower minimum franchise fee. This will ensure the concessioner greater cash flows during the term of the contract, in contrast to the standard LSI formula's higher (and uncertain) LSI payment at the expiration of the contract. Since many prospective concessioners will likely prefer the higher cash flows throughout the contract term under the proposed LSI formula, the alternative formula should foster competition for the new contract.

The proposed LSI formula will also enhance competition for the concession contract that will succeed the new contract. This is because the final value of the contract's LSI should be significantly lower than it would be under the standard LSI formula, thereby lowering the amount of LSI purchase money needed by a prospective new concessioner. This lower entry cost should encourage competitive proposals from prospective concessioners.

The proposed LSI formula should not materially affect the new concessioner's projected rate of return under the new contract. This is because, in developing the new contract's minimum franchise fee, we assessed projected revenues and expenses and used industry standards to estimate a fair return to the new concessioner. This estimate includes the cost of acquiring existing LSI.

The new contract's minimum franchise fee thus reflects the financial consequences of the proposed LSI formula. This means that the estimated fair return to the new concessioner would be approximately the same whether the new contract included the standard LSI formula or the proposed LSI formula (taking into account the time value of money). The proposed LSI formula will not materially change the projected fair return to the new concessioner, but will reduce the speculative nature of LSI value under the standard formula. With respect to the rate of return, the impact of the use of the proposed LSI formula is neutral, but not adverse, to the requirement of fostering competition.

Public Availability of Further Information

Complete details and further explanation of the proposed LSI formula will be in the proposed prospectus for the new contract that is publically available at *http://www.nps.gov/commercialservices*. In the interest of time, we may issue a prospectus for the new contract in FedBizOpp.gov that incorporates the proposed LSI formula. If consideration of public comments in response to this notice causes us to alter the proposed alternative LSI formula, we will amend the prospectus accordingly (through publication in FedBizOpp.gov) before the deadline for submission of proposals.

We invite your comments and will consider all comments that we receive by the deadline in the **DATES** section of this notice.

Before including your address, phone number, email address, or other 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.

Peggy O'Dell,

Deputy Director, Operations.

[FR Doc. 2012–279 Filed 1–10–12; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–824]

Certain Blu-Ray Disc Players, Components Thereof and Products Containing Same; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 5, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Walker Digital, LLC, of Stamford, Connecticut. Letters supplementing the complaint were filed on December 21, 2011, and December 22, 2011. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain Blu-ray disc players, components thereof and products containing same by reason of infringement of certain claims of U.S. Patent No 6,263,505 (''the '505 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *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*.

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 5, 2012, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain Blu-ray disc players, components thereof and products containing same that infringe one or more of claims 7, 8, 10, 12, 14, and 15 of the '505 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Walker Digital, LLC, 2 High Ridge Park, Stamford, CT 06905.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

D&M Holdings, Inc., D&M Building 2–1, Nisshin-cho, Kawasaki-ku, Kawasaki-shi, Kanagawa 210–8569, Japan.

D&M Holdings US, Inc., 100 Corporate Drive, Mahwah, NJ 07430.

Denon Electronics (USA) LLC, 100 Corporate Drive, Mahwah, NJ 07430.

Funai Electric Co., Ltd., 7–7–1 Nakagaito, Daito City, Osaka 574–0013, Japan.

Funai Corporation, Inc., 201 Route 17 North, Suite 903, Rutherford, NJ 07070.

Haier Group Corporation, 1 Haier Road, Hi-Tech Zone, Qindao 266101, China.

Haier America Trading, LLC, 1356 Broadway, New York, NY 10018.

Harman International Industries, Inc., 400 Atlantic Street, 15th Floor, Stamford, CT 06901.

Inkel Corporation, 3–8, Cheongcheon-Dong, Bupyeong-Gu, Incheon, 4.3–853, South Korea.

LG Electronics, Inc., LG Twin Towers, 20 Yeouido-dong, Yeongdeungpo-gu, Seoul 150–721, South Korea.

LG Electronics U.S.A., Inc., 1000 Sylvan Avenue, Englewood Cliffs, NJ 07632.

Marantz America LLC, 100 Corporate Drive, Mahwah, NJ 07430.

Onkyo Sound & Vision Corporation, 2–1 Nisshin-cho, Neyagawa-shi, Osaka 572–8540, Japan.

Onkyo USA Corporation, 18 Park Way, Upper Saddle River, NJ 07458.

Orion America, Inc., 1150 S. Main Street, Princeton, IN 47670.

Orion Electric Co., Ltd., 41–1 Iehisa-cho, Echizen-shi, Fukui 915–8555, Japan.

Panasonic Corporation, 1006 Oaza Kodoma, Kadoma-shi, Osaka 571–8501, Japan.

Panasonic Corporation of North America, One Panasonic Way, Seacaucus, NJ 07094.

P&F USA, Inc., 3015 Windward Plaza, Suite 100, Alpharetta, GA 30005.

Philips Electronics North America Corp., 3000 Minuteman Road, Andover, Massachusetts 01810.

Pioneer Corporation, 1–1 Shin-ogura, Saiwai-ku, Kawasaki-shi, Kanagawa 212–0031, Japan.

Pioneer Electronics (USA) Inc., 1925 East Dominguez Street, Long Beach, CA 90810.

Samsung Electronics Co., Ltd., 1320–10, Seocho 2-dong, Seocho-gu, Seoul 137–857, South Korea.

Samsung Electronics America, Inc., 105 Challenger Road, Ridgefield Park, NJ 07660.

Sharp Corporation, 22–22 Nagaike-cho, Abeno-ku, Osaka 545–8522, Japan.

Sharp Electronics Corporation, 1 Sharp Plaza, Mahwah, NJ 07495.

Sherwood America, Inc., 14730 Beach Boulevard, #102, La Mirada, CA 90638.

Sony Corporation, 1–7–1 Konan, Minato-ku, Tokyo 108–0075, Japan.

Sony Computer Entertainment, Inc., 1–7–1 Konan, Minato-ku, Tokyo 108–0075, Japan.

Sony Corporation of America, 1550 Madison Avenue, New York, NY 10022.

Sony Electronics, Inc., 6530 Via Esprillo, San Diego, CA 92127.

Sony Computer Entertainment, America LLC, 919 East Hillsdale Boulevard, Foster City, CA 94404.

Toshiba Corporation, 1–1, Shibaura 1–Chome, Minato-ku, Tokyo 105–8001, Japan.

Toshiba America Information Systems, Inc., 9740 Irvine Boulevard, Irvine, CA 92618.

VIZIO, Inc., 39 Tesla, Irvine, CA 92618.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: January 5, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–301 Filed 1–10–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–743]

Investigations: Terminations, Modifications and Rulings: Certain Video Game Systems and Controllers

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review-in-part and affirm the final initial determination of the administrative law judge that no violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), has been shown in the above-captioned investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2661. Copies of non-confidential documents filed in connection with this investigation are or 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 instituted this investigation on November 5, 2010, based on a complaint filed by Motiva, LLC of Dublin, Ohio (''Motiva''). 75 FR 68379 (Nov. 5, 2010). The complaint alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain video game systems and controllers by reason of infringement of claims 16, 27–32, 44, 57, 68, 81, and 84 of U.S. Patent No. 7,292,151 and claims 1–6 and 8–15 of U.S. Patent No. 7,492,268. The complaint named Nintendo Co., Ltd. of Kyoto, Japan and Nintendo of America, Inc. of Redmond, Washington (collectively, ''Nintendo'') as the only respondents.

On November 2, 2011, the administrative law judge (''ALJ'') issued his final initial determination (''ID'') in this investigation finding no violation of section 337. Specifically, the ALJ found that the accused products do not infringe the asserted patents. The ALJ also determined that Motiva had not proven that a domestic industry exists or is in the process of being established with respect to the two asserted patents.

On November 15, 2011, complainant Motiva and the Commission investigative attorney (''IA'') filed petitions for review of portions of the ID. On November 23, 2011, respondent Nintendo filed a response to both petitions and the IA filed a response to Motiva's petition.

Having examined the record of this investigation, including the ALJ's final ID and the parties' submissions, the Commission has determined to deny the petitions for review. The Commission has further determined to review two issues in the ID on its own initiative: (1) A statement in the ID connecting the relevant level of skill in the art to the skill of the inventors, and (2) the relevant time frame for considering whether a domestic industry exists or is in the process of being established. Upon review, the Commission has issued an opinion relating to those two issues. The Commission has determined not to review the remainder of the ID, thus affirming the ALJ's determination of no violation of section 337. The investigation is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Issued: January 5, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–302 Filed 1–10–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Michael P. Trinski and Michael G. Hogan,* Case No. 07–C–3600, was lodged with the United States District Court for the Northern District of Illinois on December 28, 2011.

This proposed Consent Decree concerns a complaint filed by the United States against Michael P. Trinski and Michael G. Hogan, pursuant to Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendants for discharging dredged or fill material into waters of the United States without a permit. The proposed Consent Decree requires payment of a civil penalty and donation

of real property to the Fox Waterway Agency.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Kurt Lindland, Assistant United States Attorney, United States Attorney's Office, 219 S. Dearborn Street, 5th Floor, Chicago, Illinois 60604 and refer to *United States* v. *Michael P. Trinski and Michael G. Hogan,* Case No. 07–C–3600, including the USAO #2007V01363 and DJ #90–5–1–1–17969.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, Illinois. In addition, the proposed Consent Decree may be viewed at *http://www.usdoj.gov/enrd/Consent_Decrees.html.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. 2012–295 Filed 1–10–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Connected Media Experience, Inc.

Notice is hereby given that, on December 21, 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''), Connected Media Experience, Inc. (''CMX'') 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, Hui Miao (individual member), Suwon City, Republic of Korea, 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 CMX intends to file additional written notifications disclosing all changes in membership.

On March 12, 2010, CMX 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 April 16, 2010 (75 FR 20003).

The last notification was filed with the Department on October 3, 2011. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 15, 2011 (76 FR 70758).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2012–352 Filed 1–10–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested; Extension of Currently Approved Collection; Bureau of Justice Assistance Application Form: National Motor Vehicle Title Information System

ACTION: 60-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Assistance, will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 12, 2012. If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact M.A. Berry at (202) 353–8643 or 1–(866) 859–2687, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Extension of currently approved collection.

(2) *The title of the form/collection: National Motor Vehicle Title Information System.*

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract.

Primary: Junk yards. Salvage yards. Motor vehicle insurance carriers. States and local units of general government including the 50 state governments, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

Other: None.

Abstract: The reporting of vehicle information by junk yard, salvage yard operators and insurance carriers is expressly required by 49 U.S.C. 30504. Each state is required to make their titling information available to NMVTIS as per 49 U.S.C. 30503(a). Additionally, each state is required ''to establish a practice of performing an instant title verification check before issuing a certificate of title.'' See 49 U.S.C. 30503(b).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that no more than 13,051 respondents will submit information. Each application takes approximately 30 minutes to complete and is submitted once per vehicle.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the applications: It is difficult to estimate the total annual cost burden to respondents associated with this information collection. Approximately 10.5 million cars become junk or are salvaged vehicles each year. Insurance carriers and junk and salvage yards must report on all of these vehicles.

If additional information is required, contact Jerri Murray, Department Clearance Officer, U.S. Department of Justice, Justice Management Division, Policy and Planning Staff, 145 N Street NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2012–294 Filed 1–10–12; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Privacy Act of 1974; Publication of Five New Systems of Records; Amendments to Five Existing Systems of Records

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of five new systems of records; amendments to five existing systems of records; and amendments to one universal routine use.

SUMMARY: The Privacy Act of 1974 requires that each agency publish notice of all of the systems of records that it maintains. This document proposes to add five new systems of records to the current systems of records of the Department of Labor (Department or DOL). With the addition of these five systems of records, the Department will be maintaining 153 systems of records. The Department also proposes to amend five existing systems of records and one universal routine use. The five proposed revised systems of records include changes to their routine uses and to the various system categories, some of which are updates to names and locations and stylistic changes. Major changes are summarized in the introductory portion of the Supplementary Information section.

DATES: Persons wishing to comment on these five new systems of records, the proposed amendments to five existing systems of records, and the amendments to one universal routine use may do so on or before February 21, 2012.

DATES: *Effective Date:* Unless there is a further notice in the **Federal Register**, these five new systems of records, the five revised systems of records with their amendments, and the one universal routine use with amendments, will become effective on March 6, 2012.

ADDRESSES: Written comments may be mailed or delivered to William W. Thompson, II, Associate Solicitor, Division of Management & Administrative Legal Services, 200 Constitution Avenue NW., Room N–2428, Washington, DC 20210 or by email to *plick.joseph@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Joseph J. Plick, Counsel for FOIA/FACA/Privacy Act, Office of the Solicitor, Department of Labor, 200 Constitution Avenue NW., Room N–2428, Washington, DC 20210, telephone (202) 693–5527.

SUPPLEMENTARY INFORMATION: Pursuant to section three of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), hereinafter referred to as the Act, the Department hereby publishes notice of five new systems of records currently maintained pursuant to the Act. On April 8, 2002, in Volume 67 at Page 16816 of the **Federal Register**, the Department published a notice of 147 systems of records that are maintained under the Act. On February 6, 2003, at 68 FR 6185, a new system of records was published on behalf of the Office of the 21st Century Workforce, entitled DOL/21st CENTURY–1, *Correspondents With the Office of the 21st Century Workforce.* On September 15, 2003, at volume 68 FR 54012, the Department amended two existing systems of records.

This current document presents five new systems of records, bringing the Department's total number of systems of records to 153. This notice first provides a summary of the five new and five amended systems of records, as well as the one amended universal routine use, and then provides the universal routine uses applicable to all systems of records, including the amended universal routine use, followed by the text of each of the new and amended systems of records.

1. The first new system is entitled, DOL/CENTRAL–1, *Correspondents With the Department of Labor.* This system is identified by a new naming convention, ''CENTRAL,'' that DOL has established for systems that affect the entire Department as opposed to a specific agency within the Department. This system contains comments by or requests from individuals and information necessary to satisfy requests for information, brochures, requests to subscribe to message boards, to use Web site based programs, and requests for compliance assistance. It includes information received from callers to the Department's call centers. Depending on the nature of the request by the correspondent or caller, the file may include (but is not limited to) the following information regarding individuals who have contacted the Department: Name, title, mailing address, telephone and fax number, email address, area of interest(s) and other information necessary to satisfy a request. This system will cover information maintained by all components of the Department.

2. The second new system is entitled DOL/CENTRAL–2, *Registrants for Department of Labor Events and Activities.* This system is identified by a new naming convention, ''CENTRAL,'' that DOL has established for systems that affect the entire Department as opposed to a specific agency within the Department. This system contains written, telephonic, and online requests to register for Department conferences, events, activities, seminars, special interest Web sites, and programs, including requests for special accommodations and meal preferences. The file may include (but is not limited to) the following information regarding individuals who have contacted the Department: name, title, mailing address, telephone and fax number, email address, and requests for special accommodations. This system will cover information maintained by all components of the Department.

3. The third new system is entitled DOL/CENTRAL–3, *Internal Investigations of Harassing Conduct.* This system is identified by a new naming convention, ''CENTRAL,'' that DOL has established for systems that affect the entire Department as opposed to a specific agency within the Department. This system of records is maintained by the Office of the Secretary, and it is for the purpose of conducting internal investigations into allegations of harassment brought against Department employees, former Department employees, Department interns, or other such agents of the Department, and for taking appropriate action in accordance with the Department's policy to prevent harassing conduct in the workplace. This is an exempt system of records; a separate notice will be published regarding the exempt status of this system of records.

4. The fourth new system is entitled DOL/ESA–52, *Wage-Hour Financial Accounting System (WFAS*). This system of records, maintained by and for the Wage-Hour Division, contains records of persons or entities who receive or who owe a payment for back wages as a result of the enforcement of the Fair Labor Standards Act. These persons and entities are listed in the *Back Wage Disbursement and Collection System.* A second category of records includes employers who owe a debt to the Government for violating one or more of the laws enforced by the Wage-Hour Division. These employers are

listed in the *Civil Money Penalty System.*

Note: The Employment Standards Administration (ESA) was dissolved on November 8, 2009. ESA's four sub-agencies: the Office of Federal Contract Compliance Programs, the Office of Labor Management Standards, the Wage and Hour Division, and the Office of Workers' Compensation Programs are now independent agencies that report directly to the Secretary of Labor. For the present time DOL is retaining the nomenclature identifying system of records notices of the four former ESA sub-agencies with the heading DOL/ESA. Looking forward, DOL intends to do a comprehensive review and republication of all DOL systems of records. As part of that republication, DOL will retire the use of ''ESA'' in the systems of records titles.

5. The fifth new system is entitled DOL/ETA–28, *Senior Community Service Employment Program Information Files.* This system is a new management information system designed to facilitate the uniform compilation and analysis of programmatic data necessary for reporting, monitoring, and evaluation purposes.

6. The Department proposes to amend an existing system of records, DOL/OSHA–1, *Discrimination Complaint File,* by renaming the system *Retaliation Complaint File;* by amending the ''Authority'' category; and by amending the ''Routine uses'' category. These amendments are needed so that nine additional whistleblower protection statutes can be added to this existing system of records. These are the Pipeline Safety Improvement Act of 2002 (PSIA); the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act (SOX); the Federal Railroad Safety Act (FRSA), as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007; the National Transit Systems Security Act of 2007 (NTSSA); the Consumer Product Safety Improvement Act of 2008 (CPSIA); The Affordable Care Act; the Consumer Financial Protection Act of 2010 (CFPA), Section 1057 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010; the Seaman's Protection Act (SPA); and the FDA Food Safety Modernization Act (FSMA). Each of these statutes includes whistleblower protections for employees who provide evidence of violations of law by their employers. In addition, a number of the routine uses have been consolidated and a routine use has been added so that appropriate investigatory records can be disclosed to law enforcement entities. The additions to the category for ''Routine uses'' cannot be made administratively since the Privacy Act at 5 U.S.C. 552a(e)(4)(11) requires that comment be allowed for any new routine use. Amendments to several other categories are proposed in order to describe the system more accurately.

7. The Department proposes to amend DOL/OCFO–1, *Attendance, Leave, and Payroll File,* by revising the categories for ''System location,'' ''Categories of individuals covered by the system,'' ''Categories of records in the system,'' ''Routine uses,'' ''Retention,'' and ''System manager'' as well as minor changes to the other categories to read as set forth below. The new routine use will cover disclosure of records to the payroll provider for the Department, which is currently the U.S. Department of Agriculture's National Finance Center, in order to effect all financial transactions on behalf of the Department related to employee pay.

8. The Department proposes to amend DOL/GOVT–1, *Office of Workers' Compensation Programs, Federal Employees' Compensation Act File,* by adding an additional routine use. The new routine use will permit the Department to disclose information to the National Institutes for Occupational Safety and Health for the purpose of performing statistical analyses of injury and illness patterns. These statistical analyses will assist the Department's Office of Workers' Compensation Programs and the Occupational Safety and Health Administration in their respective missions.

9. The Department proposes to amend DOL/ETA–7, *Employer Application and Attestation File for Permanent and Temporary Alien Workers,* by revising the ''Categories of individuals covered by the system'' to more accurately describe that the only employers who are covered by the system of records are household employers of permanent or temporary alien workers. In addition, minor changes are proposed for amendment, in the categories for ''System location,'' ''Storage,'' ''Retrievability,'' and ''Record source.''

10. The Department proposes to amend DOL/OSEC–1, *Supervisor's/Team Leader's Records of Employees,* by adding an additional routine use. This will permit information to be provided to professional licensing organizations such as those for attorneys, accountants, and physicians. In addition, minor changes are proposed to the categories for ''System location,'' ''Categories of records in the system,'' ''Record source,'' ''Authority,'' and ''Purpose.''

11. The Department proposes to amend universal routine use 12 by clarifying the language contained in section three in order to more accurately describe the applicability of the routine use.

The public, the Office of Management and Budget (OMB) and the Congress are invited to submit written comments on the five new systems, on the proposed amendments to five existing systems, and on the proposed amendments to one universal routine use. A report on the five new systems, the proposed amendments to five existing systems, and on the proposed amendments to one universal routine use has been provided to OMB and the Congress as required by OMB Circular A–130, Revised, and 5 U.S.C. 552a(r).

In its April 8, 2002, publication, the Department gave notice of 12 routine uses that apply to all of its systems of records, except for DOL/OASAM–5 and DOL/OASAM–7. These 12 routine uses were presented in the General Prefatory Statement for that document, and it appeared at Page 16825 of Volume 67 of the **Federal Register**. At this time, as a convenience to the reader of this document, we are republishing this General Prefatory Statement updated to include the amendments to universal routine use 12. This republication includes the statement, also contained in the 2002 publication, that pursuant to the Flexiplace Program, the system location for all systems of records may be temporarily located at alternate worksites, including employees' homes or at geographically convenient satellite offices for part of the workweek.

Signed at Washington, DC this 22nd day of September, 2011.

Hilda L. Solis,

Secretary of Labor.

General Prefatory Statement

A. Universal Routine Uses of the Records

The following routine uses of the records apply to and are incorporated by reference into each system of records published below unless the text of a particular notice of a system of records indicates otherwise. These routine uses *do not* apply to DOL/OASAM–5, *Rehabilitation and Counseling File,* or to DOL/OASAM–7, *Employee Medical Records.*

1. To disclose the records to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) 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 the Department of Justice is for a purpose that is

compatible with the purpose for which the agency collected the records.

2. To disclose the records in a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity; 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 that the use of such records is a purpose that is compatible with the purpose for which the agency collected the records.

3. When a record on its face, or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the agency determines by careful review that the records or information are both relevant and necessary to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity, and that the use of such records or information is for a purpose that is compatible with the purposes for which the agency collected the records.

4. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

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 disclose to contractors, employees of contractors, consultants, grantees, and volunteers who have been engaged to assist the agency in the performance of or working on a contract, service, grant, cooperative agreement or other activity or service for the Federal Government.

Note: Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a; *see also* 5 U.S.C. 552a(m).

7. To the parent locator service of the Department of Health and Human Services or to other authorized persons defined by Public Law 93–647 (42 U.S.C. 653(c)) the name and current address of an individual for the purpose of locating a parent who is not paying required child support.

8. To any source from which information is requested in the course of a law enforcement or grievance investigation, or in the course of an investigation concerning retention of an employee or other personnel action, the retention of a security clearance, the letting of a contract, the retention of a grant, or the retention of any other benefit, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

9. To a Federal, State, local, foreign, tribal, or other public authority of the fact that this system of records contains information relevant to the hiring or retention of an employee, the granting or retention of a security clearance, the letting of a contract, a suspension or debarment determination or the issuance or retention of a license, grant, or other benefit.

10. To the Office of Management and Budget during the coordination and clearance process in connection with legislative matters.

11. To the Department of the Treasury, and a debt collection agency with which the United States has contracted for collection services to recover debts owed to the United States.

12. To the news media and the public when (1) the matter under investigation has become public knowledge, (2) the Solicitor of Labor determines that disclosure is necessary to preserve confidence in the integrity of the Department or is necessary to demonstrate the accountability of the Department's officers, employees, or individuals covered by this system, or (3) the Solicitor of Labor determines that there exists a legitimate public interest in the disclosure of the information, provided the Solicitor of Labor determines in any of these situations that the public interest in disclosure of specific information in the context of a particular case outweighs the resulting invasion of personal privacy.

B. System Location—Flexiplace Programs

The following paragraph applies to and is incorporated by reference into all of the Department's systems of records under the Privacy Act, within the category entitled, SYSTEM LOCATION:

Pursuant to the Department of Labor's Flexiplace Programs, copies of records may be temporarily located at alternative worksites, including employees' homes or at geographically convenient satellite offices for part of the workweek. All appropriate safeguards will be taken at these sites.

I. Publication of a New System of Records

DOL/CENTRAL–1

SYSTEM NAME:

Correspondents with the Department of Labor.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At the offices of each component agency within the U.S. Department of Labor, including national, regional, and contractor offices, and at the offices of call centers serving the Department including the Department's national call center currently located at the contractor's site in Chantilly, Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual correspondents with the various components of the Department who contact, by telephone, U.S. Mail or other mail/delivery service, online, email, or phone bank, components within the Department for various reasons such as, but not limited to, requests for information, brochures, requests for compliance assistance, requests to subscribe to message boards, and/or to use Web site based programs. It includes callers to the Department's call center and contractors providing mail and public information services to the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains comments by, or requests from, individuals and information necessary to satisfy requests for information or brochures, requests for compliance assistance, requests to subscribe to message boards, or email management systems, and/or to use Web site based programs. It includes information received from callers to the Department's call centers. Depending on the nature of the request, the file may include (but is not limited to) the following information regarding individuals who have contacted the Department: Name, title, mailing address, telephone and fax number, email address, area of interest, and other information necessary to respond to a request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To enhance information exchange by improving the availability of Departmental component information on automated systems; to facilitate sending information on compliance assistance to correspondents; to use Web site based programs; to provide usage statistics associated with the Department's public access Internet site; and to provide a framework from which to select an unbiased sample of individuals for surveys. Among other things, maintaining the names, addresses, etc. of individuals requesting data/publications will streamline the process for handling subsequent inquiries and requests by eliminating duplicative gathering of mailing information, data, and material on individuals who correspond with the Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None, except for those universal routine uses listed in the General Prefatory Statement to this document.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and/or on paper.

RETRIEVABILITY:

By name, telephone or fax number (including the telephone number from which the individual dials), email address or other identifying information in the system.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files.

RETENTION AND DISPOSAL:

Current correspondent information files are updated as necessary and are destroyed after three months, or in the case of Web site based programs, message boards, or email management systems, when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

The relevant agency head for the applicable component agency within the U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager. Individuals must furnish in writing the following information for their records to be located and identified:

a. Full name and mailing address.
b. Signature.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

As in notification procedure.

RECORD SOURCE CATEGORIES:

Correspondents with the relevant component agency within the Department.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

II. Publication of a Second New System of Records

DOL/CENTRAL–2

SYSTEM NAME:

Registrants for Department of Labor Events and Activities.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At the offices of each component agency within the Department of Labor, including national, regional and contractor offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual correspondents with the various components of the Department who contact, by telephone, fax, U.S. Mail or other mail/delivery services, on-line, or email, components within the Department to register for conferences, events, activities, seminars, special interest Web sites, and programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information necessary to satisfy requests by individuals to register for Department conferences, events, activities, seminars, programs and special interest Web sites, including their requests for special accommodations and items such as meal preferences. Depending on the nature of the request, the file may include (but is not limited to) the following information on the individuals who have contacted the Department: name, title, mailing address, telephone and fax number, and email address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To permit persons to register, by mail, telephone, fax, email and on-line, for Departmental conferences, events, activities, seminars, special interest Web sites, and programs; to enhance information exchange by improving the availability of Departmental component information on automated systems; to provide a framework from which to select an unbiased sample of individuals for surveys; and to maintain the names, addresses, etc. of individuals who register for conferences and seminars.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the universal routine uses listed in the General Prefatory Statement to this document, a record from this system of records may be disclosed to private entities and/or State or other Federal agencies that co-sponsor or have a statutory interest in the subject of a particular conference or Web site. A record from this system may be disclosed to hotels, conference centers, caterers, interpreters and other entities that provide services for the purpose of holding the conferences and seminars, including services to persons with disabilities.

The names and business addresses of attendees may be disclosed to conference attendees and/or the public, where appropriate. Records also may be disclosed where required by law.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and/or on paper.

RETRIEVABILITY:

By name, telephone or fax number (including the telephone number from which the individual dials), email address or other identifying information in the system.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files.

RETENTION AND DISPOSAL:

Current correspondent information files are updated as necessary and are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

The relevant agency head for the applicable component agency within the U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the systems manager. Individuals must furnish in writing the following information for their records to be located and identified:

a. Full name and address.

b. Signature.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

As in notification procedure.

RECORD SOURCE CATEGORIES:

Correspondents with the relevant component agency within the Department.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

III. Publication of a Third New System of Records

DOL/CENTRAL–3

SYSTEM NAME:

Internal Investigations of Harassing Conduct.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Department employees, Department interns, or other such agents of the Department, nationwide, who have filed a complaint or report of harassment, or have been accused of harassing conduct under the Department's Policy to Prevent Harassing Conduct in the Workplace (the Policy).

SYSTEM LOCATION:

Records on covered individuals are located at the Department of Labor, Office of the Assistant Secretary for Administration and Management and with respective agency Equal Employment Opportunity (EEO) Managers in the national office.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains all documents related to a complaint or report of harassment, which may include the complaint, statements of witnesses, reports of interviews, investigators and agency EEO manager's findings and recommendations, final decisions and corrective action taken, and related correspondence and exhibits.

Note: Records compiled by the Office of Inspector General in its investigations of harassing conduct are covered by its own system of records, entitled DOL/OIG–1, and are not part of this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101.

PURPOSE(S):

These records are maintained for the purpose of conducting internal investigations into allegations of harassment brought against Department employees and for taking appropriate action in accordance with the Department's Policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those universal routine uses contained in the General Prefatory Statement to this document, disclosure of information from this system of records regarding the status of any investigation that may have been conducted may be made to the party who was subject to the harassment and to the alleged harasser when the purpose of the disclosure is both relevant and necessary and is compatible with the purpose for which the information was collected.

Note: Records compiled under the Policy which subsequently become part of the investigation record in an EEO complaint may be disclosed to the complainant if the Civil Rights Center (CRC) determines that the records are relevant and necessary with respect to adjudicating the EEO complaint, when such disclosure is compatible with the purpose for which the information was collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and/or on paper.

RETRIEVABILITY:

These records are indexed by the name of the alleged victim(s) and/or the name of the individual accused of harassing conduct.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files.

RETENTION AND DISPOSAL:

These records are maintained for four years from the date that the investigation is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Respective agencies' EEO managers, U.S. Department of Labor, 200 Constitution Ave. NW., Suite N–4123, Washington, DC 20210.

NOTIFICATION PROCEDURE:

An individual wishing to inquire whether this system of records contains non-exempt information about him/her should contact the systems manager. Individuals must furnish in writing the following information for their records to be located and identified:

a. Full name and address.

b. Signature.

RECORD ACCESS PROCEDURES:

As in notification procedure.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of Department's Privacy Act regulations at 29 CFR 71.1 and 71.9.

RECORD SOURCE CATEGORIES:

Individual complainants; agency EEO Managers; supervisors; management officials; employee relations staff; witness statements; Solicitor's Office staff; CRC staff, and summary reports on harassing conduct complaints.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigative material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) of 5 U.S.C. 552a, provided, however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of the material would reveal the identity of a source who furnished information to the Government with an express promise that the identity of the source would be held in confidence.

IV. Publication of a Fourth New System of Records

DOL/ESA–52

SYSTEM NAME:

Wage-Hour Financial Accounting System (WFAS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Wage-Hour Division (WHD) national office, and regional/sub-regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who receive payment from, or who owe a payment to, agency/regional offices through one of two financial systems (Back Wage Disbursement and Collection System or the Civil Money Penalty System). These persons are as follows:

a. Persons receiving payments include, but are not limited to: Employees; and third parties acting on behalf of employees.

b. Persons owing monies include, but are not limited to: Employers who owe a debt due to the Government as a result of violations of one or more of the laws enforced by the WHD; persons who have been overpaid; and persons who owe the Department a refund.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, identification number (Taxpayer Identification Number or other identifying number), Social Security Number, address, purpose of payment, accounting classification, amount to be paid, withholdings, and amount paid.

AUTHORITY:

5 U.S.C. 301.

PURPOSE(S):

These records are an integral part of the WHD accounting systems at principal operating components, agency regional and sub-regional offices. The records are used to keep track of all WHD payments due to individuals, as well as those due from employers to the Federal Government. When an accounts receivable is established, these records regarding employers are used as part of collection actions. The employee records are used to attempt to locate an employee for purposes of distributing back wages to that employee on behalf of the employer. In event of an overpayment to an individual, the record is used to establish a receivable record for recovery of the amount claimed. The records are also used internally to develop reports to the Internal Revenue Service (IRS) and applicable State and local taxing officials of taxable income. This is a component-wide notice of payment and collection activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those universal routine uses contained in the General Prefatory Statement to this document, the following disclosures are permitted:

a. Transmittal of the records to the United States Treasury to effect issuance of payments to payees.

b. Pursuant to § 13 of the Debt Collection Act of 1982, the name, address(es), telephone number(s), Social Security Number, and nature, amount and history of debts of an individual may be disclosed to private debt collection agencies for the purpose of collecting or compromising a debt existing in this system.

c. Information may be forwarded to the Department of Justice as prescribed in the Joint Federal Claims Collection Standards (31 CFR Parts 900 through 904) for the purpose of determining the feasibility of enforced collection, and by referring the cases to the Department of Justice for litigation.

d. Pursuant to §§ 5 and 10 of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal agencies to effect salary or administrative offsets.

e. Information contained in the system of records may be disclosed to the IRS to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write off a Federal claim against the taxpayer.

f. Information may be disclosed to the IRS concerning the discharge of an indebtedness owed by an individual.

g. Information may be disclosed to the Social Security Administration informing them of taxable income.

h. Information may be disclosed to State and local taxing officials informing them of taxable income.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and/or on paper.

RETRIEVABILITY:

This varies according to the particular operating accounting system within the operating division, agency and regional office. Usually hard copy documents are retrieved by case identification number. Computer records are retrieved by employee last name, as well as case identification number, employer name, Social Security Number, or on any field in the record.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files.

RETENTION AND DISPOSAL:

Records pertaining to the collection and payment of back wages are maintained in hard copy form in the regional and sub-regional offices for one year after closing. They are then transferred to the Federal Records Center for storage; they are retained there for six years and three months and then are destroyed. Hard copy records of Civil Money Penalty payments are transmitted back to the district offices for inclusion in the regular investigation file. Automated records are closed but available on the system once the case balance has reached $0. These records will eventually be destroyed after six years and three months, but prior to destruction, they are maintained in readable form to facilitate tax inquiries from employees and employers.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Wage-Hour Division, Room S–3502, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Inquiries should be mailed or presented to the system manager noted at the address listed above.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the system manager at the address listed above.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Individuals, employees, employers, other Federal agencies, Government contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

V. Publication of a Fifth New System of Records

DOL/ETA–28

SYSTEM NAME:

Senior Community Service Employment Program Information Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Labor, Employment and Training Administration, Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in the Senior Community Service Employment Program (SCSEP) funded under the Older Americans Act Amendments of 2006 (OAA Amendments), Public Law 109–365.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include personal characteristics of each SCSEP participant; the description of training, community service assignments, and unsubsidized employment placements the participants received; wages and supportive services received; and program outcome and participant follow-up information obtained after completion of the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OAA Amendments, Public Law 109–365, § 513(a).

PURPOSES:

To maintain a management information system designed to facilitate the uniform compilation and analysis of program data necessary for reporting, monitoring and evaluation purposes. The system will:

a. Generate statistical reports that will present detailed information on the aggregate characteristics of program participants, program activities, and outcomes. These data will be reported at the national and State grantee levels and will allow the Department to respond to a variety of requests for specific information regarding the scope of services; the types of community service activities; and the nature and duration of employment that SCSEP grantees are providing to their participants. Further, these reports will present detailed survey information on the aggregate customer satisfaction of program participants, participating host agencies, and employers of participants.

b. Provide information that will enable the Department to monitor the program at the national or grantee levels; to report to Congress on program outcomes; and to provide feedback to State and National grantees on their progress in implementing their grants.

c. Provide a suitable national database to enable the Department to provide technical guidance to SCSEP grantees to enable them to meet their negotiated performance measures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those universal routine uses contained in the General Prefatory Statement to this document, disclosure of personnel, procurement, or benefit-related information to contractors and agencies to enable them to provide administrative functions for the program, including the maintenance of participant pay records.

Disclosure of information to researchers of those records which are relevant and necessary to evaluate the effectiveness of the overall program and its various training components in serving different subgroups of the eligible population.

Disclosure of information to Federal, State, and local agencies and community-based organizations to facilitate statistical research, audit, and evaluation activities necessary to insure the success, integrity, and improvement of the SCSEP and other employment and training programs.

Disclosure of information to placement and welfare agencies, prospective employers, school, or training institutions to assist in participant employment.

Disclosure of statistical information to the news media, public interest groups, or members of the general public for the purpose of promoting the merits of the SCSEP.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and/or on paper.

RETRIEVABILITY:

Records may be retrieved by any data element.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files. Public access files and files used for analysis outside the database manager's computer system will be purged of participant identifiers. Published tables will be sufficiently aggregated to prevent identification of any individual.

RETENTION AND DISPOSAL:

Data files will be retained for two years after the files are no longer active. After two years the files will be transferred to the Federal Records Center, where they are destroyed after three years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Adult Services, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Address inquiries to the Chief, Division of Adult Services, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210.

RECORD ACCESS PROCEDURES:

Individuals wishing access to information contained in this system should contact the office indicated in the notification procedure above. Individuals requesting access to files must comply with the Department's Privacy Act regulations on verification of identity and access to records.

RECORD CONTESTING PROCEDURES:

Individuals wishing to request amendments to records should contact the office indicated in the notification procedures section.

RECORD SOURCE CATEGORIES:

Individual participants; SCSEP grantees.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

None.

VI. Publication of a Proposed Amended System of Records

DOL/OSHA–1, *Discrimination Complaint File,* is proposed to be amended by renaming the title to reflect that the file contains complaints of retaliation, rather than discrimination; by revising the category for ''Authority for maintenance of the system''; and by proposing to amend the category for ''Routine uses.'' In addition, several other categories are proposed to be refined. For the convenience of the reader, the system is republished in full to read as follows:

DOL/OSHA–1

SYSTEM NAME:

Retaliation Complaint File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At offices of the Occupational Safety and Health Administration (OSHA) including National, regional, and area offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints alleging retaliation against them by their employers, or by others, for engaging in activities protected under the various statutes set forth below, popularly referenced as whistleblower protection statutes. Complainants may file such claims with

OSHA pursuant to 21 statutes: the Occupational Safety and Health Act (29 U.S.C. 660(c)); the Surface Transportation Assistance Act (49 U.S.C. 31105); the Asbestos Hazard Emergency Response Act (15 U.S.C. 2651); the International Safe Container Act (46 U.S.C. 80507); the Safe Drinking Water Act (42 U.S.C. 300j—9(i)); the Federal Water Pollution Control Act (33 U.S.C. 1367); the Toxic Substances Control Act (15 U.S.C. 2622); the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 42121); the Solid Waste Disposal Act (42 U.S.C. 6971); the Clean Air Act (42 U.S.C. 7622); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9610); the Energy Reorganization Act of 1978 (42 U.S.C. 5851); the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60129); the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1514A); the Federal Railroad Safety Act (49 U.S.C. 20109); the National Transit Systems Security Act (6 U.S.C. 1142); the Consumer Product Safety Improvement Act (15 U.S.C. 2087); the Affordable Care Act (20 U.S.C. 208C); the Consumer Financial Protection Act of 2010 (12 U.S.C.A. § 5567); the Seaman's Protection Act (46 U.S.C. 2114); and the FDA Food Safety Modernization Act (21 U.S.C. 399d).

CATEGORIES OF RECORDS IN THE SYSTEM:

Complainant's name, address, telephone numbers, occupation, place of employment, and other identifying data along with the allegation, OSHA forms, and evidence offered in the allegation's proof. Respondent's name, address, telephone numbers, response to notification of the complaint, statements, and any other evidence or background material submitted as evidence. This material includes records of interviews and other data gathered by the investigator.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. the Occupational Safety and Health Act (29 U.S.C. –660(c));

b. the Surface Transportation Assistance Act (49 U.S.C. 31105);

c. the Asbestos Hazard Emergency Response Act (15 U.S.C. 2651);

d. the International Safe Container Act (46 U.S.C. 1506);

e. the Safe Drinking Water Act (42 U.S.C. 300j—9(i));

f. the Federal Water Pollution Control Act (33 U.S.C. 1367);

g. the Toxic Substances Control Act (15 U.S.C. 2622);

h. the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 42121);

i. the Solid Waste Disposal Act (42 U.S.C. 6971);

j. the Clean Air Act (42 U.S.C. 7622);

k. the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9610);

l. the Energy Reorganization Act of 1978 (42 U.S.C. 5851);

m. the Pipeline Safety Improvement Act of 2002 (49 U.S.C. 60129);

n. the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1514A);

o. the Federal Rail Safety Act (49 U.S.C. 20109);

p. the National Transit Security Systems Act (6 U.S.C. § 1142);

q. the Consumer Product Safety Improvement Act (15 U.S.C. 2087);

r. the Affordable Care Act (Pub. L. 111–148);

s. The Consumer Financial Protection Act of 2010 (12 U.S.C.A. § 5567);

t. The Seaman's Protection Act (46 U.S.C. 2114); and

u. The FDA Food Safety Modernization Act (Pub. L. 111–353).

PURPOSE(S):

The records are used to support a determination by OSHA on the merits of a complaint alleging violation of the employee protection provisions of one or more of the statutes listed under ''Authority.'' The records also are used as the basis of statistical reports on such activity by the system manager, national office administrators, regional administrators, investigators, and their supervisors in OSHA, which reports may be released to the public.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those universal routine uses listed in the General Prefatory Statement to this document, a record from this system of records may be disclosed as follows:

a. With respect to the statutes listed under the ''Authority'' category, disclosure of the complaint, as well as the identity of the complainant, and any interviews, statements, or other information provided by the complainant, or information about the complainant given to OSHA, may be made to the respondent, so that the complaint can proceed to a resolution.

Note: Personal information about other employees that is contained in the complainant's file, such as statements taken by OSHA or information for use as comparative data, such as wages, bonuses, the substance of promotion recommendations, supervisory assessments of professional conduct and ability, or disciplinary actions, generally may be withheld from the respondent when it could violate those persons' privacy rights, cause intimidation or harassment to those persons, or impair future investigations by making it more difficult to collect similar information from others.

b. With respect to the statutes listed under the ''Authority'' category, disclosure of the respondent's responses to the complaint and any other evidence it submits may be shared with the complainant so that the complaint can proceed to a resolution.

c. With respect to the statutes listed under the ''Authority'' category, disclosure of appropriate, relevant, necessary, and compatible investigative records may be made to other Federal agencies responsible for investigating, prosecuting, enforcing, or implementing the underlying provisions of those statutes where OSHA deems such disclosure is compatible with the purpose for which the records were collected.

d. With respect to the statutes listed under the ''Authority'' category, disclosure of appropriate, relevant, necessary, and compatible investigative records may be made to another agency or instrumentality of any governmental jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law, and if that agency or instrumentality has made a written request to OSHA, specifying the particular portion desired and the law enforcement activity for which the record is sought.

e. With respect to the statutes listed under the ''Authority'' category, disclosure may be made to the media, researchers, or other interested parties of statistical reports containing aggregated results of program activities and outcomes. Disclosure may be in response to requests made by telephone, email, fax, or letter, by a mutually convenient method. Statistical data may also be posted by the system manager on the OSHA Web page.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and/or on paper.

RETRIEVABILITY:

By complainant's name, respondent's name, case identification number, or other identifying information.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files.

RETENTION AND DISPOSAL:

Destroy five years after case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Office of the Whistleblower Protection Program in the National Office, OSHA.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the appropriate system location.

RECORD ACCESS PROCEDURE:

Individuals wishing to gain access to non-exempt records should contact the system manager.

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of any non-exempt records should contact the system manager at the system location listed above.

RECORD SOURCE CATEGORIES:

Individual complainants who filed allegation(s) of retaliation by employer(s) against employee(s) or persons who have engaged in protected activities, also employers, employees and witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigatory material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a, provided however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

VII. Publication of a Second Proposed Amended System of Records

DOL/OCFO–1, *Attendance, Leave, and Payroll File,* is proposed to be amended by revising the categories for ''System location,'' ''Categories of individuals covered by the system,'' ''Categories of records in the system,'' ''Routine uses,'' ''Retention,'' and ''System manager'' as well as minor changes to the other categories as set forth below. The new routine use will cover disclosure of records to the payroll provider for the Department, which is currently the U.S. Department of Agriculture's (USDA) National Finance Center (NFC), in order to effect all financial transactions on behalf of the Department related to employee pay. For the convenience of the reader the amended system is republished in full as follows:

DOL/OCFO–1

SYSTEM NAME:

Attendance, Leave, and Payroll File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

a. On electronic systems maintained by the Department and the Department's payroll provider, currently the USDA NFC headquartered in New Orleans, Louisiana, with primary computing facilities in Denver, Colorado, and at backup facilities for the payroll provider, currently located in St. Louis, Missouri.

b. Relevant data may also be stored on Department computers, or servers at the Department, including for use in distributing payroll and accounting information to the individual Department component offices in Washington DC.

c. Timekeepers.

d. Offices of the Chief Financial Officer.

e. Department of Labor human resources offices.

f. The Department of Labor National Office Leave Bank.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department employees, current and former, and other individuals receiving compensation or benefits through the Department's payroll system, including interns, student volunteers, and beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number and employee number, grade, step, and salary, transit subsidies, organization (code), retirement or FICA data as applicable. Federal, State, and local tax deductions, as appropriate. Internal Revenue Service (IRS) tax lien data, commercial garnishment, child support data. Authorization forms for savings bonds and charity deductions; authorization forms for regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; authorization forms for labor union dues deductions; other authorization forms. Cash award data; jury duty data; military leave data; pay differentials; allotments by type and amount; Thrift Savings Plan contributions; financial institution code(s) and employee account number(s); leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement, disability, sick, transferred, political, donated, and without pay). Time and attendance records, including flexitime log sheets indicating number of regular, overtime, holiday, Sunday, and other hours worked, pay period number and ending date. Cost of living allowances, marital status, number of dependents, mailing address, ''Notification of Personnel Action,'' co-owner and/or beneficiary of bonds. Claims by the employee for overtime, for back wages and for waivers. Consumer credit reports of individuals indebted to the United States, correspondence to and from the debtor, information or records relating to the debtor's current whereabouts, assets, liabilities, income and expenses, debtor's personal financial statements and other information such as the nature, amount and history of a debt owed by an individual covered by this system, and other records and reports relating to the implementation of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, including any investigative reports or administrative review matters. The individual records listed herein are included only as pertinent or applicable to the individual employee or other individuals covered by this system.

Note: Sign-in and sign-out records are filed chronologically within Department offices and are not part of this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66(A).

PURPOSE(S):

In compliance with principles and standards prescribed by the Comptroller General, this system manages the Department's payroll compensation and benefits processing, accounting, and reporting. The system provides control procedures and systems to assure the

complete and timely processing of input documents and output reports necessary to update and maintain the Department's Interactive Payroll System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the universal routine uses listed in the General Prefatory Statement to this document, the Department may disclose relevant and necessary data as follows:

The Department may disclose records to its payroll provider, currently the USDA NFC, in order to effect all financial transactions on behalf of Department-related employee pay and compensation. Specifically, the Department's payroll provider may effect employee pay or deposit funds on behalf of Department employees, and/or it may withhold, collect or offset funds from employee salaries as required by law or as necessary to correct overpayment or amounts due. For example, the Department's payroll provider will routinely make the necessary disclosures to the Treasury Department for the issuance of payments as follows: To distribute pay according to the employee directions for savings bonds, allotments to financial institutions, and other authorized purposes. Transmittal of Thrift Savings Plan data to the Federal Retirement Thrift Investment Board (FRTIB) to effect contributions to the Thrift Savings Plan. Tax withholding data sent to the IRS and appropriate State and local taxing authorities, FICA deductions to the Social Security Administration, information concerning dues deductions to labor unions, withholdings for health insurance to insurance carriers and the Office of Personnel Management (OPM), retirement contributions to OPM, charity deductions to agents of charitable institutions, annual W–2 statements to taxing authorities and the individual, and transmittal of computer tape data to appropriate State and local governments for their benefits matching projects. Transmittal of employee's name, Social Security Number, salary history to State unemployment insurance agencies in order to facilitate the processing of State unemployment insurance claims for Department employees. In addition, the Department's payroll provider will use the data to perform related administrative activities such as to certify payroll vouchers chargeable to Department funds and to perform or participate in routine audit/oversight operations, including by the Office of Inspector General of the payroll provider, and/or Government Accountability Office, Office of Management and Budget, OPM, and the FRTIB.

In addition, where determined to be appropriate or necessary, the Department may authorize the Department's payroll provider to make disclosure of relevant records from this system, or the Department may disclose relevant records from this system, as follows:

a. Pursuant to § 13 of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, the name, Social Security Number, address(es), telephone number(s), and nature, amount and history of the debt of a current or former employee may be disclosed to private collection agencies for the purpose of collecting or compromising a debt existing in this system.

b. Department of Justice and Department of Treasury: Information may be forwarded to the Department of Treasury and/or the Department of Justice as prescribed in the Joint Federal Claims Collection Standards (31 CFR Parts 900 through 904). When debtors fail to make payment through normal collection routines, the files are analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice for litigation.

c. Other Federal Agencies: Pursuant to §§ 5 and 10 of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, information relating to the implementation of the Debt Collection Act of 1982 may be disclosed to other Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States.

d. IRS:

(1) Information contained in the system of records may be disclosed to the IRS to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect, compromise, or write-off a Federal claim against the taxpayer.

(2) Records from this system of records may be disclosed to the IRS for the purpose of offsetting a Federal claim from any income tax refund that may be due to the debtor.

(3) Information may be disclosed to the IRS concerning the discharge of an indebtedness owed by an individual.

e. Records from this system of records may be disclosed to the Defense Manpower Data Center—Department of Defense and the United States Postal Service to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the United States Government under certain programs administered by the Department in order to collect debts under the provisions of the Debt Collection Act of 1982 (Public Law 97–365) by voluntary repayment, or by salary or administrative offset procedures.

f. The names, Social Security Numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services in order to locate individuals for the purpose of: establishing paternity; establishing and modifying orders of child support; identifying sources of income; and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform law, Pub. L. 104–193).

g. A record from this system of records, reflecting the employee's transit subsidy, may be disclosed to other governmental agencies for purposes of comparing transit subsidy recipients and car pool applicants.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

The amount, status, and history of overdue debts as well as the name and address, Taxpayer Identification Number (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, are disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by § 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), in accordance with § 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and/or on paper.

RETRIEVABILITY:

By name, Social Security Number, or other identifying information in the system.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with General Records Schedule No. 2 issued by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Payroll System Support, Office of Financial Systems, Office of the Chief Financial Officer, Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210, and the Director, Department of Labor National Office Leave Bank, 200 Constitution Avenue NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Inquiries should be mailed or presented to the system manager noted at the addresses listed above.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the system manager at the address listed above. Individuals must furnish the following information for their records to be located and identified:

a. Name and address.

b. Social Security Number.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Employees (or others receiving compensation or benefits through the payroll system), supervisors, timekeepers, official personnel records, the IRS, consumer credit reports, personal financial statements, correspondence with the debtor, records relating to hearings on the debt, and from other Department systems of records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

VIII. Publication of a Third Proposed Amended System of Records

DOL/GOVT–1, *Office of Workers' Compensation Programs, Federal Employees' Compensation Act File,* is proposed to be amended by adding an additional routine use to the category for ''Routine uses.'' The new routine use will permit the Department to disclose information to the National Institutes for Occupational Safety and Health (NIOSH) for the purpose of performing statistical analysis of injury and illness patterns. These statistical analyses will assist the Department's Office of Workers' Compensation Programs (OWCP) and the Occupational Safety and Health Administration in their respective missions. In addition, style and grammatical changes have been made to categories in this system to clarify the text. For the convenience of the reader the amended system is republished in full as follows:

DOL/GOVT–1

SYSTEM NAME:

Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.

SECURITY CLASSIFICATION:

Most files and data are unclassified. Files and data in certain cases have Top Secret classification, but the rules concerning their maintenance and disclosure are determined by the agency that has given the information the security classification of Top Secret.

SYSTEM LOCATION:

The central database for DOL/GOVT–1 is located at the DOL National office and the offices of OWCP's contractor. Paper claim files are located at the various OWCP district offices; claim files of employees of the Central Intelligence Agency are located at that agency. Records from this system of records may be temporarily located in the offices of health care providers and other individuals or entities with whom the Department contracts for services such as examination or evaluation of claimants. Copies of claim forms and other documents arising out of a job-related injury that resulted in the filing of a claim under the Federal Employees' Compensation Act (FECA) may also be maintained by the employing agency (and where the forms were transmitted to OWCP electronically, the original forms are maintained by the employing agency). In addition, records relating to third-party claims of FECA beneficiaries are maintained in the Division of Federal Employees' and Energy Workers' Compensation, Office of the Solicitor, United States Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, in the offices of the Regional and Associate Regional Solicitors, and in various offices of the United States Postal Service, which undertakes various duties relating to third party claims pursuant to an agreement with OWCP.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and/or their survivors who file claims seeking benefits under FECA by reason of injuries sustained while in the performance of duty. FECA applies to all civilian Federal employees, including various classes of persons who provide or have provided personal service to the Government of the United States, and to other persons as defined by law such as State or local law enforcement officers, and their survivors, who were injured or killed while assisting in the enforcement of Federal law. In addition, FECA covers employees of the Civil Air Patrol, Peace Corps Volunteers, Job Corps students, Volunteers in Service to America, members of the National Teacher Corps, certain student employees, members of the Reserve Officers Training Corps, certain former prisoners of war, and employees of particular commissions and other agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system may contain the following kinds of records: Reports of injury by the employee and/or employing agency; claim forms filed by or on behalf of injured Federal employees or their survivors seeking benefits under FECA; forms authorizing medical care and treatment; other medical records and reports; bills and other payment records; compensation payment records; formal orders for or against the payment of benefits; transcripts of hearings conducted; and any other medical, employment, or personal information submitted or gathered in connection with the claim. The system may also contain information relating to dates of birth, marriage, divorce, and death; notes of telephone conversations conducted in connection with the claim; information relating to vocational and/or medical rehabilitation plans and progress reports; records relating to court proceedings, insurance, banking and employment; articles from newspapers and other publications; information relating to other benefits (financial and otherwise) the claimant may be entitled to; and information received from various investigative agencies concerning possible violations of Federal civil or criminal law.

The system may also contain consumer credit reports on individuals indebted to the United States, information relating to the debtor's assets, liabilities, income and expenses, personal financial statements, correspondence to and from the debtor, information relating to the location of the debtor, and other records and

reports relating to the implementation of the Federal Claims Collection Act (as amended), including investigative reports or administrative review matters. Individual records listed here are included in a claim file only insofar as they may be pertinent or applicable to the employee or beneficiary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8101 *et seq.,* 20 CFR 1.1 *et seq.*

PURPOSE(S):

FECA establishes the system for processing and adjudicating claims that Federal employees and other covered individuals file with the Department's OWCP seeking monetary, medical and similar benefits for injuries or deaths sustained while in the performance of duty. The records maintained in this system are created as a result of and are necessary to this process. The records provide information and verification about the individual's employment-related injury and the resulting disabilities and/or impairments, if any, on which decisions awarding or denying benefits provided under the FECA must be based.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those Department-wide routine uses set forth in the General Prefatory Statement to this document, disclosure of information from this system of records may be made to the following individuals and entities for the purposes noted when the purpose of the disclosure is both relevant and necessary and is compatible with the purpose for which the information was collected:

a. To any attorney or other representative of a FECA beneficiary for the purpose of assisting in a claim or litigation against a third party or parties potentially liable to pay damages as a result of the FECA beneficiary's FECA-covered injury and for the purpose of administering the provisions of §§ 8131–8132 of FECA. Any such third party, or a representative acting on that third party's behalf, may be provided information or documents concerning the existence of a record and the amount and nature of compensation paid to or on behalf of the FECA beneficiary for the purpose of assisting in the resolution of the claim or litigation against that party or administering the provisions of §§ 8131–8132 of FECA.

b. To Federal agencies that employed the claimant at the time of the occurrence or recurrence of the injury or occupational illness in order to verify billing, to assist in administering FECA, to answer questions about the status of the claim, to consider rehire, retention or other actions the agency may be required to take with regard to the claim or to permit the agency to evaluate its safety and health program. Disclosure to Federal agencies, including the Department of Justice, may be made where OWCP determines that such disclosure is relevant and necessary for the purpose of providing assistance in regard to asserting a defense based upon FECA's exclusive remedy provision to an administrative claim or to litigation filed under the Federal Tort Claims Act.

c. To other Federal agencies, other Government or private entities and to private-sector employers as part of rehabilitation and other return-to-work programs and services available through OWCP, where the entity is considering hiring the claimant or where otherwise necessary as part of that return-to-work effort.

d. To Federal, State or private rehabilitation agencies and individuals to whom the claimant has been referred for evaluation of rehabilitation and possible reemployment.

e. To physicians, pharmacies, and other health care providers for their use in treating the claimant, in conducting an examination or preparing an evaluation on behalf of OWCP and for other purposes relating to the medical management of the claim, including evaluation of and payment for charges for medical and related services and supplies.

f. To medical insurance or health and welfare plans (or their designees) that cover the claimant in instances where OWCP has paid for treatment of a medical condition that is not compensable under FECA, or where a medical insurance plan or health and welfare plan has paid for treatment of a medical condition that may be compensable under FECA, for the purpose of resolving the appropriate source of payment in such circumstances.

g. To labor unions and other voluntary employee associations from whom the claimant has requested assistance for the purpose of providing such assistance to the claimant.

h. To a Federal, State or local agency for the purpose of obtaining information relevant to a determination concerning initial or continuing eligibility for FECA benefits, and for a determination concerning whether benefits have been or are being properly paid, including whether dual benefits that are prohibited under any applicable Federal or State statute are being paid; and for the purpose of utilizing salary offset and debt collection procedures, including those actions required by the Debt Collection Act of 1982, to collect debts arising as a result of overpayments of FECA compensation and debts otherwise related to the payment of FECA benefits.

i. To the Internal Revenue Service (IRS) for the purpose of obtaining taxpayer mailing addresses for the purposes of locating a taxpayer to collect, compromise, or write-off a Federal claim against such taxpayer; and informing the IRS of the discharge of a debt owed by an individual. Records from this system of records may be disclosed to the IRS for the purpose of offsetting a Federal claim from any income tax refund that may be due to the debtor.

j. To OSHA for the purpose of using injury reports filed by Federal agencies pursuant to FECA to fulfill agency injury reporting requirements. Information in this system of records may be disclosed to OSHA by employing agencies as part of any Management Information System established under OSHA regulations to monitor health and safety.

k. To contractors providing services to the Department or any other Federal agency or any other individual or entity specified in any of these routine uses or in the Department's General Prefatory Statement who require the data to perform the services that they have contracted to perform, provided that those services are consistent with the routine use for which the information was disclosed to the contracting entity. Should such a disclosure be made to the contractor, the individual or entity making such disclosure shall insure that the contractor complies fully with all Privacy Act provisions, including those prohibiting unlawful disclosure of such information.

l. To the Defense Manpower Data Center—Department of Defense and the United States Postal Service to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the United States under programs administered by the Department in order to collect the debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) by voluntary repayment, or by salary or administrative offset procedures.

m. To a credit bureau for the purpose of obtaining consumer credit reports identifying the assets, liabilities, expenses, and income of a debtor in order to ascertain the debtor's ability to repay a debt incurred under FECA, to

collect the debt, or to establish a payment schedule.

n. To consumer reporting agencies as defined by § 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or in accordance with § 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt, the amount, status and history of overdue debts, the name and address, taxpayer identification (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, may be disclosed pursuant to 5 U.S.C. 552a(b)(12).

o. To a Member of Congress or to a Congressional staff member in response to an inquiry made by an individual seeking assistance who is the subject of the record being disclosed for the purpose of providing such assistance.

p. To individuals, and their attorneys and other representatives, and Government agencies, seeking to enforce a legal obligation on behalf of such individual or agency, to pay alimony and/or child support for the purpose of enforcing such an obligation, pursuant to an order of a State or local court of competent jurisdiction, including Indian tribal courts, within any State, territory or possession of the United States, or the District of Columbia or to an order of a State agency authorized to issue income withholding notices pursuant to State or local law or pursuant to the requirements of § 666(b) of title 42, U.S.C., or for the purpose of denying the existence of funds subject to such legal obligation.

q. To the National Institute for Occupational Safety and Health (NIOSH), for the purpose of performing statistical analyses of injury and illness patterns to identify patterns and locations of high incidence, help devise safety and return-to-work interventions, and guide worker safety and health research. The statistical analyses performed by NIOSH will assist OWCP and OSHA in their efforts to reduce the occurrence of employment injuries, assist employees in achieving a smooth transition and return to work following employment injuries, and improve Federal employee safety and health.

Note: Disclosure of information contained in this system of records to the subject of the record, a person who is duly authorized to act on his or her behalf, or to others to whom disclosure is authorized by these routine uses, may be made over the telephone or by electronic means. Disclosure over the telephone or by electronic means will only be done where the requestor provides appropriate identifying information. Telephonic or electronic disclosure of information is essential to permit efficient administration and adjudication of claims under FECA. Pursuant to 5 U.S.C. 552a(b)(1), information from this system of records may be disclosed to members and staff of the Employees' Compensation Appeals Board, the Office of Administrative Law Judges, the Office of the Solicitor and other components of the Department that have a need for the record in the performance of their duties.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

The amount, status and history of overdue debts, the name and address, taxpayer identification (SSN), and other information necessary to establish the identity of a debtor, the agency and program under which the claim arose, may be disclosed pursuant to 5 U.S.C. 552a(b)(12) to consumer reporting agencies as defined by § 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or in accordance with § 3(d)(4)(A)(ii) of the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3711(f)) for the purpose of encouraging the repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are stored electronically and/or on paper.

RETRIEVABILITY:

Files and automated data are retrieved after identification by coded file number and/or Social Security Number which is cross-referenced to employee by name, employing establishment, and date and nature of injury. Since the electronic case management files were created in 1975, these electronic files are located in District Offices that have jurisdiction over the claim, and (as noted above under ''System location''), a complete central data base is maintained at the location of the contractor. Prior to 1975, a paper index file was maintained; these records were transferred to microfiche and are located in the national office.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data and locked locations for paper files. Only personnel having an appropriate security clearance may handle or process security files.

RETENTION AND DISPOSAL:

All case files and automated data pertaining to a claim are destroyed 15 years after the case file has become inactive. Case files that have been scanned to create electronic copies are destroyed after the copies are verified. Electronic data is retained in its most current form only, and as information is updated, outdated information is deleted. Some related financial records are retained only in electronic form, and destroyed six years and three months after creation or receipt.

SYSTEM MANAGER(S) AND ADDRESS:

Director for Federal Employees' Compensation, Office of Workers' Compensation Programs, 200 Constitution Avenue NW., Room S–3229, Washington, DC 20210.

NOTIFICATION PROCEDURE:

An individual wishing to inquire whether this system of records contains information about him/her may write or telephone the OWCP district office that services the state in which the individual resided or worked at the time he or she believes a claim was filed. In order for the record to be located, the individual must provide his or her full name, OWCP claim number (if known), date of injury (if known), and date of birth.

RECORD ACCESS PROCEDURES:

Any individual seeking access to non-exempt information about a case in which he/she is a party in interest may write or telephone the OWCP district office where the case is located, or the systems manager, and arrangements will be made to provide review of the file. Access to copies of documents maintained by the employing agency may be secured by contacting that agency's designated disclosure officials.

CONTESTING RECORD PROCEDURES:

Specific materials in this system have been exempted from certain Privacy Act provisions regarding the amendment of records. The section of this notice entitled ''Systems exempted from certain provisions of the Act,'' indicates the kind of materials exempted, and the reasons for exempting them. Any individual requesting amendment of non-exempt records should contact the appropriate OWCP district office, or the system manager. Individuals requesting amendment of records must comply with the Department's Privacy Act regulations at 29 CFR 71.1 and 71.9, and with the regulations found at 20 CFR 10.12 (1999).

RECORD SOURCE CATEGORIES:

Injured employees; beneficiaries; employing Federal agencies; other Federal agencies; physicians; hospitals; clinics; suppliers of health care products and services and their agents and representatives; educational institutions; attorneys; Members of Congress; OWCP field investigations;

State governments; consumer credit reports; agency investigative reports; correspondence with the debtor including personal financial statements; records relating to hearings on the debt; and other Department systems of records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(2), investigative material in this system of records compiled for law enforcement purposes is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) of 5 U.S.C. 552a, provided, however, that if any individual is denied any right, privilege, or benefit that he or she would otherwise be entitled to by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of these records, such material shall be provided to the individual, except to the extent that the disclosure of the material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence.

IX. Publication of a Fourth Proposed Amended System of Records

DOL/ETA–7, *Employer Application and Attestation File for Permanent and Temporary Alien Workers,* is proposed to be amended by revising the ''Categories of individuals covered by the system'' to more accurately describe that the only employers who are covered by this system of records are household employers of permanent or temporary alien workers. In addition, minor changes in the categories for ''System location,'' ''Categories of individuals covered by the system,'' ''Routine uses,'' ''Storage,'' ''Retrievability,'' ''System manager and address'' and ''Record source'' are proposed for amendment. For the convenience of the reader the amended system is republished in full as follows:

DOL/ETA–7

SYSTEM NAME:

Employer Application and Attestation File for Permanent and Temporary Alien Workers.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Foreign Labor Certifications, Employment and Training Administration (ETA), Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210, ETA National Processing Centers, and contractor offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employers applying for labor certifications on behalf of alien workers for job opportunities, on a permanent or temporary basis, in private households. The alien may be known or unknown.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employers' names, addresses, type and size of businesses, production data, number of workers needed in certain cases, offer of employment terms to known or unknown aliens, and background and qualifications of certain aliens, along with resumes and applications of U.S. workers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(H)(i), and (ii), 1184(c), 1182(m) and (n), 1182(a)(5)(a), 1188, and 1288. Section 122 of Pub. L. 101–649. 8 CFR 214.2(h).

PURPOSE(S):

To maintain a record of applicants and actions taken by ETA on requests to employ alien workers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The universal routine uses listed in the General Prefatory Statement to this document apply to this system of records. In addition, case files developed in processing labor certification applications, labor condition applications, or labor attestations, are released: to the employers who filed such applications, their representatives, and to named alien beneficiaries or their representatives, if requested, to review ETA actions in connection with appeals of denials before the Office of Administrative Law Judges (OALJ) and Federal Courts; to participating agencies such as the DOL Office of Inspector General, DOL Wage and Hour Division, Department of Homeland Security, and Department of State in connection with administering and enforcing related immigration laws and regulations; and to the OALJ and Federal Courts in connection with appeals of denials of labor certification requests, labor condition applications, and labor attestations.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and/or computerized files are stored in the national office, and each of the ETA National Processing Centers.

RETRIEVABILITY:

Records are retrieved by employer name, case number, occupational type, alien name, attorney/agent name, attorney/agent firm name, application year, re-file information, and area of intended employment.

SAFEGUARDS:

Access to records is provided only to authorized personnel. The computerized data has a double security access: (1) Initial password entry to the local area network; and (2) restricted access to alien certification data is given only to those employees with a need to know the data for performance of their official duties.

RETENTION AND DISPOSAL:

A case file is retained in the office for two years, then transferred to a records center for destruction after three additional years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Office of Foreign Labor Certifications, U.S. Office of Workforce Security, ETA, 200 Constitution Avenue NW., Washington, DC 20210.

NOTIFICATION PROCEDURE:

Inquiries concerning this system can be directed to the system manager listed above.

RECORD ACCESS PROCEDURES:

Individuals can request access by mailing a request to the appropriate System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals wanting to contest or amend information maintained in this system should direct their written request to the appropriate system manager listed above. The request to amend should state clearly and concisely what information is being contested, the reasons for contesting, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Information comes from labor certification applications, labor condition applications, and labor attestations completed by employers. Certain information is furnished by named alien beneficiaries of labor certification applications, State workforce agencies, and the resumes and applications of U.S. workers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

X. Publication of a Fifth Proposed Amended System of Records

DOL/OSEC–1, *Supervisor's/Team Leader's Records of Employees,* is proposed to be amended by adding an additional routine use to the category for ''Routine uses,'' which will permit information to be provided to professional licensing organizations such as those for attorneys, accountants, and physicians. In addition, minor changes are proposed to the categories for ''System location,'' ''Categories of records in the system,'' and for ''Record sources.'' For the convenience of the reader, the amended system is republished in full as follows:

DOL/OSEC–1

SYSTEM NAME:

Supervisor's/Team Leader's Records of Employees.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records of membership in professional licensing organizations such as those for attorneys, accountants and physicians will be maintained in the supervisor's offices and in the national and regional Human Resources Offices. Emergency addressee information may be kept at the residence of or upon the supervisor's person when appropriate.

Note: Requests for a reasonable accommodation are made to supervisors. The Civil Rights Center may temporarily maintain a copy of such requests and of the medical documents submitted by the employee when the Public Health Service (PHS) physician completes his or her review of the request.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees, employees who have retired or left the office within the last 12 months, and employees who have been separated from the office or Department for more than 12 months for whom the former supervisor/team leader has retained records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records related to individuals while employed by the Department and which contain such information as: Record of employee/supervisor discussions, supervisor(s)/team leader(s) observations, supervisory copies of officially recommended actions, reports of Federal Telecommunications System telephone usage containing call detail information, awards, disciplinary actions, emergency addressee information, flexiplace records, reports of on-the-job accidents, injuries, or illnesses, correspondence from physicians or other health care providers, training requests, requests for regular leave, advanced leave, family and medical leave, and records of membership in professional licensing organizations such as those for attorneys, accountants and physicians. The system also contains records relating to requests for reasonable accommodation and/or leave, including medical documents submitted by employees, as well as reports and records by the PHS physicians who have reviewed the accommodation requests.

The system also contains labor relations materials such as performance improvement plans, reprimands, suspensions of less than 14 days, leave restrictions and related materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1302, 2951, 4118, Reorganization Plan 6 of 1950, and the Civil Service Reform Act of 1978. The Rehabilitation Act and the Americans with Disabilities Act.

PURPOSE(S):

To maintain a file for the use of supervisor(s)/team leader(s) in performing their responsibilities and to support specific personnel actions regarding employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to the universal routine uses listed in the General Prefatory Statement to this document, the following routine uses apply to this system of records:

a. Selected information may be disclosed at appropriate stages of investigation and adjudication to the Department's Civil Rights Center, Merit Systems Protection Board, Office of Special Counsel, Federal Labor Relations Authority, Equal Employment Opportunity Commission, arbitrators, or the courts for the purposes of satisfying requirements related to investigation of or litigation related to alleged discrimination, prohibited personnel practices, and unfair labor practices.

b. Records relating to a request for a reasonable accommodation may be referred to PHS or other physicians for their review and evaluation of the request.

c. Data may be disclosed to medical providers for the purpose of evaluating sick leave absences based upon illness or injury.

d. Information may be disclosed to professional licensing organizations such as those for attorneys, accountants, and physicians for the purpose of confirming the membership status of the employee.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic and/or paper files.

RETRIEVABILITY:

By name of employee or other identifying information.

SAFEGUARDS:

Access by authorized personnel only. Computer security safeguards are used for electronically stored data, and locked locations for paper files.

RETENTION AND DISPOSAL:

Records are maintained on current employees. Records on former employees are kept for one year, and then may be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

All supervisor(s)/team leader(s) having responsibility for performance management plans, performance standards, or ratings.

NOTIFICATION PROCEDURE:

An individual may inquire whether the system contains a record pertaining to her/him by contacting the supervisor/team leader who completes his/her performance standards and rating.

RECORD ACCESS PROCEDURES:

A request for access must be addressed to the appropriate system manager listed above. Individuals must furnish their name in order for their records to be located and identified.

CONTESTING RECORD PROCEDURES:

A petition for amendments shall be addressed to the appropriate system manager.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual, supervisor(s)/team leader(s), agency officials, medical providers, co-workers, and professional licensing organizations such as those for attorneys, accountants and physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2012–345 Filed 1–10–12; 8:45 am]

BILLING CODE 4510–23–P

OFFICE OF MANAGEMENT AND BUDGET

Discount Rates for Cost-Effectiveness Analysis of Federal Programs

AGENCY: Office of Management and Budget.

ACTION: Revisions to Appendix C of OMB Circular A–94.

SUMMARY: The Office of Management and Budget revised Circular A–94 in 1992. The revised Circular specified certain discount rates to be updated annually when the interest rate and inflation assumptions used to prepare the Budget of the United States Government were changed. These discount rates are found in Appendix C of the revised Circular. The updated discount rates are shown below. The discount rates in Appendix C are to be used for cost-effectiveness analysis, including lease-purchase analysis, as specified in the revised Circular. They do not apply to regulatory analysis.

DATES: The revised discount rates will be in effect through December 2012.

FOR FURTHER INFORMATION CONTACT: Robert B. Anderson, Office of Economic Policy, Office of Management and Budget, (202) 395–3381.

Michael C. Falkenheim,

Acting Associate Director for Economic Policy, Office of Management and Budget.

Attachment

OMB Circular No. A–94

Appendix C

(Revised December 2011)

Discount Rates for Cost-Effectiveness, Lease Purchase, and Related Analyses

Effective Dates. This appendix is updated annually. This version of the appendix is valid for calendar year 2012. A copy of the updated appendix can be obtained in electronic form through the OMB home page at *http://www.whitehouse.gov/omb/circulars_a094/a94_appx-c/*. The text of the Circular is found at *http://www.whitehouse.gov/omb/circulars_a094/*, and a table of past years' rates is located at *http://www.whitehouse.gov/sites/default/files/omb/assets/a94/dischist.pdf.* Updates of the appendix are also available upon request from OMB's Office of Economic Policy (202) 395–3381.

Nominal Discount Rates. A forecast of nominal or market interest rates for calendar year 2012 based on the economic assumptions for the 2013 Budget are presented below. These nominal rates are to be used for discounting nominal flows, which are often encountered in lease-purchase analysis.

NOMINAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES

[In percent]

3-Year	5-Year	7-Year	10-Year	20-Year	30-Year
1.6	2.1	2.5	2.8	3.5	3.8

Real Discount Rates. A forecast of real interest rates from which the inflation premium has been removed and based on the economic assumptions from the 2013 Budget is presented below. These real rates are to be used for discounting constant-dollar flows, as is often required in cost-effectiveness analysis.

REAL INTEREST RATES ON TREASURY NOTES AND BONDS OF SPECIFIED MATURITIES

[In percent]

3-Year	5-Year	7-Year	10-Year	20-Year	30-Year
0.0	0.4	0.7	1.1	1.7	2.0

Analyses of programs with terms different from those presented above may use a linear interpolation. For example, a four-year project can be evaluated with a rate equal to the average of the three-year and five-year rates. Programs with durations longer than 30 years may use the 30-year interest rate.

[FR Doc. 2012–308 Filed 1–10–12; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

U.S. Antarctic Program Blue Ribbon Panel; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: U.S. Antarctic Program Blue Ribbon Panel Review, #76826.

Date/Time: January 24, 2012, 8 a.m. to 5 p.m., January 25, 2012, 8 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1295, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Sue LaFratta, Office of Polar Programs (OPP). National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–8030.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: The Panel will conduct an independent review of the current U.S. Antarctic Program to ensure the nation is pursuing the best twenty-year trajectory for conducting science and diplomacy in Antarctica—one that is environmentally sound, safe, innovative, affordable, sustainable, and consistent with the Antarctic Treaty.

Agenda: Present the Panel with additional programmatic information related to opportunities and challenges for Antarctic research and research support; discussion of other Agency requirements for research and support in Antarctica; planning for additional meetings.

Dated: January 5, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–286 Filed 1–10–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302; NRC–2011–0301]

Facility Operating License Amendment From Florida Power Corporation, Crystal River Nuclear Generating Plant, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment; opportunity to request a hearing, petition for leave to intervene, and order.

DATES: Requests for a hearing or leave to intervene must be filed by March 12, 2012. Any potential party as defined in Title 10 of the Code of Federal Regulations (10 CFR) 2.4 who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by January 23, 2012.

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

- NRC's Public Document Room (PDR): The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov*. The application for amendment, dated June 15, 2011, contains proprietary information and, accordingly, those portions are being withheld from public disclosure. A redacted version of the application for amendment is available electronically under ADAMS Accession No. ML112070659.
- Federal Rulemaking Web Site: Supporting materials related to this action can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2011–0301.

FOR FURTHER INFORMATION CONTACT: Siva P. Lingam, Project Manager, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–1564, email: *Siva.Lingam@nrc.gov*.

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–72 issued to Florida Power Corporation for operation of the Crystal River Nuclear Generating Plant, Unit 3.

The proposed amendment would increase the licensed core power level for Crystal River Nuclear Generating Plant, Unit 3 from 2609 megawatts thermal (MWt) to 3014 MWt. The increase in core thermal power will be approximately 15.5 percent over the current licensed core thermal power level and is categorized as an extended power uprate. The proposed amendment would modify the renewed facility operating license and the technical specifications to support operation at the increased core thermal power level.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The amendment will not be issued prior to a hearing unless the staff makes a determination that the amendment involves no significant hazards considerations. If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

II. Opportunity To Request a Hearing; Petitions for Leave To Intervene

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, ''Hearing requests, Petitions to intervene, Requirements for standing, and Contentions.'' Interested persons should consult 10 CFR 2.309, which is available at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 (or call the PDR at 1–(800) 397–4209 or (301) 415–4737). The NRC regulations are also accessible online in the NRC's Library at *http://www.nrc.gov/reading-rm/adams.html*.

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the requestor/petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the requestor or petitioner and specifically explain the reasons why the intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the requestor/petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the requestor/petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must include a concise statement of the alleged facts or expert opinions which support the position of the requestor/petitioner and on which the requestor/petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the requestor/petitioner disputes and the supporting reasons for each dispute, or, if the requestor/petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requestor's/petitioner's belief. Each contention must be one which, if proven, would entitle the requestor/petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board (the Licensing Board) will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a presiding officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, Federally-recognized Indian tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by March 12, 2012. The petition must be filed in accordance with the filing instructions in Section III of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by March 12, 2012.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at (301) 415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format in accordance with the NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–(866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an

exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from January 11, 2012. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Dept., Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602–1551.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 5th day of January 2012.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

[FR Doc. 2012–339 Filed 1–10–12; 8:45 am]
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NUCLEAR REGULATORY COMMISSION

[Docket No. 52–016–COL; ASLBP No. 09–874–02–COL–BD01]

Atomic Safety and Licensing Board; Calvert Cliffs 3 Nuclear Project, LLC, and UniStar Nuclear Operating Services, LLC; Combined License Application for Calvert Cliffs Unit 3

November 9, 2011.

Before Administrative Judges: Ronald M. Spritzer, Chairman, Dr. Gary S. Arnold, Dr. William W. Sager.

Notice

Notice of Evidentiary Hearing and Opportunity To Provide Oral and Written Limited Appearance Statements

The Atomic Safety and Licensing Board hereby gives notice that it will convene an evidentiary session to receive testimony and exhibits in the contested portion of this proceeding regarding the application (COLA) by Calvert Cliffs 3 Nuclear Project, L.L.C., and UniStar Nuclear Operating Services, L.L.C. (Applicants) for a combined license (COL) to construct and operate one U.S. Evolutionary Power Reactor (U.S. EPR) to be located adjacent to the existing Calvert Cliffs Nuclear Power Plant (CCNPP), Units 1 and 2, near Lusby, Calvert County, Maryland. In addition, the Board gives notice that, in accordance with 10 CFR 2.315(a), it will entertain oral and written limited appearance statements from members of the public in connection with this proceeding.

I. Matter To Be Considered

This evidentiary hearing will consider one environmental contention, Contention 10C. Contention 10C, as restated by the Board, alleges that:

> The DEIS discussion of a combination of alternatives is inadequate and faulty. By selecting a single alternative that under represents potential contributions of wind and solar power, the combination alternative depends excessively on the natural gas supplement, thus unnecessarily burdening this alternative with excessive environmental impacts.[1]

II. Date, Time, and Location of Environmental Portion of the Contested Hearing

The evidentiary hearing will commence at 9:30 a.m., Eastern Standard Time (EST) on Thursday, January 26, 2012, at the Albright Building, 205 Main Street, Prince Frederick, Maryland 20678. The hearing will resume at 9:30 a.m. EST on Friday, January 27, 2012, if necessary. Parties and members of the public are requested to park in the offsite parking lot, which is within walking distance of the hearing venue, located at 200 Duke Street, Prince Frederick, Maryland 20678.

Members of the public and representatives of the media are welcome to attend and observe this evidentiary hearing. However, all signs, banners, posters, demonstrations, and displays are prohibited in accordance with NRC policy.[2]

All individuals attending the evidentiary hearing are advised that security measures will be employed at the entrance to the facility. As such, all individuals attending the evidentiary hearing should bring at least one form of government issued photo identification, refrain from bringing any unnecessary hand-carried items that might need to be examined individually, and allow sufficient time for security screening.

III. Date, Time, and Location of Oral Limited Appearance Statement Session

An oral limited appearance statement session regarding this Calvert Cliffs evidentiary hearing proceeding will be held on Wednesday, January 25, 2012, from 1 p.m. to 2:30 p.m. EST and from 7 to 8:30 p.m. EST at the Calvert Marine Museum, 14150 Solomons Island Road, Solomons, MD 20688.

Members of the public and representatives of the media are welcome to attend, observe, and participate in this oral limited appearance statement session, as outlined below. As required by NRC policy, signs, banners, posters, and displays not larger than 18″ x 18″ will be permitted at the oral limited appearance statement session, but may not be waved or held over one's head. Any sign, banner, poster or display affixed to a stick, or similar device, will not be permitted at the oral limited appearance statement session.[3]

All individuals attending the oral limited appearance statement session are advised that security measures will be employed at the entrance to the facility. As such, all individuals attending the oral limited appearance statement session should bring at least one form of government issued photo identification, refrain from bringing any unnecessary hand-carried items that might need to be examined individually, and allow sufficient time for security screening.

IV. Participation Guidelines for Oral Limited Appearance Statements

Any person not a party, or the representative of a party, to this mandatory hearing proceeding will be permitted to make an oral statement setting forth his or her position on matter of concern relating to the proceeding. Though these statements do not constitute testimony or evidence, they nonetheless may aid the Board and/or the parties in their consideration of the issues involved in this evidentiary hearing.

Oral limited appearance statements will be entertained during the hours specified above. In the event that all scheduled and unscheduled speakers present at the session have made a presentation, the Board reserves the right to terminate the session prior to the ending time listed above.

The time allotted for each limited appearance statement will be five minutes, but may be further limited depending on the number of written requests to make an oral statement that are submitted in accordance with section V below and/or the number or persons present at the designated time, so as to ensure that everyone will have an opportunity to speak.

V. Submitting a Request to Make an Oral Limited Appearance Statement

A person wishing to make an oral statement who has submitted a timely written request to do so will be given priority over those who have not filed such a request. To be considered timely, a written request to make an oral statement must either be mailed, faxed, or sent by email so as to be received by 5 p.m. EST on Friday, January 13, 2012. Written requests to make an oral statement should be submitted to:

Mail: Administrative Judge Ronald M. Spritzer, Atomic Safety and Licensing Board Panel, Mail Stop T–3F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–5599.

Email: kirsten.stoddard@nrc.gov and *ronald.spritzer@nrc.gov.*

VI. Submitting Written Limited Appearance Statements

As provided in 10 CFR 2.315(a), any person not a party, or a representative of a party, to the proceeding may submit a written statement setting forth his or her position on matters of concern

[1] LBP–10–24, 72 NRC __, __ (slip op. at 54) (Dec. 28, 2010).

[2] *See* Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 FR 31,719 (June 12, 2001) [hereinafter Meeting Security Guidelines].

[3] *See* Meeting Security Guidelines.

relating to this proceeding. Although these statements do not constitute testimony or evidence, they nonetheless may assist the Board or the parties in their consideration of the issues in this proceeding.

A written limited appearance statement may be submitted at any time and should be sent to the Office of the Secretary using one of the methods prescribed below:

Mail: Office of the Secretary, Rulemaking and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20444–0001.

Fax: (301) 415–1101.

Email: hearingdocket@nrc.gov.

In addition, using the same method of service, a copy of the written limited appearance statement should be sent to the Chairman of this Licensing Board as follows:

Mail: Administrative Judge Ronald M. Spritzer, Atomic Safety and Licensing Board Panel, Mail Stop T–3F23, U.S. Nuclear Regulatory Commission.

Fax: (301) 415–5599.

Email: ronald.spritzer@nrc.gov.

VII. Availability of Documentary Information Regarding the Proceeding

Applicants' application, along with various NRC Staff documents relating to the application, are available on the NRC Web site at *http://www.nrc.gov/reactors/new-reactors/col/calvert-cliffs.html.* These and other documents relating to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20352, or electronically from the publicly-available records component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at *www.nrc.gov/reading-rm/adams/html* (the Public Electronic Reading Room).[4] Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397–4209 or (301) 415–4737 (available between 8 a.m. and 4 p.m. Eastern Time, Monday through Friday except federal holiday), or by email to *pdr@nrc.gov.*

VIII. Conference Call

The Board intends on holding a conference call with the parties in early January to discuss further administrative details regarding this evidentiary hearing.

It is so *ordered.*

Dated in Rockville, Maryland, November 9, 2011. For the Atomic Safety And Licensing Board.[5]

Ronald M. Spritzer,

Chairman, Administrative Judge.

[FR Doc. 2012–335 Filed 1–10–12; 8:45 am]

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[4] Some documents determined by the staff to contain ''sensitive'' information are publicly available only in redacted form; non-sensitive documents are publicly available in their complete form. In addition, some documents that may contain information proprietary to AES are publicly available only in redacted form.

[5] Copies of this order were sent on this date by the agency's E-Filing system to the counsel/representatives for: (1) Joint Intervenors Nuclear Information and Resource Services, Beyond Nuclear, Public Citizen Energy Program, and Southern Maryland Citizens Alliance for Renewable Energy Solutions; (2) UniStar Nuclear Operating Services, LLC and Calvert Cliffs-3 Nuclear Project, LLC; (3) NRC Staff; and (4) State of Maryland.

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0288]

Preliminary Amendment Request Review Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is issuing for use of, and to solicit public comment on, draft Interim Staff Guidance (ISG) COL–ISG–025 ''Interim Staff Guidance on Changes During Construction Under 10 CFR Part 52.'' This ISG provides guidance to the NRC staff on the Preliminary Amendment Request (PAR) review process available to the initial combined license (COL) holders for use as an elective precursor to the license amendment process.

DATES: Submit comments by March 26, 2012. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2011–0288 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see ''Submitting Comments and Accessing Information'' in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0288. Address questions about NRC dockets to Carol Gallagher, telephone: (301) 492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at (301) 492–3446.

FOR FURTHER INFORMATION CONTACT: Ms. Amy E. Cubbage, Chief, Policy Branch, Division of Advance Reactors and Rulemaking, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (301) 415–6332, email: *Amy.Cubbage@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

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

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

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

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by email to

pdr.resource@nrc.gov. The COL–ISG–025 ''Interim Staff Guidance on Changes During Construction Under 10 CFR Part 52'' is available electronically under ADAMS Accession Number ML111530026.

• *Federal Rulemaking Web Site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2011–0288.

Background

The NRC staff is issuing this notice for use of, and to solicit public comments on, draft COL–ISG–025. This ISG provides guidance to the staff on the PAR review process available to the initial Title 10 of the *Code of Federal Regulations* (10 CFR) part 52 COL holders for use as an elective precursor to the license amendment process. The PAR process will facilitate the installation and testing of plant changes during construction. The NRC staff intends to use and evaluate the PAR change process during the construction of the initial nuclear power plants licensed under 10 CFR part 52 and finalize this ISG for inclusion in the next major revision of Regulatory Guide 1.187, ''Guidance for Implementation of 10 CFR 50.59, Changes, Tests, and Experiments,'' November 2000 (ADAMS Accession No. ML003759710).

Licensees may voluntarily follow the PAR process described in this draft ISG. Because the PAR process in this ISG is only in draft form, it does not represent a staff position under 10 CFR 50.109 or raise any issue finality concerns under 10 CFR part 52. For this reason, if the NRC staff makes any changes to this draft ISG when it finalizes the ISG, these changes would not constitute ''new'' or ''different'' staff positions within the meaning of the definition of ''backfitting'' in 10 CFR 50.109(a)(1) nor an action inconsistent with any of the issue finality provisions in 10 CFR part 52.

Dated at Rockville, Maryland, this 13th day of December 2011.

For the Nuclear Regulatory Commission.

Amy E. Cubbage,

Chief, Policy Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

[FR Doc. 2012–342 Filed 1–10–12; 8:45 am]

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POSTAL REGULATORY COMMISSION

[Docket No. A2012–99; Order No. 1100]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Elk River, Idaho post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: January 24, 2012, 4:30 p.m., Eastern Time: Deadline for Petitioner's Form 61; February 13, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received a petition for review of the Postal Service's determination to close the Elk River post office in Elk River, Idaho. The petition for review received December 20, 2011, was filed by Dawn Tillson (Petitioner). The postmark date is December 13, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–99 to consider Petitioner's appeal. If Petitioner would like to further explain her position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 24, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012.'' [1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012, are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioner contends that the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 30, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, Patricia A. Gallagher is designated officer of the Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 20, 2011	Filing of Appeal.
January 4, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 4, 2012	Deadline for the Postal Service to file any responsive pleading.
January 30, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 24, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 13, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
February 28, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 6, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 11, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–333 Filed 1–10–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–95; Order No. 1083]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Strandquist, Minnesota post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: January 26, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), on December 2, 2011 the Commission received a petition for review of the Postal Service's determination to close the Strandquist post office in Strandquist, Minnesota. The petition for review was filed by Eunice Rud, on behalf of the Strandquist Residents (Petitioners) and is postmarked November 23, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–95 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 6, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012''.[1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioners contend that (1) the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); and (3) the Postal Service failed to adequately consider the economic savings resulting from the closure (*see* 39 U.S.C. 404(d)(2)(A)(iv)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 23, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, Katrina R. Martinez is designated officer of the Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 2, 2011	Filing of Appeal.
December 19, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
December 19, 2011	Deadline for the Postal Service to file any responsive pleading.
January 23, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 6, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
January 26, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
February 10, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
February 17, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
March 22, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–278 Filed 1–10–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–97; Order No. 1085]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Ashton, Iowa, post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow

the Postal Service, petitioners, and others to take appropriate action.

DATES: January 13, 2012, 4:30 p.m., Eastern Time: Deadline for initial brief in support of the petition.

February 2, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received three petitions for review of the Postal Service's determination to close the Ashton post office in Ashton, Iowa. The first petition for review received December 9, 2011, was filed by Brian D. Mino. The second petition for review received December 9, 2011, was filed by Melvin Tiedemann, Mayor on behalf of the City of Ashton. The third petition for review received December 13, 2011, was filed by Alfreda Verdoorn. The earliest postmark date is November 30, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012- 97 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 13, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012.'' [1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioners contend that (1) the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); (3) the Postal Service failed to adequately consider the economic savings resulting from the closure (*see* 39 U.S.C. 404(d)(2)(A)(iv)); (4) the Postal Service failed to follow procedures required by law regarding closures (*see* 39 U.S.C. 404(d)(5)(B)); and (5) the Postal Service failed to provide substantial evidence in support of the determination (*see* 39 U.S.C. 404(d)(5)(c)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 23, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, Robert N. Sidman is designated officer of the

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 9, 2011	Filing of Appeal.
December 27, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
December 27, 2011	Deadline for the Postal Service to file any responsive pleading.
January 23, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 13, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 2, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
February 17, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
February 24, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
March 29, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–283 Filed 1–10–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–96; Order No. 1084]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the St. Anthony, Iowa post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: January 13, 2012, 4:30 p.m., Eastern Time: Deadline for initial brief in support of the petition.

February 2, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), on December 9, 2011 the Commission received a petition for review of the Postal Service's determination to close the St. Anthony post office in St. Anthony, Iowa. The petition for review was filed by John Benedict (Petitioner) and is postmarked December 1, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–96 to consider Petitioner's appeal. If Petitioner would like to further explain his position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 13, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012''.[1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioner contends that (1) the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); (3) the Postal Service failed to adequately consider the economic savings resulting from the closure (*see* 39 U.S.C. 404(d)(2)(A)(iv)); and (4) there are factual errors contained in the Final Determination.

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 23, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, Manon A. Boudreault is designated officer of the Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 9, 2011	Filing of Appeal.
December 27, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
December 27, 2011	Deadline for the Postal Service to file any responsive pleading.
January 23, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 13, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 2, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
February 17, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
February 24, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
March 30, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–285 Filed 1–10–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–98; Order No. 1086]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Halsey, Nebraska post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: January 20, 2012, 4:30 p.m., Eastern Time: Deadline for initial brief in support of the petition.

February 9, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received two petitions for review of the Postal Service's determination to close the Halsey post office in Halsey, Nebraska. The first petition for review received December 16, 2011, was filed by Lynn Frodsham. The second petition for review received December 21, 2011, was filed by Mic Coffman. The earliest postmark date is December 9, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012- 98 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 20, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation

of any Post Office until May 15, 2012''.[1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioners contend that (1) the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); and (3) the Postal Service failed to provide substantial evidence in support of the determination (*see* 39 U.S.C. 404(d)(5)(c)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 23, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, Christopher Laver is designated officer of the Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 16, 2011	Filing of Appeal.
January 3, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 3, 2012	Deadline for the Postal Service to file any responsive pleading.
January 23, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 20, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 9, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
February 24, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 2, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 6, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

[FR Doc. 2012–287 Filed 1–10–12; 8:45 am]
BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66103; File No. SR–ISE–2011–85]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Market Maker Incentive Plan for Foreign Currency Options

January 5, 2012.

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 28, 2011, the International Securities Exchange, LLC (the ''ISE'' or the ''Exchange'') 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 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 ISE is proposing to extend an incentive plan for market makers in a number of foreign currency options (''FX Options'') traded on the Exchange. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to extend an incentive plan for market makers in options on the New Zealand dollar (''NZD''), the Mexican peso (''PZO''), the Swedish krona (''SKA''), the Brazilian real (''BRB''), the Australian dollar (''AUX''), the British pound (''BPX''), the Canadian dollar (''CDD''), the euro (''EUI''), the Japanese yen (''YUK'') and the Swiss franc (''SFC'').[3] On August 3, 2009, the Exchange adopted an incentive plan applicable to market makers in NZD, PZO and SKA,[4] and on January 19, 2010, added BRB to the incentive plan,[5] and on March 1, 2011, added AUX, BPX, CDD, EUI, YUK and SFC[6] to the incentive plan. The Exchange has since extended the date by which market makers may join the incentive plan[7] and now proposes to do so again.

In order to promote trading in these FX Options, the Exchange has an incentive plan pursuant to which the Exchange waives the transaction fees for the Early Adopter[8] FXPMM[9] and all Early Adopter FXCMMs[10] that make a market in NZD, PZO SKA, BRB, AUX, BPX, CDD, EUI, YUK and SFC for as long as the incentive plan is in effect. Further, pursuant to a revenue sharing agreement entered into between an Early Adopter Market Maker and ISE, the Exchange pays the Early Adopter FXPMM forty percent (40%) of the transaction fees collected on any customer trade in NZD, PZO SKA, BRB, AUX, BPX, CDD, EUI, YUK and SFC and pays up to ten (10) Early Adopter FXCMMs that participate in the incentive plan twenty percent (20%) of the transaction fees collected for trades between a customer and that FXCMM. Market makers that do not participate in the incentive plan are charged regular transaction fees for trades in these products. In order to participate in the incentive plan, market makers are currently required to enter into the incentive plan no later than December 30, 2011. The Exchange now proposes to extend the date by which market makers may enter into the incentive plan to March 30, 2012.

2. Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[11] in general, and furthers the objectives of Section 6(b)(4),[12] 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 the proposed rule change is equitable as it will permit all market makers to explore the opportunity to join the incentive plan for an additional three months. The Exchange believes the proposed rule change is reasonable because the extension of the incentive plan for three months will permit additional market makers to join the incentive plan which in turn will generate additional order flow to the Exchange by creating incentives to trade these FX Options as well as defray operational costs for Early Adopter Market Makers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any

[3] The Commission previously approved the trading of options on NZD, PZO, SKA, BRB, AUX, BPX, CDD, EUI, YUK and SFC. *See* Securities Exchange Act Release No. 55575 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR–ISE–2006–59).

[4] *See* Securities Exchange Act Release No. 60536 (August 19, 2009), 74 FR 43204 (August 26, 2009) (SR–ISE–2009–59).

[5] *See* Securities Exchange Act Release No. 61459 (February 1, 2010), 75 FR 6248 (February 8, 2010) (SR–ISE–2010–07).

[6] *See* Securities Exchange Act Release No. 64012 (March 2, 2011), 76 FR 12778 (March 8, 2011) (SR–ISE–2011–11).

[7] *See* Securities Exchange Act Release Nos. 60810 (October 9, 2009), 74 FR 53527 (October 19, 2009) (SR–ISE–2009–80), 61334 (January 12, 2010), 75 FR 2913 (January 19, 2010) (SR–ISE–2009–115), 61851 (April 6, 2010), 75 FR 18565 (April 12, 2010) (SR–ISE–2010–27), 62503 (July 15, 2010), 75 FR 42812 (July 22, 2010) (SR–ISE–2010–71), 36045 (October 5, 2010), 75 FR 62900 (October 13, 2010) (SR–ISE–2010–100), 63639 (January 4, 2011), 76 FR 1488 (January 10, 2011) (SR–ISE–2010–121), 64202 (April 6, 2011), 76 FR 20431 (April 12, 2011) (SR–ISE–2011–16), 64861 (July 12, 2011), 76 FR 42145 (July 18, 2011) (SR–ISE–2011–38); and 65530 (October 11, 2011), 76 FR 64136 (October 17, 2011) (SR–ISE–2011–66).

[8] Participants in the incentive plan are known on the Exchange's Schedule of Fees as Early Adopter Market Makers.

[9] A FXPMM is a primary market maker selected by the Exchange that trades and quotes in FX Options only. *See* ISE Rule 2213.

[10] A FXCMM is a competitive market maker selected by the Exchange that trades and quotes in FX Options only. *See* ISE Rule 2213.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[13] 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. 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 Number SR–ISE–2011–85 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–ISE–2011–85. 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–ISE–2011–85 and should be submitted on or before February 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–306 Filed 1–10–12; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66105; File No. SR–NYSEAmex–2011–108]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Price List To Eliminate the Clerk Badge Fee and the e-Broker Hand Held Device Fee

January 5, 2012.

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 30, 2011, NYSE Amex LLC (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to eliminate the Clerk Badge fee and the e-Broker Hand Held Device fee (the ''Hand Held Device fee''). The text of the proposed rule change is available at the Exchange's principal office, at *www.nyse.com,* at the Commission's Public Reference Room, and at the Commission's Web site at *www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 its Price List to eliminate the Clerk Badge fee and the Hand Held Device fee.

The Exchange proposes to eliminate the $1,000 per year Clerk Badge fee and the $5,000 per year fee for Hand Held Devices because it believes the transaction fees and the annual trading license fee[3] adequately cover any costs related to such equipment.

The Exchange proposes to make the rule change operative on January 1, 2012.

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''),[4] in general, and Section 6(b)(4) of the Act,[5] 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 proposal constitutes an equitable allocation of fees, as all similarly situated member organizations will be subject to the same fee structure and access to the Exchange's market is offered on fair and non-discriminatory terms. The elimination of the Clerk Badge fee and the Hand Held Device fee

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The annual trading license fee is paid by those members who are members of both the Exchange and New York Stock Exchange LLC and the fee is charged pursuant to the New York Stock Exchange LLC (''NYSE'') Price List and covers trading on both the NYSE and the Exchange.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

is reasonable because the fees are not currently a significant source of revenue and the Exchange can instead cover any related costs via transaction fees and the annual trading license 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)[6] of the Act and subparagraph (f)(2) of Rule 19b–4[7] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Amex.

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–2011–108 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-2011–108. 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–NYSEAmex–2011–108 and should be submitted on or before February 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–316 Filed 1–10–12; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66107; File No. SR–NYSE–2011–72]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Price List To Change the Monthly Fees for the Use of Ports That Provide Connectivity to Its Equity Trading Systems

January 5, 2012.

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 30, 2011, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to change the monthly fees for the use of ports that provide connectivity to its equity trading systems. The text of the proposed rule change is available at the Exchange's principal office, at *www.nyse.com,* at the Commission's Public Reference Room, and at the Commission's Web site at *www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 its Price List to change the monthly fees for the use of ports that provide connectivity to its equity trading systems.

Currently, the monthly fee for ports is $100 per pair per month up to five pairs, then $500 for each additional five pairs.[3] For example, the fee for seven pairs of ports is $1,000 per month. Billing for ports is based on the number of ports on the third business day prior to the end of the month. The level of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63057 (October 6, 2010), 75 FR 63232 (October 14, 2010) (SR–NYSE–2010–70) (the ''Adopting Release'').

activity with respect to a particular port does not affect the assessment of monthly fees, so even if a particular port that is available to a participant is not used, the participant is still billed for that port.

The Exchanges proposes that the new fee would be $300 per pair per month up to five pairs, then $1,500 for each additional five pairs. For example, the fee for seven pairs of ports would be $3,000 per month. The Exchange notes that billing for ports would continue to be based on the number of ports on the third business day prior to the end of the month. In addition, the level of activity with respect to a particular port would still not affect the assessment of monthly fees, so even if a participant does not use a particular port that is available to the participant, the participant would still be billed for that port.

Finally, as stated in the Adopting Release,[4] the port fee is charged per participant. The Exchange proposes to clarify in the Price List that per participant means per member organization for purposes of the port fees.[5]

The Exchange proposes to make the rule change operative on January 1, 2012.

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''),[6] in general, and Section 6(b)(4) of the Act,[7] 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 proposal constitutes an equitable allocation of fees, as all similarly situated member organizations and other market participants would be charged the same amount. In addition, access to the Exchange's market would be offered on fair and non-discriminatory terms.

With respect to the increase in port fees, the proposed fee increase for ports is expected to offset increasing connectivity costs, including additional costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support. The Exchange believes that its fees are competitive with those charged by other venues, and that in some cases, its fee for port connectivity is less expensive than many of its primary competitors.[8]

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)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE.

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–NYSE–2011–72 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–NYSE–2011–72. 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

[4] *See supra* note 4.

[5] The Exchange has a Common Customer Gateway (''CCG'') that accesses the equity trading systems that it shares with its affiliates, NYSE Amex LLC (''NYSE Amex'') and NYSE Arca, Inc. (''NYSE Arca''), and all ports connect to the CCG. *See, e.g.,* Securities Exchange Act Release No. 64542 (May 25, 2011), 76 FR 31659 (June 1, 2011) (SR–NYSE–2011–13). In the instance when an NYSE member organization is also an NYSE Amex member organization and it shares its ports, the same member is charged port fees based on the total number of ports connected to the CCG, whether they are used to trade on the Exchange, NYSE Amex, or both because those trading systems are integrated. The NYSE Arca Equities trading platform is not integrated in the same manner; therefore, it does not share its ports with the Exchange or NYSE Amex. An NYSE Arca ETP Holder is charged for each ETP identifier it uses to access the NYSE Arca Equities trading systems via a port connected to the CCG.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] *See, e.g.,* NASDAQ OMX Price List—Trading & Connectivity, available at *www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.* The Exchange notes that the charge for connectivity to Nasdaq's NY-Metro and Mid-Atlantic Datacenters is $500 per port pair/month (there is a separate charge for their Pre-Trade Risk Management ports which fees are capped at $25,000). *See, e.g.,* BZX Exchange Fee Schedule, available at *www.batstrading.com/FeeSchedule.* The Exchange notes that BZX charges $400 per month per pair (primary and secondary data center) of any logical port other than a Multicast PITCH Spin Server Port or GRP Port, but does provide multicast PITCH customers 12 free pairs of Multicast PITCH Spin Server Ports, and, if such ports are used, one free pair of GRP Ports; $400.00 per month per additional set of 12 pairs of Multicast PITCH Spin Server Ports or additional pair of GRP Ports. However, the Multicast PITCH Spin Server Ports and GRP ports relate to market data dissemination while the proposed port fee charge relates to connectivity to the Exchange, therefore the proposed fee change will still be lower to the equivalent BZX port fee charge of $400 per month per pair for a logical port.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

available publicly. All submissions should refer to File Number SR–NYSE–2011–72 and should be submitted on or before February 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–318 Filed 1–10–12; 8:45 a.m.]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66112; File No. SR–NYSEArca–2011–80]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change To List and Trade Shares of the Rockledge SectorSAM ETF Under NYSE Arca Equities Rule 8.600

January 5, 2012.

I. Introduction

On November 3, 2011, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') 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 list and trade shares (''Shares'') of the Rockledge SectorSAM ETF (''Fund'') under NYSE Arca Equities Rule 8.600. The proposed rule change was published in the **Federal Register** on November 23, 2011.[3] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade the Shares of the Fund pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by AdvisorShares Trust (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[4] The investment adviser to the Fund is AdvisorShares Investments, LLC (''Adviser''). Rockledge Advisers LLC serves as investment sub-adviser to the Fund (''Rockledge'' or ''Sub-Adviser'') and provides day-to-day portfolio management of the Fund. Foreside Fund Services, LLC is the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon Corporation serves as administrator, custodian, and transfer agent for the Fund. The Exchange states that neither the Adviser nor the Sub-Adviser is affiliated with a broker-dealer.[5]

Description of the Fund

The Fund is considered a ''fund-of-funds'' that seeks to achieve its investment objective by primarily investing in other U.S.-listed exchange-traded funds (''Underlying ETFs'') that offer diversified exposure to U.S. large capitalization (generally, Standard & Poor 500 companies) sectors. The Sub-Adviser will use ''Sector Scoring and Allocation Methodology'' (''SectorSAM''), which is a proprietary quantitative analysis, to forecast each sector's excess return within a specific time horizon. The Sub-Adviser will seek to achieve the Fund's investment objective by buying (taking long positions in) Underlying ETFs intended to capture the performance of the most promising sectors and selling (establishing short positions) in Underlying ETFs with the intent of profiting from the least promising sectors of U.S. large capitalization broad market securities. The strategy is designed to generate higher returns in a higher interest rate environment, which is often associated with increased inflation.[6]

Under normal circumstances,[7] the Fund intends to invest equal dollar amounts to obtain both long and short exposure in the market at each major rebalancing point (on at least a monthly basis). When fully invested, the Fund will typically be both 100% long and 100% short of total portfolio value. The Sub-Adviser, in its discretion, may choose an additional long or short bias of up to 50% exposure, or may choose to hold amounts in cash or cash equivalents depending on its view of market conditions.

The Underlying ETFs in which the Fund will invest will primarily be ETFs that hold substantially all of their assets in securities representing a specific index. The main risk of investing in index-based investments is the same as investing in a portfolio of securities comprising the index. The market prices of index-based investments will fluctuate in accordance with both changes in the market value of their underlying portfolio securities and due to supply and demand for the instruments on the exchanges on which they are traded (which may result in their trading at a discount or premium to their net asset values (''NAVs'')).

The Fund, through its investment in Underlying ETFs, may invest in equity securities. Equity securities represent ownership interests in a company or partnership and consist of common stocks, preferred stocks, warrants to acquire common stock, securities convertible into common stock, and investments in master limited partnerships.

The Fund, through its investment in Underlying ETFs, may invest in American Depositary Receipts (''ADRs''), as well as Global Depositary Receipts (''GDRs'', together with ADRs, ''Depositary Receipts''), which are certificates evidencing ownership of shares of a foreign issuer. Depositary Receipts may be sponsored or unsponsored. These certificates are issued by depositary banks and generally trade on an established market in the United States or elsewhere. The underlying shares are held in trust by a custodian bank or similar financial institution in the issuer's home country. The depositary bank may not have physical custody of the underlying securities at all times and may charge fees for various services, including forwarding dividends and interest and corporate actions. ADRs are alternatives to directly purchasing the underlying foreign securities in their national markets and currencies. However, ADRs

[11] 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. 65778 (November 17, 2011), 76 FR 72474 (''Notice'').

[4] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On April 11, 2011, the Trust filed with the Commission Post-Effective Amendment No. 23 to Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) and under the 1940 Act relating to the Fund (File Nos. 333–157876 and 811–22110) (''Registration Statement''). In addition, the Commission has issued an order granting exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812–13677) (''Exemptive Order'').

[5] *See* Commentary .06 to NYSE Arca Equities Rule 8.600. The Exchange represents that, in the event (a) the Adviser or Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, such adviser and/or sub-adviser will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[6] The Underlying ETFs are registered under the 1940 Act and will be listed and traded in the U.S. on registered exchanges.

[7] The term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

continue to be subject to many of the risks associated with investing directly in foreign securities.

Through Underlying ETFs, the Fund may invest in the equity securities of foreign issuers, including the securities of foreign issuers in emerging market countries. Emerging or developing markets exist in countries that are considered to be in the initial stages of industrialization. The risks of investing in these markets are similar to the risks of international investing in general, although the risks are greater in emerging and developing markets. Countries with emerging or developing securities markets tend to have economic structures that are less stable than countries with developed securities markets. This is because their economies may be based on only a few industries and their securities markets may trade a small number of securities. Prices on these exchanges tend to be volatile, and securities in these countries historically have offered greater potential for gain (as well as loss) than securities of companies located in developed countries.

The Fund, through its investment in Underlying ETFs, may invest in closed-end funds, pooled investment vehicles that are registered under the 1940 Act and whose shares are listed and traded on U.S. national securities exchanges.

The Fund, through its investment in Underlying ETFs, may invest in shares of real estate investment trusts (''REITs''). REITs are pooled investment vehicles which invest primarily in real estate or real estate related loans. REITs are generally classified as equity REITs, mortgage REITs or a combination of equity and mortgage REITs.

The Fund intends to invest primarily in the securities of Underlying ETFs consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the Commission or interpretation thereof.

The Underlying ETFs may invest in complex securities such as equity options, index options, repurchase agreements, foreign currency contracts and swaps. The Fund does not intend to invest in leveraged, inverse or inverse leveraged Underlying ETFs.

Investment Process

The following describes the Sub-Adviser's investment process:

(a) *Quantitative Analysis.* Rockledge has developed a proprietary SectorSAM™ quantitative research and evaluation process that forecasts economic excess sector returns (over/under the Standard & Poor's 500 Index (''S&P 500 Index'') for a given timeframe). Absolute returns may be captured by investing long in sectors which are forecasted to outperform the overall U.S. equity market and shorting sectors that are forecasted to underperform the market.

SectorSAM analysis provides for individual sector forecasts through analysis of over 200 fundamental, macroeconomic, and technical factors influencing stock returns. The SectorSAM process creates a basket of factors that are meaningful to each economic sector within the S&P 500 Index. Rockledge reviews the information to make portfolio decisions on behalf of the Fund.

(b) *Long/Short Portfolio Construction.* The Fund's portfolio will be comprised primarily of an equal dollar amount of long and short positions based on the Rockledge relative value strategy.[8] Rockledge will actively manage and adjust the positions in its long and short portfolios as dictated by its proprietary SectorSAM quantitative research and evaluation process.

(c) *Risk Management.* The Fund's core long/short portfolio construction generally will be dollar neutral, where the value of all long positions is equal to the value of all short positions. This provides a high degree of inherent risk control, especially when stock markets are falling. The short positions provide protection against market declines, and may offer the potential to generate positive returns when markets are falling if the short positions fall more than the long positions. Rockledge will use a number of methods to monitor and manage the inherent risk of the portfolio including the tracking of relative sector exposure, volatility, and sector correlations. Rockledge proactively will monitor its positions, exposure and performance attribution on a real-time basis to identify, monitor and mitigate the most threatening risks to the Fund's ability to attain its investment objective.

The Fund's portfolio holdings will be disclosed on the Trust's Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day.

Other Investments of the Fund

To respond to adverse market, economic, political, or other conditions,[9] the Fund may invest 100% of its total assets, without limitation, in high-quality debt securities and money market instruments either directly or through Underlying ETFs. The Fund may be invested in these instruments for extended periods, depending on the Sub-Adviser's assessment of market conditions. These debt securities and money market instruments include shares of other mutual funds, commercial paper, certificates of deposit, bankers' acceptances, U.S. Government securities,[10] repurchase

[8] The following convictions constitute the guiding philosophy for the relative investment strategy pursued by the Sub-Adviser:

1. The U.S. economy goes through various growth and contraction stages and the various economic sectors reflect these changes.

2. Large capitalization stocks are heavily researched and well known to equity analysts. The valuations and pricing of these stocks are very close to efficient. It is difficult to make significant outsized returns by investing in individual large capitalization stocks.

3. The valuation of each U.S economic sector is directly based on the aggregation of valuation of the individual companies making up that sector. Up to 90% of an individual stock's performance can be attributed to the return of the sector that stock is in.

4. Sector investing provides a better risk/return profile than individual stock investing. Sector investing eliminates company specific risk as sectors are inherently diversified.

5. Appropriately and correctly forecasted, one can capture both the upside potential of the outperforming sectors and downside loss of the underperforming sectors, relative to a broad market index.

6. There can be significant performance dispersion among various economic sectors. The ability to identify which sectors will outperform the broad market and which will underperform over a specified time period can lead to considerable cumulative absolute returns.

[9] Adverse market conditions would include large downturns in the broad market value of two or more times current average volatility, where the Sub-Adviser views such downturns as likely to continue for an extended period of time. Adverse economic conditions would include significant negative results in factors deemed critical at the time by the Sub-Adviser, including significant negative results regarding unemployment, Gross Domestic Product, consumer spending or housing numbers. Adverse political conditions would include events such as government overthrows or instability, where the Sub-Adviser expects that such events may potentially create a negative market or economic condition for an extended period of time.

[10] Securities issued or guaranteed by the U.S. government or its agencies or instrumentalities include U.S. Treasury securities, which are backed by the full faith and credit of the U.S. Treasury and which differ only in their interest rates, maturities, and times of issuance. U.S. Treasury bills have initial maturities of one year or less; U.S. Treasury notes have initial maturities of one to ten years; and U.S. Treasury bonds generally have initial maturities of greater than ten years. Certain U.S. government securities are issued or guaranteed by agencies or instrumentalities of the U.S. government including, but not limited to, obligations of U.S. government agencies or instrumentalities such as Fannie Mae, Freddie Mac, the Government National Mortgage Association, the Small Business Administration, the Federal Farm Credit Administration, the Federal Home Loan Banks, Banks for Cooperatives (including the Central Bank for Cooperatives), the Federal Land Banks, the Federal Intermediate Credit Banks, the Tennessee Valley Authority, the Export-Import Bank of the United States, the Commodity Credit Corporation, the Federal Financing Bank, the Student Loan Marketing Association, the National Credit Union Administration, and the Federal Agricultural Mortgage Corporation.

agreements,[11] and bonds that are BBB or higher.

The Fund, or the Underlying ETFs in which it invests, may invest in U.S. Treasury zero-coupon bonds. These securities are U.S. Treasury bonds which have been stripped of their unmatured interest coupons, the coupons themselves, and receipts or certificates representing interests in such stripped debt obligations and coupons.

The Fund may invest in exchange-traded notes (''ETNs''). ETNs are debt obligations of investment banks which are traded on exchanges and the returns of which are linked to the performance of market indexes. In addition to trading ETNs on exchanges, investors may redeem ETNs directly with the issuer on a weekly basis, typically in a minimum amount of 50,000 units, or hold the ETNs until maturity. ETNs may be riskier than ordinary debt securities and may have no principal protection.

The Fund will seek to qualify for treatment as a Regulated Investment Company under Subchapter M of the Internal Revenue Code. The Fund may not (i) with respect to 75% of its total assets, purchase securities of any issuer (except securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities or shares of investment companies) if, as a result, more than 5% of its total assets would be invested in the securities of such issuer; or (ii) acquire more than 10% of the outstanding voting securities of any one issuer. For purposes of this policy, the issuer of the underlying security will be deemed to be the issuer of any respective Depositary Receipt. The Fund may not invest 25% or more of its total assets in the securities of one or more issuers conducting their principal business activities in the same industry or group of industries. This limitation does not apply to investments in securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities, or shares of investment companies. The Fund will not invest 25% or more of its total assets in any investment company that so concentrates. For purposes of this policy, the issuer of the underlying security will be deemed to be the issuer of any respective Depositary Receipt.

Except for Underlying ETFs that may hold non-U.S. issues, the Fund will not otherwise invest in non-U.S.-registered issues.

Pursuant to the terms of the Exemptive Order, the Fund will not invest in options contracts, futures contracts, or swap agreements. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. The Fund will not purchase illiquid securities, including Rule 144A securities and loan participation interests.

Additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes, among other things, is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Notice and/or Registration Statement, as applicable.[12]

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act [13] and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[15] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[16] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association high-speed line and, for the Underlying ETFs, will be available from the national securities exchange(s) on which they are listed.[17] In addition, the Portfolio Indicative Value (''PIV''), as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[18] On each business day, before commencement of trading in Shares during the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.600(c)(2), that will form the basis for the Fund's calculation of the NAV at the end of the business day.[19] The Fund will calculate NAV once each business day as of the regularly scheduled close of the Core Trading Session on the Exchange (normally 4 p.m. Eastern Time). A basket composition file, which includes the security names and share quantities required to be delivered in exchange for Fund shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange via the National Securities Clearing Corporation. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and information regarding the previous day's closing price and trading volume information for the Shares will

[11] The Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans. The Fund follows certain procedures designed to minimize the risks inherent in such agreements. These procedures include effecting repurchase transactions only with large, well-capitalized and well-established financial institutions whose condition will be continually monitored by the Sub-Adviser. In addition, the value of the collateral underlying the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement. The Fund may enter into reverse repurchase agreements as part of the Fund's investment strategy. Reverse repurchase agreements involve sales by the Fund of portfolio assets concurrently with an agreement by the Fund to repurchase the same assets at a later date at a fixed price.

[12] *See* Notice and Registration Statement, *supra* notes 3 and 4, respectively.

[13] 15 U.S.C. 78f.

[14] 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).

[15] 17 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[17] The intra-day, closing, and settlement prices of the portfolio securities are also readily available on automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters.

[18] The Exchange states that it understands that several major market data vendors widely disseminate PIVs taken from the Consolidated Tape Association or other data feeds. *See* Notice at 72478, *supra* note 3.

[19] On a daily basis, the Adviser will disclose for each portfolio security or other financial instrument of the Fund the following information: Ticker symbol (if applicable); name of security or financial instrument; number of shares or dollar value of financial instruments held in the portfolio; and percentage weighting of the security or financial instrument in the portfolio.

be published daily in the financial section of newspapers. The Fund's Web site will also include a form of the prospectus for the Fund, information relating to NAV (updated daily), and other quantitative and trading information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[20] In addition, the Exchange will halt trading in the Shares under the specific circumstances set forth in NYSE Arca Equities Rule 8.600(d)(2)(D) and may halt trading in the Shares if trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[21] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.[22] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees, and neither the Adviser nor the Sub-Adviser is affiliated with a broker-dealer.[23] The Commission also notes that the Exchange can obtain information with respect to the Underlying ETFs from the U.S. exchanges, which are all members of the Intermarket Surveillance Group, listing and trading such Underlying ETFs.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange's surveillance procedures applicable to derivative products, which include Managed Fund Shares, are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Unit Aggregations (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (d) how information regarding the PIV is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading and other information.

(5) For initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[24] as provided by NYSE Arca Equities Rule 5.3.

(6) The Fund will not: (a) Purchase illiquid securities, including Rule 144A securities and loan participation interests; (b) invest in non-U.S. issues (except for Underlying ETFs that may hold non-U.S. issues); (c) invest in leveraged, inverse, or inverse leveraged Underlying ETFs; and (d) pursuant to the terms of the Exemptive Order, invest in options contracts, futures contracts, or swap agreements.

(7) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

This approval order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[25] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (SR–NYSEArca-2011–80) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

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[20] *See* NYSE Arca Equities Rule 8.600(d)(1)(B).

[21] *See* NYSE Arca Equities Rule 8.600(d)(2)(C). With respect to trading halts, the Exchange may consider other relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

[22] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[23] *See supra* note 5 and accompanying text. The Commission notes that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[24] *See* 17 CFR 240.10A–3.

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66111; File No. SR–Phlx–2011–187]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Waive PSX Port Pair Fees for Certain Newly-Added Routable Port Pairs

January 5, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that on December 28, 2011, NASDAQ OMX PHLX LLC (''Exchange'' or ''PHLX''), 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 offer a waiver of PSX Port Pair fees for certain newly-added routable port pairs during the months of January through March, 2012.

The text of the proposed rule change is below. Proposed new language is italicized.

VIII. NASDAQ OMX PSX FEES

Access Services Fees†

The following charges are assessed by the Exchange for ports to establish connectivity to the NASDAQ OMX PSX market, as well as ports to receive data from the NASDAQ OMX PSX market: $400 per month for each port pair, other than Multicast ITCH® data feed pairs, for which the fee is $1000 per month. *The $400 port pair fee will be waived from January 2012 through March 2012 for a single port pair subscribed to by a member used for routing during this free period. To be eligible for the fee waiver, the member must increase the number of routable ports it has as of December 31, 2011 and must send routable order flow through the designated port pair at some point during the free period, otherwise the monthly fee will apply.*

An additional $200 per month for each Internet port that requires additional bandwidth.

* * * * *

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 Exchange is amending its fee schedule to waive fees assessed on a single port pair used for routing orders from PSX, during the months of January through March, 2012. The Exchange recently began allowing orders placed on the Exchange to route away from PSX for execution.[3] The Exchange is proposing to waive, for a limited time, the fee assessed for a single port pair under Chapter VIII of the NASDAQ OMX PHLX Fee Schedule, applicable to a member firm that adds an additional port and uses that port for routing on the PSX market during the months of January through March, 2012. The Exchange believes that waiving the port pair fee will encourage market participants to utilize the routing function of the market, and to take advantage of new routing strategies made available to market participants.[4]

A member is eligible to subscribe only one free port pair under the proposed fee waiver program and the port must be eligible for routing. The free port pair must be a newly-subscribed port pair and must be net additive to the number of port pairs a member firm is subscribed to as of December 31, 2011 (*i.e.,* it cannot replace an existing port pair). Additional port pairs subscribed to by a member firm and used for routing purposes will not be eligible for the proposed fee waiver. A member firm may add a routable port pair that meets the requirements noted above at any point during the free period, and will not be assessed a fee for the port pair for the months remaining in the free period, so long as routable order flow is sent through the port pair at some point during the free period. If no routable order flow is sent through the designated port pair during the free period, the port pair fee will apply to all months the new port pair is subscribed to. For example, if on January 25, 2012, Firm ABCD adds a routable port on PSX, the port pair would be free for the duration of the free period, so long as the member firm sends routable order flow through the port pair at some point during the free period. At the end of the free period, the member will be assessed the normal monthly fee, beginning with April 2012. If the member firm does not send routable order flow through the newly-added port pair, the member firm would be assessed the full fee for each of the months that it had subscribed to the new port pair during the free period (in the example above, all three months of the free period). A member firm is under no obligation to continue subscription to the routable port pair at the end of the free period, and may cancel its subscription at any time prior to the expiration of the free period with no charge.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Section 6(b)(4) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange believes that the proposed fee waiver is reasonable as it is narrowly focused, of limited duration, and is designed to encourage PSX market participants to use the full functionality of the market, thereby increasing liquidity available to investors. The Exchange believes that the proposed fee waiver is equitable since it applies to any PSX participant that seeks to use the routing function of the market and subscribes a new port pair for routing during the free period. To date, no member firms have subscribed new port pairs for the purpose of routing from PSX. As noted, a member firm is not penalized for cancelling its routing port pair at the end of the free period.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and

[3] *See* Securities Exchange Act Release No. 65469 (October 3, 2011), 76 FR 62486 (October 7, 2011) (SR–Phlx–2011–108).

[4] *Id.*

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(a)(ii).

subparagraph (f)(2) of Rule 19b–4 thereunder.[8] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

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–2011–187 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–2011–187. 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–2011–187 and should be submitted on or before February 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–321 Filed 1–10–12; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66110; File No. SR–NYSEArca–2012–01]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Fee Schedule Changing the Monthly Fees for the Use of Ports That Provide Connectivity to Its Equity Trading Systems

January 5, 2012.

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 January 3, 2012, 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 Equities Fee Schedule (''Fee Schedule'') to change the monthly fees for the use of ports that provide connectivity to its equity trading systems. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to change the monthly fees for the use of ports that provide connectivity to its equity trading systems.

Currently, the monthly fee for ports is $100 per pair per month up to five pairs, then $500 for each additional five pairs.[3] For example, the fee for seven pairs of ports is $1,000 per month. Billing for ports is based on the number of ports on the third business day prior to the end of the month. The level of activity with respect to a particular port does not affect the assessment of monthly fees, so even if a particular port that is available to a participant is not used, the participant is still billed for that port.

The Exchanges proposes that the new fee would be $300 per pair per month up to five pairs, then $1,500 for each additional five pairs. For example, the fee for seven pairs of ports would be $3,000 per month. The Exchange notes that billing for ports would continue to be based on the number of ports on the third business day prior to the end of the month. In addition, the level of activity with respect to a particular port would still not affect the assessment of monthly fees, so even if a participant does not use a particular port that is available to the participant, the participant would still be billed for that port.

Finally, as stated in the Adopting Release,[4] the port fee is charged per participant. The Exchange proposes to clarify in the Fee Schedule that per participant means per ETP ID, as ETP

[3] *See* Securities Exchange Act Release No. 63056 (October 6, 2010), 75 FR 63233 (October 14, 2010) (SR–NYSEArca–2010–87) (the ''Adopting Release'').

[4] *See supra* note 3.

Holders may have more than one unique ETP ID.[5]

The Exchange proposes to make the rule change operative on January 3, 2012.

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''),[6] in general, and Section 6(b)(4) of the Act,[7] 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 proposal constitutes an equitable allocation of fees because all similarly situated member organizations and other market participants would be charged the same amount. In addition, access to the Exchange's market would be offered on fair and non-discriminatory terms.

With respect to the increase in port fees, the proposed fee increase for ports is expected to offset increasing connectivity costs, including additional costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support. The Exchange believes that its fees are competitive with those charged by other venues, and that, in some cases, its fee for port connectivity is less expensive than many of its primary competitors.[8]

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)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by the 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–2012–01 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–NYSEArca–2012–01. 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–2012–01 and should be submitted on or before February 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–320 Filed 1–10–12; 8:45 am]

BILLING CODE 8010–01–P

[5] The Exchange has a Common Customer Gateway (''CCG'') that accesses the equity trading systems that it shares with its affiliates, New York Stock Exchange LLC (''NYSE'') and NYSE Amex LLC (''NYSE Amex''), and all ports connect to the CCG. *See, e.g.,* Securities Exchange Act Release No. 64544 (May 25, 2011), 76 FR 31668 (June 1, 2011) (SR–NYSEArca–2011–12). In the instance when an NYSE member organization is also an NYSE Amex member organization and it shares its ports, the same member is charged port fees based on the total number of ports connected to the CCG, whether they are used to trade on NYSE, NYSE Amex, or both because those trading systems are integrated. The Exchange's trading platform is not integrated in the same manner; therefore, it does not share its ports with NYSE or NYSE Amex. An ETP Holder is charged for each ETP identifier it uses to access the Exchange's trading systems via a port connected to the CCG.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] *See e.g.,* NASDAQ OMX Price List—Trading & Connectivity, *available at www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.* The Exchange notes that the charge for connectivity to Nasdaq's NY-Metro and Mid-Atlantic Datacenters is $500 per port pair/month (there is a separate charge for their Pre-Trade Risk Management ports which fees are capped at $25,000). *See e.g.,* BZX Exchange Fee Schedule, *available at www.batstrading.com/FeeSchedule.* The Exchange notes that BZX charges $400 per month per pair (primary and secondary data center) of any logical port other than a Multicast PITCH Spin Server Port or GRP Port, but does provide multicast PITCH customers 12 free pairs of Multicast PITCH Spin Server Ports, and, if such ports are used, one free pair of GRP Ports; $400.00 per month per additional set of 12 pairs of Multicast PITCH Spin Server Ports or additional pair of GRP Ports. However, the Multicast PITCH Spin Server Ports and GRP ports relate to market data dissemination while the proposed port fee charge relates to connectivity to the Exchange, therefore the proposed fee change will still be lower to the equivalent BZX port fee charge of $400 per month per pair for a logical port.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66108; File No. SR–NYSE–2011–71]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Price List to (1) Adopting a Trading License Fee for Calendar Year 2012 and (2) Eliminating the NYSE E-Broker® Hand Held Device Fee and the NYSE E-Broker® Hand Held Device—Opening and Closing Order Imbalances Only (Together the ''Hand Held Device Fees''), the Fee for Approval of a Pre-Qualified Substitute, and the Badge Maintenance Fee

January 5, 2012.

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 30, 2011, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to (1) adopt a trading license fee for calendar year 2012 and (2) eliminate the NYSE e-Broker® Hand Held Device fee and the NYSE e-Broker® Hand Held Device—Opening and Closing Order Imbalances Only (together the ''Hand Held Device fees''), the fee for approval of a pre-qualified substitute, and the badge maintenance fee. The text of the proposed rule change is available at the Exchange's principal office, at *www.nyse.com,* at the Commission's Public Reference Room, and at the Commission's Web site at *www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 its Price List to (1) adopt a trading license fee for calendar year 2012 and (2) eliminate the Hand Held Device fees, the fee for approval of a pre-qualified substitute, and the badge maintenance fee.

NYSE Rule 300(b) provides that, in each annual offering, up to 1366 trading licenses for the following calendar year will be sold annually at a price per trading license to be established each year by the Exchange pursuant to a rule filing submitted to the Commission and that the price per trading license will be published each year in the Exchange's price list. The Exchange proposes to leave the current trading license fees in place for 2012: $40,000 for the first two licenses held by a member organization, and $25,000 for each additional license. Fees will continue to be prorated for any portion of the year that a license may be outstanding.

The Exchange proposes to eliminate the $5,000 per year fee for NYSE e-Broker® Hand Held Devices, the $250 per month fee for NYSE e-Broker® Hand Held Device—Opening and Closing Order Imbalances Only, the $1,000 per year fee for approval of a pre-qualified substitute, and the $250 per year badge maintenance fee because it believes the transaction fees and the annual fee adequately cover any costs related to such approval and maintenance.

The Exchange proposes to make the rule change operative on January 1, 2012.

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''),[3] in general, and Section 6(b)(4) of the Act,[4] 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 proposal constitutes an equitable allocation of fees, as all similarly situated member organizations will be subject to the same fee structure and access to the Exchange's market is offered on fair and non-discriminatory terms. The Exchange also believes that the trading license is reasonable because it is the same as it was for last year.[5] The elimination of the Hand Held Device fees, the fee for approval of a pre-qualified substitute, and the badge maintenance fee is reasonable because the fees are not currently a significant source of revenue and the Exchange can instead cover any related costs via transaction fees and the annual trading license 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)[6] of the Act and subparagraph (f)(2) of Rule 19b–4[7] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE.

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:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] *See* Securities Exchange Act Release No. 64582 (June 2, 2011), 76 FR 33390 (June 8, 2011) (SR–NYSE–2011–23).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

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–NYSE–2011–71 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–NYSE–2011–71. 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–NYSE–2011–71 and should be submitted on or before February 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–319 Filed 1–10–12; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66106; File No. SR–NYSE–2011–73]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change by New York Stock Exchange LLC To Amend the Schedule of Rebates Paid to Supplemental Liquidity Providers for Providing Liquidity

January 5, 2012.

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 30, 2011, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to revise its schedule of rebates paid to Supplemental Liquidity Providers (''SLPs'') for providing liquidity on the Exchange. The text of the proposed rule change is available at the Exchange's principal office, at *www.nyse.com,* at the Commission's Public Reference Room, and at the Commission's Web site at *www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to revise its schedule of rebates paid to SLPs for providing liquidity on the Exchange.

Currently, under a tiered structure of credits, a SLP that meets the 10% average or more quoting requirement pursuant to NYSE Rule 107B in an assigned security with a per share stock price of $1.00 or more receives a credit per share per transaction for adding liquidity in the applicable month as follows:[3]

- $0.0020 credit per share per transaction if the SLP adds liquidity of an average daily volume of more than 10 million shares but not more than the greater of 15 million shares or 0.50% of consolidated average daily volume (''ADV'')[4] in NYSE listed securities for all assigned SLP securities; and
- $0.0021 credit per share per transaction if the SLP adds liquidity of the greater of (a) an ADV of more than 15 million shares but not more than 35 million shares or (b) more than 0.50% but not more that 1.25% of consolidated ADV in NYSE listed securities for all assigned SLP securities; and
- $0.0022 credit per share per transaction if the SLP adds liquidity of the greater of (a) an ADV of more than 35 million shares or (b) more than 1.25% of consolidated ADV in NYSE listed securities for all assigned SLP securities.

For example, under current procedures, if a SLP is assigned three securities and meets the 10% quoting requirement pursuant to NYSE Rule 107B for each assigned security, the SLP must add liquidity of at least 10 million shares ADV for all three assigned securities in the aggregate to receive a rebate per share of $0.0020. To receive a rebate of $0.0021 per share, the SLP must add liquidity of at least 15 million shares ADV for all three assigned securities in the aggregate, or the ADV for added liquidity of the three assigned securities must be at least 0.50% of the consolidated Tape A ADV, whichever is greater. Thus, if consolidated Tape A ADV is 4 billion shares, then the SLP's added liquidity for the three assigned

[3] *See* Securities Exchange Act Release No. 65062 (August 9, 2011), 76 FR 50529 (August 15, 2011) (SR–NYSE–2011–39).

[4] Consolidated ADV is equal to the volume reported by all exchanges and trade reporting facilities to the Consolidated Tape Association (''CTA'') Plan for Tape A (i.e., NYSE listed) securities.

stocks in the aggregate must be at least 20 million shares (or 0.5%. of 4 billion), since 0.5% of 4 billion is more than 15 million shares ADV for all three assigned securities.

The Exchange proposes to amend these credits as described below. A SLP that meets the 10% average or more quoting requirement in an assigned security pursuant to NYSE Rule 107B will receive a credit per share per transaction for adding liquidity as follows:

- $0.0020 credit per share per transaction if the SLP adds liquidity of an ADV of more than 10 million shares for all assigned SLP securities in the aggregate and, for each assigned SLP security, adds liquidity of not more than 1.0% of the consolidated ADV for that assigned SLP security in the applicable month; and
- $0.0021 credit per share per transaction if the SLP adds liquidity of an ADV of more than 10 million shares for all assigned SLP securities in the aggregate and, for each assigned SLP security, adds liquidity of more than 1.0% but not more than 2.5% of the consolidated ADV for that assigned SLP security in the applicable month; and
- $0.0022 credit per share per transaction if the SLP adds liquidity of an ADV of more than 10 million shares for all assigned SLP securities in the aggregate and, for each assigned SLP security, adds liquidity of more than 2.5% of the consolidated ADV for that assigned SLP security in the applicable month.

For example, under the proposed procedures, if a SLP is assigned three securities, S1, S2, and S3, and meets the 10% quoting requirement pursuant to NYSE Rule 107B for each assigned security, the SLP must add liquidity of at least 10 million shares ADV for all three assigned securities in the aggregate to receive a rebate per share of $0.0020 (''Tier 3''). To receive a rebate of $0.0021 per share for S1, the SLP must meet the Tier 3 requirements and must add liquidity of more than 1.0% but not more than 2.5% of the consolidated ADV for S1 (''Tier 2''). To receive a rebate of $0.0022 per share for S1, the SLP must meet the Tier 3 requirements and must add liquidity of more than 2.5% of the consolidated ADV for S1 (''Tier 1''). Assuming the SLP meets the 10% quoting requirement pursuant to NYSE Rule 107B, the following chart illustrates the application of the proposed rebates when the SLP adds liquidity to the extent specified below:

Assigned security	SLP provide ADV per security	Consolidated ADV per security	Percentage of consolidated ADV provided by SLP (%)
S1	6,000,000	100,000,000	6.0
S2	4,000,000	220,000,000	1.8
S3	2,000,000	250,000,000	0.8
Aggregate of all Assigned Securities	12,000,000		

The SLP would receive a Tier 3 rebate of $0.0020 per share for S3, because it added liquidity of at least 10 million shares for all assigned securities (12 million shares ADV total), but did not exceed 1.0% of the consolidated ADV for S3. The SLP would receive a Tier 2 rebate of $0.0021 per share for S2, because it added liquidity of at least 10 million shares for all assigned securities, exceeded 1.0% of the consolidated ADV for S2, but did not exceed 2.5% of consolidated ADV for S2. Lastly, the SLP would receive a Tier 1 rebate of $0.0022 per share for S1, because it added liquidity of at least 10 million shares for all assigned securities and exceeded 2.5% of the consolidated ADV for S3.

The calculation of consolidated ADV and SLP adding liquidity for an assigned SLP security will include only those days and volumes when the SLP security was assigned to a SLP and will also not include those days and volumes where the SLP security was not listed on the Exchange for trading. For example, if a SLP security is added or deleted in the middle of the month, then the volume and quoting requirements will be based on the average of the days when the SLP was acting as such during the calendar month.[5]

The proposed fee changes will be effective January 1, 2012.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of 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 the proposed pricing tiers are equitable and non-discriminatory because they are open to all SLPs on an equal basis and provide incentives that are reasonably related to a SLP's additional quoting and liquidity obligations in each security. The linking of the adding liquidity requirement to the percent of consolidated ADV for each individual security will reward SLPs for adding more liquidity and meeting the quoting requirement in an individual security, while also requiring the SLP to meet the total ADV of added liquidity requirement of 10 million shares. The Exchange notes that, while the proposed change in requirements to receive the rebates of $0.0021 and $0.0022 are reduced in the aggregate, they are increased on an individual stock basis. Lastly, the Exchange believes the requirement to meet a percentage of consolidated ADV in an individual security should increase incentive to add liquidity across more securities, including less active securities where there may be fewer liquidity providers and thus make it more likely to reach the individual percentage of consolidated ADV requirement than in more active securities.

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.

[5] In addition, ADV calculations also exclude early closing days. *See* note 4 of the Price List.

[6] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed 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 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–NYSE–2011–73 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–NYSE–2011–73. 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–NYSE–2011–73 and should be submitted on or before February 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–317 Filed 1–10–12; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66104; File No. SR–NYSEAmex–2011–107]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List Changing the Monthly Fees for the Use of Ports That Provide Connectivity to Its Equity Trading Systems

January 5, 2012.

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 30, 2011, NYSE Amex LLC (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to change the monthly fees for the use of ports that provide connectivity to its equity trading systems. The text of the proposed rule change is available at the Exchange's principal office, at *http://www.nyse.com,* at the Commission's Public Reference Room, and at the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 its Price List to change the monthly fees for the use of ports that provide connectivity to its equity trading systems.

Currently, the monthly fee for ports is $100 per pair per month up to five pairs, then $500 for each additional five pairs.[3] For example, the fee for seven pairs of ports is $1,000 per month. Billing for ports is based on the number of ports on the third business day prior to the end of the month. The level of activity with respect to a particular port does not affect the assessment of monthly fees, so even if a particular port that is available to a participant is not used, the participant is still billed for that port.

The Exchanges proposes that the new fee would be $300 per pair per month up to five pairs, then $1,500 for each additional five pairs. For example, the fee for seven pairs of ports would be $3,000 per month. The Exchange notes that billing for ports would continue to be based on the number of ports on the third business day prior to the end of the month. In addition, the level of activity with respect to a particular port would still not affect the assessment of monthly fees, so even if a participant does not use a particular port that is available to the participant, the participant would still be billed for that port.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63072 (October 7, 2010), 75 FR 64368 (October 19, 2010) (SR–NYSEAmex–2010–97) (the ''Adopting Release'').

Finally, as stated in the Adopting Release,[4] the port fee is charged per participant. The Exchange proposes to clarify in the Price List that per participant means per member organization for purposes of the port fees.[5]

The Exchange proposes to make the rule change operative on January 1, 2012.

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''),[6] in general, and Section 6(b)(4) of the Act,[7] 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 proposal constitutes an equitable allocation of fees, as all similarly situated member organizations and other market participants would be charged the same amount. In addition, access to the Exchange's market would be offered on fair and non-discriminatory terms.

With respect to the increase in port fees, the proposed fee increase for ports is expected to offset increasing connectivity costs, including additional costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support. The Exchange believes that its fees are competitive with those charged by other venues, and that, in some cases, its fee for port connectivity is less expensive than many of its primary competitors.[8]

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)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Amex.

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–2011–107 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–2011–107. 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–NYSEAmex–2011–107 and should be submitted on or before February 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–315 Filed 1–10–12; 8:45 am]

BILLING CODE 8011–01–P

[4] *See supra* note 4.

[5] The Exchange has a Common Customer Gateway (''CCG'') that accesses the equity trading systems that it shares with its affiliates, New York Stock Exchange LLC (''NYSE'') and NYSE Arca, Inc. (''NYSE Arca''), and all ports connect to the CCG. *See, e.g.,* Securities Exchange Act Release No. 64543 (May 25, 2011), 76 FR 31667 (June 1, 2011) (SR–NYSEAmex–2011–20). In the instance when an NYSE Amex member organization is also an NYSE member organization and it shares its ports, the same member is charged port fees based on the total number of ports connected to the CCG, whether they are used to trade on the Exchange, NYSE, or both because those trading systems are integrated. The NYSE Arca Equities trading platform is not integrated in the same manner; therefore, it does not share its ports with the Exchange or NYSE. An NYSE Arca ETP Holder is charged for each ETP identifier it uses to access the NYSE Arca Equities trading systems via a port connected to the CCG.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] *See, e.g.,* NASDAQ OMX Price List—Trading & Connectivity, available at *http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.* The Exchange notes that the charge for connectivity to Nasdaq's NY–Metro and Mid-Atlantic Datacenters is $500 per port pair/month (there is a separate charge for their Pre-Trade Risk Management ports which fees are capped at $25,000). See e.g., BZX Exchange Fee Schedule, available at *http://www.batstrading.com/FeeSchedule.* The Exchange notes that BZX charges $400 per month per pair (primary and secondary data center) of any logical port other than a Multicast PITCH Spin Server Port or GRP Port, but does provide multicast PITCH customers 12 free pairs of Multicast PITCH Spin Server Ports, and, if such ports are used, one free pair of GRP Ports; $400.00 per month per additional set of 12 pairs of Multicast PITCH Spin Server Ports or additional pair of GRP Ports. However, the Multicast PITCH Spin Server Ports and GRP ports relate to market data dissemination while the proposed port fee charge relates to connectivity to the Exchange, therefore the proposed fee change will still be lower to the equivalent BZX port fee charge of $400 per month per pair for a logical port.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66109; File No. SR–FINRA–2011–075]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Amend the Code of Arbitration Procedure for Industry Disputes To Preclude Collective Action Claims From Being Arbitrated

January 5, 2012.

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 22, 2011, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Rule 13201 of the Code of Arbitration Procedure for Industry Disputes (''Industry Code'') to preclude collective action claims by employees of FINRA members under the Fair Labor Standards Act (FLSA), the Age Discrimination in Employment Act (ADEA), or the Equal Pay Act of 1963 (EPA) from being arbitrated under the Industry Code.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Current Rules 12204 of the Code of Arbitration Procedure for Customer Disputes (Customer Code) and 13204 of the Industry Code (together, class action rules) provide that any claim that is based upon the same facts and law, and involves the same defendants as in a court-certified class action or a putative class action, shall not be arbitrated, unless the party bringing the claim files with FINRA one of the following: (1) A copy of a notice filed with the court in which the class action is pending that the party will not participate in the class action or in any recovery that may result from the class action, or has withdrawn from the class according to any conditions set by the court; or (2) a notice that the party will not participate in the class action or in any recovery that may result from the class action.

In 1999, FINRA issued an Interpretive Letter (FINRA Letter) stating that its class action rules should include collective action claims brought under the FLSA[3] and, therefore, has considered these claims ineligible for arbitration in its forum.[4] Nevertheless, in *Hugo Gomez et al.* v. *Brill Securities, Inc. et al.,* the United States District Court for the Southern District of New York found that an FLSA collective action is not a class action for purposes of Rule 13204 of the Industry Code and, thus, compelled arbitration of the claim in FINRA's dispute resolution forum.[5]

As the court found that FINRA's interpretation of its class action rules did not expressly exclude collective actions from being arbitrated in the forum, FINRA is proposing to amend its class action rule of the Industry Code to preclude collective action claims under the FLSA from being arbitrated in its forum. As a collective action claim also may be filed pursuant to the ADEA[6] or EPA,[7] FINRA is proposing to preclude these claims from being arbitrated as well. The Customer Code would not be amended because, for the FLSA, ADEA or EPA to apply, there must be an employment relationship between an ''employer'' and ''employee.''[8]

United States District Court Decision

In *Gomez,* the plaintiffs, registered representatives formerly employed by Brill Securities, Inc. (Brill), filed an FLSA collective action claim seeking unpaid overtime compensation on behalf of similarly situated former and current Brill stockbrokers. They relied on the FINRA Letter, which concludes that FLSA claims should be considered ineligible for arbitration in the NASD Regulation (now FINRA) forum.[9] The court found that the FINRA Letter did not, however, distinguish between collective and class actions and, therefore, did not expressly preclude collective actions from being eligible for arbitration at FINRA. The *Gomez* court was not persuaded by the FINRA Letter and concluded that the differences between a class action and an FLSA collective action undercut FINRA's position that collective actions should be treated like class actions. Based on its analysis, the court found that an FLSA collective action is not a class action for purposes of Rule 13204, and compelled arbitration of the plaintiffs' claims.[10]

Collective Actions Under the FLSA, ADEA, and EPA

As stated above, under the FLSA, ADEA, and EPA, courts are permitted to certify a collective action,[11] rather than a class action, under the Federal Rules

[3] *See* 29 U.S.C. 201 *et seq.*

[4] *See, e.g.,* FINRA Interpretive Letter to Cliff Palefsky, Esq., dated Sept. 21, 1999. The letter is available at *http://www.finra.org/Industry/Regulation/Guidance/InterpretiveLetters/P002521* (last visited on June 7, 2011).

[5] *Hugo Gomez et al.* v. *Brill Securities, Inc. et al.,* No. 10 Civ. 3503, 2010 U.S. Dist. LEXIS 118162 (S.D.N.Y. Nov. 2, 2010).

[6] *See* 29 U.S.C. 621 *et seq.* The relief provisions of the ADEA incorporate Section 16 of the FLSA, which outlines the penalties for violations of the statute, and state that the ADEA shall be enforced by the ''powers, remedies and procedures'' of the FLSA. *See* 29 U.S.C. 626(b).

[7] *See* 29 U.S.C. 206(d). The EPA, which is part of FLSA as amended, is administered and enforced by the United States Equal Employment Opportunity Commission. The relief provisions of the EPA also incorporate Section 16 of the FLSA.

[8] *See* U.S. Department of Labor, ''What does the Fair Labor Standards Act require?,'' elaws—Fair Labor Standards Act Advisor, available at *http://www.dol.gov/elaws/esa/flsa/screen5.asp* (last visited July 26, 2011).

[9] *Supra* note 4 at 2.

[10] *Supra* note 7. Several courts have agreed with this finding when they considered whether an FLSA collective action is arbitrable under FINRA rules. *See, e.g., Velez* v. *Ph.D. Capital Corp.,* No. 10 Civ. 3735, 2011 U.S. Dist. LEXIS 16678 (S.D.N.Y. Feb. 3, 2011); *Suschil* v. *Ameriprise Financial Servs., Inc.,* No. 07 Civ. 2655, 2008 U.S. Dist. LEXIS 27903 (N.D. Ohio Apr. 7, 2008); and *Chapman* v. *Lehman Bros., Inc.,* 279 F. Supp. 2d 1286 (S.D. Fla. 2003).

[11] *See Hyman* v. *First Union Corp.,* 982 F. Supp. 1, 26 (D.D.C. 1997) (approving two collective actions for (1) former bank employees and (2) persons seeking employment, alleging age discrimination under the ADEA). *See also Schwed* v. *General Electric Co.,* No. 94–CV–1308, 1997 U.S. Dist. LEXIS 5103 at *10 (N.D.N.Y. April 11, 1997) (approving collective action for former employees of an industrial power plant alleging age discrimination); *Jarvaise et al.* v. *Rand Corporation,* Civil Action No. 96–2680, 212 F.R.D. 1 (D.D.C. 2002) (certifying class of all female Rand employees in exempt positions under EPA).

of Civil Procedure.[12] One difference between a collective action and a class action is that, under the collective action statutes, collective action members must affirmatively consent or ''opt-in'' to become a member of a collective action to benefit or be bound by the judgment. This means that a collective action member will not be bound by the case, unless the person affirmatively consents to become a member.[13] This requirement effectively protects the interests of absent class members, because a lack of consent to join a collective action would not preclude them from pursuing their claims in other forums.[14]

Proposed Amendments to Rule 13204

FINRA is proposing, therefore, to amend Rule 13204 of the Industry Code to preclude collective actions from being arbitrated in the forum.

The current rule would be separated into two sections: Subparagraph (a) for class actions, and subparagraph (b) for collective actions. Subparagraph (a) would be titled, ''Class Actions,'' and re-numbered. Subparagraph (b) would be titled, ''Collective Actions,'' and would contain four subparagraphs.

First, proposed Rule 13204(b)(1) would state that collective action claims under the FLSA, the ADEA, or the EPA may not be arbitrated under the Code. FINRA believes that, although collective actions are opt in actions, once a court grants approval for the collective action to proceed under a federal statute, the claims in dispute are administered like a class action, and, therefore, should be ineligible for arbitration in FINRA's forum. Moreover, FINRA believes that collective actions, like class actions, should be handled by the judiciary system, which has extensive procedures to manage such claims.

Second, under proposed Rule 13204(b)(2), any claim that involves similarly-situated [15] plaintiffs against the same defendants, like a court-certified collective action or a putative collective action,[16] would not be arbitrated in FINRA's arbitration forum. Thus, if an associated person opts in to a collective action, that person could not arbitrate the same claims in FINRA's arbitration forum. The proposed rule would not prevent an associated person from opting in to a collective action in court. However, an associated person would be required to choose the forum—either arbitration or court—that the person believes would address effectively the issues in dispute. Further, under proposed Rule 13204(b)(2), a case in which a court orders the plaintiffs to file as a collective action at a forum not sponsored by a self-regulatory organization would be ineligible for arbitration at FINRA.

Third, proposed Rule 13204(b)(3) would give arbitrators the authority to decide disputes about whether a claim is part of a collective action. This provision would be consistent with the proposed, renumbered class action rule, Rule 13204(a)(3), in that the panel decides the merits and disposition of an arbitration claim. Alternatively, under the proposed rule, parties may ask the court hearing the collective action to resolve the dispute concerning whether the claim is part of the collective action within 10 days of receiving notice that the Director has decided to refer the dispute to a panel.

Fourth, proposed Rule 13204(b)(4) would prohibit a member firm or associated person from enforcing any arbitration agreement against a member of a certified or putative collective action with respect to any claim that is the subject of the certified or putative collective action until either the collective certification is denied or the group is decertified. This proposed rule clarifies that the existence of a certified or putative collective action nullifies any pre-dispute arbitration agreements. If, however, a court denies a plaintiff's request to certify a collective action or the court decertifies the collective action, the pre-dispute arbitration agreement would be enforceable, and FINRA would arbitrate the claims.

Finally, FINRA is proposing to amend grammatical references in the concluding paragraph of Rule 13204 to clarify that it applies to class actions as well as collective actions.

FINRA believes the proposed rule would facilitate the efficient resolution of collective actions, as the courts have established procedures to manage these types of representative actions. Moreover, FINRA believes access to courts for class or collective action litigation should be preserved for associated persons, and the proposal accomplishes this goal.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[17] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposal would facilitate the efficient resolution of collective actions, as courts have established procedures to manage these types of representative actions. Further, FINRA believes preserving access to courts for these types of claims for associated persons protects the public interest as it permits associated persons and the forum to allocate resources effectively.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition or capital formation that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Further, FINRA believes that the proposal will promote efficiency in the arbitration forum as class and collective actions will be administered by the judicial system, which have established procedures to manage such cases.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 will:

(A) By order approve or disapprove such proposed rule change, or

[12] Fed. R. Civ. P. 23.

[13] *Cathy Ventrell-Monsees, Representative and Collective Actions Under the ADEA Class Actions in Employment Law: Class Action Basics, Aug. 10, 1999, http://www.bna.com/bnabooks/ababna/annual/99/adeaclas.pdf at 1–3.*

[14] *See Saincome* v. *Truly Nolen of America, Inc.,* No. 11–CV–825–JM, 2011 U.S. Dist. LEXIS 85880 (S.D.CA. Aug. 3, 2011) (affirming that 29 U.S.C. 216(b) of FLSA permits class members to participate in a collective action on an opt-in basis only, thus preserving absent parties' rights to proceed with the claim in arbitration).

[15] The FLSA uses the term ''similarly-situated,'' but does not define it. *See* 29 U.S.C. 216(b). However, its meaning can be understood by considering two criteria that a plaintiff must demonstrate under the FLSA: (1) That there are common questions of law or fact, and (2) that the claims or defenses are typical of those of the class of plaintiffs. *See supra* note 3.

[16] Before a collective action is certified, courts often refer to the case as a putative collective action.

[17] 15 U.S.C. 78o–3(b)(6).

(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–FINRA–2011–075 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2011–075. 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 FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–FINRA–2011–075 and should be submitted on or before February 1, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–310 Filed 1–10–12; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66102; File No. SR–CME–2011–22]

Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Certain Fee Programs in Connection With Its OTC Interest Rate Swap Clearing Offering

January 5, 2012.

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 22, 2011, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which items have been prepared primarily by CME. CME filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(2)[4] thereunder.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Change

CME is proposing to make certain fee-related changes that would apply to its OTC Interest Rate Swap clearing offering. The text of the proposed changes is as follows:[5]

CME Incentive Program for Over-the-Counter Interest Rate Swaps

Program Purpose

The purpose of the Program is to incentivize participants to increase the volume in CME over-the-counter (''OTC'') interest rate swaps which will improve market liquidity. The resulting addition of liquidity for these Products (as defined below) benefits all participants in the market.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] The text of the proposed changes does not appear in CME's rulebook but is available on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html*. Telephone conference between Tim Elliot, Director and Associate General Counsel, CME, and Doyle Horn, Special Counsel, Securities and Exchange Commission Division of Trading and Markets on January 4, 2012.

Product Scope

CME OTC Interest Rate Swaps cleared by the Clearing House (''Products'').

Eligible Participants

CME may designate up to five (5) participants in the Program based on their level of expertise and experience with the Products. Participants may be CME members and/or non-members.

CME will also take potential participants' experience in the Products and historical volume in the Products with the Clearing House when making its selections.

Program Term

Non-Asset Managers

Qualification Period: January 6, 2012 through December 31, 2012.

Earned Incentive Period: January 1, 2013 through December 31, 2016.

Asset Managers

Qualification Period: January 6, 2012 through December 31, 2012.

Earned Incentive Period: January 1, 2013 through December 31, 2021.

Hours

N/A.

Obligations

Participants must provide designated accounts to CME in order for the account to receive consideration for the incentives described below.

Incentives

1. Fee Discounts. Once accepted into the Program, participants will be eligible to receive predetermined discounts for transaction fees and maintenance fees in the Products during the Term.

2. Volume Discount Incentives. Additionally, once accepted into the Program, participants may qualify for predetermined fee discounts based on the overall fees charged for transactions in the Products submitted to the Clearing House during the Qualification Period.

Monitoring and Termination of Status

The Clearing House shall monitor participants' activity and performance and shall retain the right to revoke Program participant status if they conclude from review that a Program participant no longer meets the eligibility requirements of the Program.

* * * * *

Founding Member Over-the-Counter Interest Rate Swap Incentive Program

Program Purpose

The purpose of the Program is to provide more liquid markets in OTC

Interest Rate Swap products. By incentivizing large market participants CME expects to bring in increased volume. The resulting addition of liquidity of these products benefits all participants in the market.

Product Scope

CME OTC Interest Rate Swaps that are cleared by the Clearing House (''Products'').

Eligible Participants

CME selected the participants based on their ability to provide liquidity, client clearing and risk management expertise as well as their willingness to design and test the offering on an on-going basis.

Program Term

Start date is January 6, 2012. End date is December 31, 2012.

Hours

N/A.

Incentives

Discounted Fees. Participants will be eligible to receive predetermined discounts for transaction fees regarding the Products.

* * * * *

The text of the proposed changes is also available at the Exchange's Web site at *http://www.cmegroup.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

CME currently offers clearing for certain OTC Interest Rate Swap products. The filing proposes to establish two new fee programs (the ''Programs'') that will apply to CME's OTC Interest Rate Swap (''IRS'') clearing offering.[6] The proposed changes that are the subject of this filing are related to the fees CME charges for clearing and therefore will become effective upon filing. However, the Programs will become operative on January 6, 2012.

The Programs include two separate fee programs. The first is a volume incentive program that is designed to incentivize participants to increase their volume in CME OTC IRS through predetermined fee discounts for transaction fees and maintenance fees. The volume incentive program may include up to five participants (including CME members and/or non-members) designated by CME based on factors including potential participants' experience in IRS activities and historical volumes in IRS with CME. The second program will feature certain predetermined discounts for transaction fees. Eligible participants will include participants selected by CME based on their ability to provide liquidity, client clearing and risk management expertise, as well as their willingness to assist CME in designing and testing its IRS clearing offering.

Pursuant to Commodity Futures Trading Commission (''CFTC'') regulations, the Programs have been interpreted by CME as an incentive program subject to CFTC Regulation 40.6(d), requiring a self certification filing to the CFTC, although no change to text of the CME rulebook is required. CME notes that it has already certified the proposed changes that are the subject of this filing to its primary regulator, the CFTC. The text of the CME proposed changes is attached.

(b) Statutory Basis

The proposed changes establish or change a member due, fee or other charge imposed by CME under Section 19(b)(3)(A)(ii) of the Exchange Act and Rule 19b–4(f)(2) thereunder. CME believes that the proposed changes are consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder and, in particular, to Section 17A(b)(3)(iv), in that it provides for the equitable allocation of reasonable dues, fees and other charges among participants. CME notes that it operates in a highly competitive market in which market participants can readily direct business to competing venues.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change was filed pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(2) of Rule 19b–4 and became effective on filing. At any time within sixty days of the filing of such 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 may be submitted by using 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–CME–2011–22 on the subject line.
- Paper comments should be sent 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–CME–2011–22. 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

[6] The staff notes that CME's general fee schedule for OTC Interest Rate Swap clearing offering was previously filed with the Commission and became effective on December 20, 2011. *See* Exchange Act Release No. 34–66029 (Dec. 22, 2011), 76 FR 82005 (Dec. 29, 2011) (SR–CME–2011–20).

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 CME. 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–CME–2011–22 and should be submitted on or before February 1, 2012.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–305 Filed 1–10–12; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 7750]

60-Day Notice of Proposed Information Collection: DS–260, Electronic Application for Immigration Visa and Alien Registration, 1405–0185

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Electronic Application for Immigration Visa and Alien Registration.
- *OMB Control Number:* 1405–0185.
- *Type of Request:* Extension.
- *Originating Office:* Bureau of Consular Affairs, Visa Services (CA/VO/L/R)
- *Form Number:* DS–260.
- *Respondents:* Immigrant Visa Applicants.
- *Estimated Number of Respondents:* 700,000.
- *Estimated Number of Responses:* 700,000.
- *Average Hours per Response:* 2 hours.
- *Total Estimated Burden:* 1,400,000.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to Obtain Benefits.

DATES: The Department will accept comments from the public up to 60 days from January 11, 2012.

ADDRESSES:

- Web: Persons with access to the Internet may view and comment on this notice by going to the regulations.gov Web site at *http://www.regulations.gov/#!home* and searching for the Public Notice number indicated at the beginning of this notice.
- Mail (paper, disk, or CD–ROM submissions): Chief, Legislation and Regulations Division, Visa Services—DS–260, 2401 E Street NW., Washington DC 20520–30106.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Sydney Taylor of the Visa Services Directorate, Bureau of Consular Affairs, U.S. Department of State, 2401 E Street NW., L–630, Washington, DC 20520–30106, who may be reached at *taylors2@state.gov*.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: Form DS–260 will be used to elicit information to determine the eligibility of aliens applying for immigrant visas.

Methodology: The DS–260 will be submitted electronically to the Department via the Internet. The applicant will be instructed to print a confirmation page containing a 2–D bar code record locator, which will be scanned at the time of processing. Applicants who submit the electronic application will no longer submit paper-based applications to the Department.

Dated: December 20, 2011.

David T. Donahue,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2012–359 Filed 1–10–12; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 7751]

60-Day Notice of Proposed Information Collection: DS–261, Electronic Choice of Address and Agent, OMB Control Number 1405–0186

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Electronic Choice of Address and Agent.
- *OMB Control Number:* 1405–0186.
- *Type of Request:* Extension.
- *Originating Office:* Bureau of Consular Affairs, Visa Services (CA/VO/L/R).
- *Form Number:* DS–261.
- *Respondents:* Immigrant beneficiaries requesting change of address or designation of an authorized agent.
- *Estimated Number of Respondents:* 700,000.
- *Estimated Number of Responses:* 700,000.
- *Average Hours per Response:* 10 minutes.
- *Total Estimated Burden:* 116,666.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: The Department will accept comments from the public up to 60 days from January 11, 2012.

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

- *Web:* Persons with access to the Internet may view and comment on this notice by going to the regulations.gov Web site at *http://www.regulations.gov/index/#!home* and searching for the Public Notice number indicated at the beginning of this notice.
- *Mail (paper, disk, or CD–ROM submissions):* Chief, Legislation and Regulations Division, Visa Services—DS–160, 2401 E Street NW., Washington DC 20520–30106.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Sydney Taylor, Visa Services, U.S. Department of State, 2401 E Street NW., L–603, Washington, DC 20522, who may be reached at *taylors2@state.gov*.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

The DS–261 allows the beneficiary of an approved and current immigrant visa petition to provide the Department with his current address, which will be used for communications with the beneficiary. The DS–261 also allows the beneficiary to appoint an agent to receive mailings from the National Visa Center (NVC) and assist in the filing of various application forms and/or paying the required fees. The beneficiary is not required to appoint an agent but must provide current contact information. All cases will be held at NVC until the DS–261 is electronically submitted to the Department. If the form is not electronically submitted to the Department within one year, NVC will begin the case termination process.

Methodology

The DS–261 will be submitted electronically to the Department via the Internet. Applicants who submit the electronic form will no longer submit paper-based applications to the Department.

Dated: December 21, 2011.

David T. Donahue,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2012–361 Filed 1–10–12; 8:45 am]

BILLING CODE 4710–06–P

TENNESSEE VALLEY AUTHORITY

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: 30-Day notice of submission of information collection approval and request for comments.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1).

ADDRESSES: Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Mark Winter, Tennessee Valley Authority, 1101 Market Street (MP–3C), Chattanooga, Tennessee 37402–2801; (423) 751–6004.

DATES: Comments should be sent to the Agency Clearance Officer no later than *February 10, 2012.*

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Land Use Survey Questionnaire—Vicinity of Nuclear Power Plants.

Frequency of Use: Annual.

Type of Affected Public: Individuals or households, and farms.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 150.

Estimated Total Annual Burden Hours: 37.5.

Estimated Average Burden Hours Per Response: .25.

Need For and Use of Information: This survey is used to locate, for monitoring purposes, rural residents, home gardens, and milk animals within a five mile radius of a nuclear power plant. The monitoring program is a mandatory requirement of the Nuclear Regulatory Commission set out in the technical specifications when the plants were licensed.

Michael T. Tallent,

Director, Enterprise Information Security & Policy.

[FR Doc. 2012–191 Filed 1–10–12; 8:45 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

U.S.–EU High Level Working Group on Jobs and Growth

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments.

SUMMARY: At the November 28, 2011, European Union (EU)-United States Summit meeting, President Obama, European Commission President Barroso, and European Council President Von Rompuy directed the Transatlantic Economic Council to establish a High Level Working Group on Jobs and Growth, led by U.S. Trade Representative Ron Kirk and EU Trade Commissioner Karel De Gucht. The Working Group was asked to identify policies and measures to increase U.S.–EU trade and investment to support mutually beneficial job creation, economic growth, and international competitiveness. The Leaders also asked the Working Group to work closely with public and private sector stakeholder groups, and to draw on existing dialogues and mechanisms, as appropriate.

To ensure that it has access to a wide range of views, ideas, and options concerning policies and measures to increase transatlantic trade and investment, the Working Group plans to consult extensively with business, nongovernmental organizations, academia, and other stakeholders. As part of this process, and consistent with the Leaders' mandate, the U.S. Government welcomes written input from members of the public on options for increasing trade and investment in areas including, but not limited to, the following:

- Conventional barriers to trade in goods, such as tariffs and tariff-rate quotas;
- Reduction, elimination, or prevention of barriers to trade in goods, services, and investment;
- Opportunities for enhancing the compatibility of regulations and standards;
- Reduction, elimination, or prevention of unnecessary ''behind the border'' non-tariff barriers to trade in all categories;
- Enhanced cooperation for the development of rules and principles on global issues of common concern and also for the achievement of shared economic goals relating to third countries.

For each option or proposal that is suggested, submissions should seek to assess:

- the short- and medium-term impact on economic growth, job creation, and competitiveness;
- the feasibility; and
- the implications for, and consistency with, bilateral and multilateral trade obligations.

DATES: Written comments should be submitted no later than February 3, 2012.

FOR FURTHER INFORMATION CONTACT: David Weiner, Deputy Assistant U.S. Trade Representative for Europe, (202) 395–9679, or Kate Kalutkiewicz, Director for European Affairs, (202) 395–9460, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508.

SUPPLEMENTARY INFORMATION:

Background: Transatlantic trade and investment flows constitute the largest economic relationship in the world, creating jobs, increasing economic growth, and driving competitiveness on both sides of the Atlantic. The United States and the EU are committed to identifying new ways of strengthening their economic relationship and developing its full potential. A number of studies and proposals have advocated new bilateral trade, investment, and other economic agreements to access the untapped economic opportunities of the relationship. The High Level Working Group on Jobs and Growth will consider these and other proposals aimed at promoting job creation and growth through expanded trade and investment.

Upon completing its analysis, the Working Group will consider and recommend practical means necessary to implement any policy measures it identifies. These could include a range of possible initiatives, from enhanced regulatory cooperation to negotiation of one or more bilateral trade agreements addressing the issues above.

The Working Group will provide an interim update to Leaders on the status of its work in June 2012. It will submit a report with findings, conclusions, and recommendations to the Leaders by the end of 2012.

Submissions: To facilitate expeditious handling, the public is strongly encouraged to submit documents electronically via *http://www.regulations.gov,* docket number USTR–2012–0001. Submissions should contain the term ''U.S.–EU High Level Working Group'' in the ''Type comment:'' field on *http://www.regulations.gov.* To find the docket, enter the docket number in the ''Enter Keyword or ID'' window at the *http://www.regulations.gov* home page and click ''Search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notices'' under ''Document Type'' on the search-results page, and click on the link entitled ''Submit a Comment.'' (For further information on using the *http:www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on the ''Help'' tab.) The *http://www.regulations.gov* Web site provides the option of making submissions by filling in a comments field, or by attaching a document. USTR prefers submissions to be provided in an attached document. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Comments'' field.

L. Daniel Mullaney,

Assistant U.S. Trade Representative for Europe and the Middle East.

[FR Doc. 2012–329 Filed 1–10–12; 8:45 am]

BILLING CODE 3190–W2–P

DEPARTMENT OF TRANSPORTATION

Meeting and Webinar on Integrated Dynamic Transit Operations; Notice of Public Meeting

AGENCY: Research and Innovative Technology Administration, U.S. Department of Transportation.

ACTION: Notice.

The U.S. Department of Transportation (USDOT) Intelligent Transportation System Joint Program Office (ITS JPO) will host a free public meeting and webinar to obtain stakeholder input on concepts, opportunities, and needs for the Integrated Dynamic Transit Operations (IDTO) operational concept on January 26, 2012 from 1:30–4:30 p.m. and January 27, 2012 from 8:30 a.m. to 12:30 p.m. (EST) at the Washington Marriott Wardman Park, Washington Room, 2660 Woodley Road NW., Washington, DC 20008.

Persons planning to attend any part of the public meeting or participate in the three-hour webinar should register by January 19, 2012 using the following link: *http://www.itsa.org/component/forme/?fid=6.* For additional questions, please contact Adam Hopps at *ahopps@itsa.org* or (202) 680–0091.

The IDTO public meeting will bring stakeholders together as part of an interactive forum to discuss opportunities, needs, transformative goals, and performance measures. Outcomes from this workshop will provide an important foundation to the overall vision and an operational concept for the IDTO. The first half of the public meeting will be delivered via webcast for those participants who are not able to participate in person. An electronic feedback form will be made available to allow participants to provide additional input. The meeting will follow the Transportation Research Board annual meeting.

Background

The overarching goal of the Transit Connected Vehicle for Mobility program is to improve public transportation by increasing transit productivity, efficiency, and accessibility; mitigating congestion in an integrated transportation environment; and providing travelers better transportation information and transit services. Transit-oriented Connected Vehicle for Mobility applications support dynamic system operations and management, enable a convenient and quality travel experience, and provide an information-rich environment to meet the needs of travelers and system operators across all modes.

Issued in Washington, DC on the 4th day of January 2012.

John Augustine,

Managing Director, ITS Joint Program Office.

[FR Doc. 2012–313 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Emergency Locator Transmitters (ELTs)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to cancel Technical Standard Order (TSO)–C91a, Emergency Locator Transmitter (ELT) Equipment.

SUMMARY: This notice announces the FAA's intent to cancel TSO–C91a, Emergency Locator Transmitter (ELT) Equipment. The effect of the cancelled TSO will result in no new TSO–C91a design or production approvals. However, cancellation will not affect production according to an existing TSO authorization (TSOA). Articles produced under an existing TSOA can still be installed according to existing airworthiness approvals and applications for new airworthiness approvals will still be processed. This action does not impact operation of TSO–C91a ELTs, and these ELTs will continue to satisfy the 14 Code of

Federal Regulation (14 CFR) § 91.207 ELT equipage requirement.

DATES: Comments must be received on or before February 10, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Sayadian, AIR–130, Federal Aviation Administration, 470 L'Enfant Plaza, Suite 4102 Washington, DC 20024. Telephone (202) 385–4652, fax (202) 385–4651, email to: *Albert.Sayadian@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the cancellation of the TSO by submitting written data, views, or arguments to the above address. You are requested to use the attached comment sheet to make the comment review process more efficient. Comments received may be examined, both before and after the closing date, in suite 4102 at the above address, weekdays except federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date.

Background

On December 23, 1992, the FAA published technical standard order (TSO–C126), *406 MHz Emergency Locator Transmitters (ELT),* for which numerous TSO authorizations have been approved. On December 17, 2008, the FAA published a revision to the TSO, TSO–C126a. The TSO is a minimum performance standard for ELTs that utilize the 406.0 to 406.1 MHz band. TSO–C126 and TSO–C126a 406 MHz ELTS are monitored by the Cospas-Sarsat system, an international satellite-based search and rescue (SAR) distress alert detection and information distribution system.

On February 1, 2009 Cospas-Sarsat stopped processing signals from 121.5 MHz ELTs. It now only processes signals from 406 MHz ELTs. The decision to discontinue processing of the 121.5 MHz signal was made by the International Cospas-Sarsat program with guidance from the United Nations. This was made due to the problems within the 121.5 MHz frequency band which inundated SAR authorities with poor accuracy and numerous false alerts, thus impacting the effectiveness of lifesaving services. The 406 MHz ELT technology is an advance over the older 121.5 MHz ELT technology.

TSO–C126a incorporates technology that makes the ELT equipment more accurate and reliable than the 121.5 MHz ELT equipment built to the minimum performance standards in TSO–C91a. Examples of these improvements are: (1) Global satellite coverage; (2) a unique beacon identification which is required to be registered so that if an alert is launched the rescued coordination center can confirm whether the distress is real, who they are looking for, and where the search should begin; (3) 406 MHz ELTs can be received by geostationary satellites which are always visible and provide instantaneous alerting and, (4) increased position accuracy that reduces the search area to less than two nautical miles in radius. Additionally, 406 MHz ELTs which have a GPS position input can potentially reduce the search area to within 100 yards of the accident site.

The performance and benefits of TSO–C126a equipment surpasses TSO–C91a equipment. The 406 MHz technology is mature and prevalent in the ELT market today. The FAA feels new TSO authorizations for ELTs should be accomplished to TSO–C126a, or subsequent, and it is appropriate to cancel TSO–C91a.

Susan J. M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 2012–300 Filed 1–10–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In December 2011, there were two applications approved. This notice also includes information on two other applications, one approved in September 2011 and one approved in November 2011, inadvertently left off the September 2011 and November 2011 notices, respectively. Additionally, nine approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: County of Onslow, Jacksonville, North Carolina.

Application Number: 11–08–C–00–0AJ.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $10,066,502.

Earliest Charge Effective Date: November 1, 2011.

Estimated Charge Expiration Date: April 1, 2029.

Class of Air Carriers Not Required To Collect PEG's: Air taxi commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Albert J. Ellis Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal development—design and construction.
Site utilities—design and construction.
Stormwater facilities—design and construction.
Airside/apron—design and construction.
Landside/roadway—design and construction.
General aviation terminal/apron—design and construction.
Airport beacon relocation—design and construction.
Air traffic control tower site study.
Security/wildlife fencing—design and construction.
Airfield drainage improvements—design and construction.
Emergency access road improvements—design and construction.
PFC application development.
PFC program administration.

Brief Description of Projects Approved for Collection:

Land acquisition.
Air traffic control tower design.
Air traffic control tower construction.

Brief Description of Disapproved Project:

Maintenance equipment building—design.

Determination: Disapproved. The FAA determined that this project does not meet the requirements of § 158.15(b). It is not eligible in accordance with paragraph 501 of FAA Order 5100.38C, Airport Improvement Program Handbook, June 28, 2005.

Decision Date: September 8, 2011.

For Further Information Contact: John Marshall, Atlanta Airports District Office, (404) 305–7153.

Public Agency: Cities of Fort Collins and Loveland, Loveland, Colorado.

Application Number: 11–07–C–00–FNL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $403,699.

Earliest Charge Effective Date: February 1, 2012.

Estimated Charge Expiration Date: March 1, 2015.

Classes of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Terminal modular building utility upgrades.

Terminal modular building electrical upgrades.

Purchase and install terminal modular #2.

Survey, geotechnical and design of general aviation ramp rehabilitation.

Airport geographic information system plan and submission.

Complete T-Hangar pavement rehabilitation—taxi lanes 1 and 3 (east).

Perimeter security fencing.

General aviation ramp rehabilitation.

Purchase snow removal equipment.

Acquire aircraft rescue and firefighting vehicle.

Construct commercial apron expansion.

Airport terminal expansion concept design.

Airport terminal expansion site work.

Airport terminal expansion (phase 1).

Construct taxiway F.

Decision Date: November 28, 2011.

For Further Information Contact: Jesse Lyman, Denver Airports District Office, (303) 342–1262.

Public Agency: Cedar City Corporation, Cedar City, Utah.

Application Number: 12–02–C–00–CDC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $170,000.

Earliest Charge Effective Date: February 1, 2012.

Estimated Charge Expiration Date: March 1, 2016.

Class of Air Carriers Not Required to Collect PFC'S: Non-scheduled/on demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Cedar City Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Construct corporate apron.

Construct taxiway Delta (widening).

Rehabilitate helipad.

Construct snow removal building.

Brief Description of Withdrawn Project: Rehabilitate runway 8/26.

Date of Withdrawal: December 14, 2011.

Decision Date: December 16, 2011.

For Further Information Contact: Jesse Lyman, Denver Airports District Office, (303) 342–1262.

Public Agency: Mason City Airport Commission, Mason City, Iowa.

Application Number: 12–03–C–00–MCW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $705,756.

Earliest Charge Effective Date: April 1, 2014.

Estimated Charge Expiration Date: February 1, 2020.

Classes of Air Carriers Not Required To Collect PFC's: (1) Air taxi/commercial operators; and (2) commuter or small-certificated air carriers filing Department of Transportation Form T–100.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Mason City Municipal Airport.

Brief Description of Projects Approved for Collection and Use:

Aircraft rescue and firefighting vehicle.

Taxi lane extension.

Security checkpoint.

Runway 18/36 rehabilitation and localizer relocation.

Runway 12/30 rehabilitation phase 1 and runway protection zone land.

Runway 12/30 rehabilitation phase 2.

Taxiway Alpha rehabilitation.

Perimeter fence.

Rehabilitate taxiway BC.

Friction meter.

PFC administration.

Decision Date: December 19, 2011.

For Further Information Contact: Mark Schenkelberg, Central Region Airports Division, (816) 329–2645.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
10–04–C–01–BTV Burlington, VT	11/23/11	$17,298,103	$17,467,574	03/01/14	04/01/14
03–03–1–02–GLH Greenville, MS	11/29/11	88,495	21,327	12/01/05	12/01/05
05–04–C–02–GLH Greenville, MS	11/29/11	135,614	135,614	08/01/08	08/01/08
05–04–C–03–GLH Greenville, MS	11/29/11	135,614	124,964	08/01/08	08/01/08
08–05–C–01–GLH Greenville, MS	11/29/11	39,427	37,468	08/01/11	08/01/11
01–03–C–02–LWS Lewiston, ID	12/05/11	1,300,088	1,678,251	02/01/12	12/01/12
91–01–C–03–SAV Savannah, GA	12/07/11	49,908,639	48,179,908	12/01/10	02/01/10
00–03–C–02–0KC Oklahoma City, OK	12/14/11	116,951,506	115,050,416	08/01/20	05/01/20
10–02–C–01–PHF Newport News, VA	12/21/11	18,910,908	15,866,709	03/01/20	03/01/17

Issued in Washington, DC, on January 4, 2012.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2012–240 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2011–40]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATE: Comments on this petition must identify the petition docket number and must be received on or before January 31, 2012.

ADDRESSES: You may send comments identified by Docket Number FAA–2011–0940 using any of the following methods:

- *Government-wide rulemaking web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at (202) 493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility 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.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Frances Shaver, ARM–207, (202) 267–4059, Federal Aviation Administration, Office of Rulemaking, 800 Independence Ave SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC on January 4, 2011.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2011–0940.

Petitioner: Parachute Labs, Inc. dba Jump Shack.

Section of 14 CFR Affected: § 105.45(b)(3).

Description of Relief Sought: Parachute Labs has requested relief to allow it the ability to manufacture tandem parachute systems without giving approval for automatic activation devices (AAD). Parachute Labs provides accommodations for them, but they do not approve nor disapprove of the installation of AADs.

[FR Doc. 2012–355 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Action on Proposed Bridge Replacement in Massachusetts

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitations on Claims for Judicial Review of Action by FHWA.

SUMMARY: This notice announces action taken by the FHWA that is final within the meaning of 23 U.S.C. 39(l)(1). The action relates to the proposed Fore River Bridge (State Route 3A over the Weymouth Fore River) replacement project in Quincy and Weymouth, Massachusetts. The action grants an approval for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency action on the highway project will be barred unless the claim is filed on or before July 9, 2012.

FOR FURTHER INFORMATION CONTACT: For FHWA: Damaris Santiago, Environmental Engineer, FHWA Massachusetts Division Office, 55 Broadway, 10th Floor, Cambridge, MA 02142, (617) 494–2419, *dsantiago@dot.gov.* For Massachusetts Department of Transportation (MassDOT) Highway Division: Michael Furlong, Project Manager, MassDOT Highway Division, 10 Park Plaza, Room 4260, Boston, MA 02116, 9 a.m. to 5 p.m., (617) 973–8067, *Michael.Furlong@state.ma.us.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency action subject to 23 U.S.C. Sec. 139(l)(1) by issuing approval for the following bridge project in the Commonwealth of Massachusetts. The project proposes to replace the existing temporary bridge over the Weymouth Fore River in Quincy and Weymouth, Massachusetts that replaced a 1936 bascule bridge that was demolished in 2004. The proposed replacement Fore River Bridge will be a vertical lift movable bridge over a 225-foot navigable opening on the same alignment of the 1936 bridge. The replacement bridge will retain the same roadway capacity of two-lanes in each direction and include shoulders and sidewalks. The action by the Federal agency, and the law under which the action was taken, are described in the Environmental Assessment (EA), for which a Finding of No Significant Impact (FONSI) was issued on December 19, 2011 and other documents in the FHWA project records. The EA, FONSI and other project records are available by contacting FHWA or MassDOT at the addresses above. The FHWA EA and FONSI can be viewed and downloaded from the project Web site at *http://www.massdotprojectsforeriverbridgeinfo/* or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act of 1969.

Authority: 23 U.S.C. 139(l)(1).

Issued on: January 3, 2012.

Pamela S. Stephenson,

Division Administrator, Cambridge, MA.

[FR Doc. 2012–193 Filed 1–10–12; 8:45 am]

BILLING CODE 4910–RY–M

FEDERAL REGISTER

Vol. 77 Wednesday,

No. 7 January 11, 2012

Part II

Department of Transportation

Federal Transit Administration

FTA Fiscal Year 2012 Apportionments, Allocations, and Program Information; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 2012 Apportionments, Allocations, and Program Information

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Federal Transit Administration (FTA) annually publishes one or more notices apportioning funds appropriated by law. In some cases, if less than a full year of funds is available, FTA publishes multiple partial apportionment notices. This notice is the first notice announcing partial apportionment for programs funded with Fiscal Year (FY) 2012 contract authority because the current authorization of FTA's programs provides contract authority for the period October 1, 2011 through March 31, 2012. Additionally, the Consolidated and Further Continuing Appropriations Act, 2012, provides full-year funding for FTA's programs funded from the General Fund of the United States Treasury, which are Administrative Expenses, the New Starts and Research programs and grants to the Washington Metropolitan Area Transit Authority. The Appropriations Act, 2012 also provides an obligation limitation for the available contract authority and any additional contract authority that Congress may make available this fiscal year. This notice also provides program guidance and requirements; and provides information on several program issues important under the current program authorization. Also included are tables that show certain discretionary program unobligated (carryover) and reapportioned funding from previous years available for obligation during FY 2012.

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Jamie Pfister, Director, Office of Transit Programs, at (202) 366–2053. Please contact the appropriate FTA regional office for any specific requests for information or technical assistance. The Appendix at the end of this notice includes contact information for FTA regional offices.

An FTA headquarters contact for each major program area is included in the discussion of that program in the text of the notice.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Overview
II. FY 2011 Available Funding for FTA Programs
A. Available Funding Based on the Consolidated and Further Continuing Appropriations Act, 2012 (Minibus), the Surface and Air Transportation Programs Extension Act, 2012, and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU)
B. Program Funds Set-Aside for Oversight
III. FTA FY 2012 Program Highlights and Changes
A. Discretionary Grant Program Competitions
B. Census Designations and Population Counts for the Apportionment of Formula Funds
C. Federal Share for Biodiesel Buses
D. Vehicle Fuel and Electrical Propulsion Costs as Capital Maintenance for Section 5307
IV. 2012 FTA Programs
A. Metropolitan Planning Program (49 U.S.C. 5305(d))
B. State Planning and Research Program (49 U.S.C. 5305(e))
C. Urbanized Area Formula Program (49 U.S.C. 5307)
D. Clean Fuels Grant Program (49 U.S.C. 5308)
E. Capital Investment Program (49 U.S.C. 5309)—Fixed Guideway Modernization
F. Capital Investment Program (49 U.S.C. 5309)—Bus and Bus-Related Facilities
G. Capital Investment Program (49 U.S.C. 5309)—New Starts
H. Special Needs of Elderly Individuals and Individuals With Disabilities Program (49 U.S.C. 5310)
I. Non-Urbanized Area Formula Program (49 U.S.C. 5311)
J. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))
K. Public Transportation on Indian Reservations Program (49 U.S.C. 5311(c)(1))
L. Job Access and Reverse Commute Program (49 U.S.C. 5316)
M. New Freedom Program (49 U.S.C. 5317)
N. Paul S. Sarbanes Transit in Parks Program (49 U.S.C. 5320)
O. Alternatives Analysis Program (49 U.S.C. 5339)
P. Growing States and High Density States Formula (49 U.S.C. 5340)
Q. Over-the-Road Bus Accessibility Program (Section 3038, Pub. L. 105–85)
R. National Research Program (49 U.S.C. 5314)
S. Washington Metropolitan Area Transit Authority Grants
V. FTA Policy and Procedures for FY 2012 Grants Requirements
A. Automatic Pre-Award Authority To Incur Project Costs
B. Letter of No Prejudice (LONP) Policy
C. FTA FY 2012 Annual List of Certifications and Assurances
D. FHWA Funds Used for Transit Purposes
E. Civil Rights Requirements
F. Deferred Local Share
G. Technical Assistance
VI. Tables
1. FTA FY 2012 Appropriations and Apportionments for Grant Programs
2. FTA FY 2012 Section 5303 and 5304 Metropolitan Planning Program and State Planning and Research Program Apportionments
3. FTA FY 2012 Section 5307 and Section 5340 Urbanized Area Apportionments
3–A. Census 2000 Urbanized Areas 200,000 or More in Population Eligible To Use Section 5307 Funds for Operating Assistance
4. FTA FY 2012 Section 5307 Apportionment Formula
5. FTA FY 2012 Formula Programs Apportionments Data Unit Values
6. FTA FY 2012 Small Transit Intensive Cities Performance Data and Apportionments
7. FTA Section 5308 Prior Year Unobligated Clean Fuels Allocations
8. FTA FY 2012 Section 5309 Fixed Guideway Modernization Apportionments
9. FTA FY 2012 Section 5309 Fixed Guideway Modernization Program Apportionment Formula
10. FTA FY 2012 Section 5309 Bus and Bus Related Equipment and Facilities Allocations
11. FTA Section 5309 Prior Year Unobligated Bus and Bus Related Equipment and Facilities Allocations
12. FTA FY 2012 Section 5309 New Starts Allocations
13. FTA Section 5309 Prior Year Unobligated New Starts Program Allocations
14. FTA FY 2012 Section 5310 Special Needs for Elderly Individuals and Individuals With Disabilities Apportionments
15. FTA FY 2012 Section 5311 and Section 5340 Nonurbanized Area Formula Apportionments, and Rural Transportation Assistance Program (RTAP) Allocations
16. FTA FY 2012 Section 5311(c) Prior Year Unobligated Public Transportation on Indian Reservations Allocations
17. FTA FY 2012 Section 5316 Job Access and Reverse Commute (JARC) Apportionments
18. FTA FY 2012 Section 5317 New Freedom Apportionments
19. FTA Section 5339 Prior Year Unobligated Alternatives Analysis Allocations
VII. Appendix

I. Overview

FTA's current authorization, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU), expired September 30, 2009. Since that time, Congress has enacted short term extensions allowing FTA to continue its current programs. The Surface and Air Transportation Programs Extension Act of 2011 (Pub. L. 112–30, Div. C), hereinafter (''Temporary Authorization, 2012''), continues the authorization of the Federal transit programs of the U.S. Department of Transportation (DOT) through March 31, 2012. It extends contract authority for the Formula and Bus Grants programs at approximately

fifty percent of the FY 2011 levels until March 31, 2012. Additionally, FTA's full-year appropriations bill (Pub. L. 112–055, the Consolidated and Further Continuing Appropriations Act, 2012), hereinafter (''Appropriations Act, 2012'') was enacted in November, giving FTA appropriated resources for Administrative Expenses, Capital Investment Grants, and Research programs and grants to the Washington Metropolitan Area Transportation Authority. The Appropriations Act, 2012 also provides a full fiscal year obligation limitation on any contract authority that is made available to FTA programs funded from the Mass Transit Account of the Highway Trust Fund during this fiscal year.

This document apportions the FY 2012 authorized contract authority among potential program recipients according to statutory formulas in 49 U.S.C. Chapter 53. FTA will issue a supplemental notice at a later date if additional contract authority becomes available.

The notice does not include reprogramming of discretionary funds that lapsed to the designated project as of September 30, 2011 or the allocation of FY 2012 discretionary resources, with the exception of Small Starts allocations.

For each FTA program included in this notice, we have provided relevant information about the FY 2012 funding currently available, program requirements, period of availability, and other related program information and highlights, as appropriate. A separate section of the document provides information on program requirements and guidance that are applicable to all FTA programs. For additional information on FY 2012 and prior year annual apportionments, please visit *www.fta.dot.gov/grants/12853.html*.

II. FY 2012 Funding for FTA Programs

A. Funding Based on the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112–55), and the Surface and Air Transportation Programs Extension Act of 2011 (Pub. L. 112–30)

The Surface and Air Transportation Programs Extension Act of 2011 (Temporary Authorization, 2012) continues the authorization of the Federal transit programs of the U.S. Department of Transportation (DOT) through March 31, 2012, and provides contract authority for these programs equal to approximately one half of the amounts available in FY 2011. The fiscal year 2012 Appropriations Act provides full-year funding for FTA programs funded from the General Fund of the United States Treasury and a full year obligation limitation on any contract authority that is made available during this fiscal year.

Table 1 of this document shows the funding that is currently available for the FTA programs. In addition to current year contract authority and appropriated funds, available funding also includes a small amount of additional contract authority not allocated in fiscal year 2011 and recoveries of lapsed funds. The amounts shown in Table 1 also include applicable reductions for set asides and takedowns. This **Federal Register** notice includes tables of apportionments and allocations for FTA formula programs as well as carryover discretionary funds based on applicable law.

B. Program Funds Set-Aside for Project Management Oversight

As background, Section 5327 of title 49, U.S.C., authorizes the takedown of funds from FTA programs for project management oversight. Section 5327 provides oversight takedowns at the following levels: 0.5 percent of Planning funds, 0.75 percent of Urbanized Area Formula funds, 1 percent of Capital Investment funds, 0.5 percent of Special Needs of Elderly Individuals and Individuals with Disabilities formula funds, 0.5 percent of Non-urbanized Area Formula funds, and 0.5 percent of the Paul S. Sarbanes Transit in the Parks Program funds (formerly the Alternative Transportation in the Parks and Public Lands Program). In addition, the Appropriations Act, 2012 authorizes an oversight takedown of 1 percent from the Job Access and Reverse Commute Program.

The funds are used to provide necessary oversight activities, including oversight of the construction of any major capital project under these statutory programs; to conduct State Safety Oversight, drug and alcohol, civil rights, procurement systems, management, planning certification and, financial reviews and audits, as well as evaluations and analyses of grantee specific problems and issues; and to provide technical assistance to correct deficiencies identified in compliance reviews and audits.

III. FTA FY 2012 Program Highlights and Changes

A. Discretionary Grant Program Competitions

FTA's discretionary grant programs that are funded from the General Fund of the United States Treasury (Section 5309 New Starts and the National Research Program) are authorized under chapter 53 of title 49, U.S.C., and funds are appropriated to carry out project activities in the Appropriation Act, 2012. Discretionary grant programs for which funding is derived from the Mass Transit Account of the Highway Trust Fund (Section 5308 Clean Fuels, 5309 Bus and Bus Facilities, 5311(c) Tribal Transit, 5320 Paul S. Sarbanes Transit in Parks, 5339 Alternatives Analysis, and Section 3038, Pub. L. 105–85 Over the Road Bus Accessibility) are provided with contract authority pursuant to 49 U.S.C. 5338(f)(1). At this time only half of the FY 2011 amount is available. Programs that were funded with unallocated Section 5309 bus funds in FY 2011 will again be allocated through a competitive process in FY 2012. Information about discretionary programs, including currently available funding amounts, can be found under the relevant subheading within this notice.

FTA anticipates publishing individual or combined Notices of Funding Availability (NOFAs) for discretionary programs in the **Federal Register** during the first quarter of calendar year 2012. Specific program requirements and selection criteria will be published in the relevant NOFAs. Applications will be due usually within 45–75 days from the date of publication. See the subheading for the Transit in Parks program for a specific exception relating to that program's schedule. New Starts and Small Starts program funds are allocated to specific projects by Congress after an extensive review and qualification process, and will not be published as a NOFA in the **Federal Register**.

Schedule of Discretionary Competitions:

Statutory Program	2012 Program Amounts, Subject to Funding Availability	Anticipated NOFA Publication	Public Announcement of Allocation
Bus and Bus Facilities Program - (Section 5309(m)(1)c)			
Bus & Bus Facilities - State of Good Repair	**$650,000,000**	Jan. 2012	Early July 2012
Bus & Bus Facilities - Livability	**$125,000,000**	Jan. 2012	Late July 2012
Bus & Bus Facilities - Veteran's Initiative	**$25,000,000**	Jan. 2012	Early July 2012
Clean Fuels (Section 5308)			
Clean Fuels (5308)	**$51,500,000**	Jan. 2012	Late July 2012
Other			
Alternatives Analysis (5339)	**$25,000,000**	Feb. 2012	August 2012
Tribal Transit (5311(c))	**$15,000,000**	Feb. 2012	August 2012
Over-the-Road-Bus (3038)	**$8,800,000**	Mar. 2012	August 2012

B. Census Designations and Population Counts Used for the Apportionment of Formula Funds

Formula allocations for Fiscal Year 2012 will continue to be based on 2000 Census data and designations. The 2010 Census Urbanized Area (UZA) designations and populations, which are expected to be released by the Bureau of the Census during FY 2012, will be used for the apportionment of FTA formula funds no earlier than FY 2013. For information on how the 2010 Census may affect formula funding recipients, FTA has published a summary of the potential impacts on its Web site at *http://www.fta.dot.gov/grants/12853_12408.html*.

C. Federal Share for Biodiesel Buses

Section 164 of the Consolidated Appropriations Act, 2008, the Omnibus Act, 2009 and the Consolidated Appropriations Act, 2010 allowed a 90 percent Federal share for biodiesel buses and for the net capital cost of factory-installed or retrofitted hybrid electric propulsion systems and any equipment related to such a system. The Department of Defense and Full-Year Continuing Appropriations Act, 2011 continued the provision for fiscal year 2011. However, the Appropriations Act, 2012, does not contain similar language. Therefore, the increased Federal share for biodiesel buses and for the net capital cost of factory-installed or retrofitted hybrid electric propulsion systems and any equipment related to such a system is no longer authorized through the appropriation process for grants awarded in fiscal year 2012.

D. Vehicle Fuel and Electrical Propulsion Costs as Capital Maintenance for Section 5307

The Appropriations Act, 2012, permits FTA to treat fuel costs for vehicle operations, including utility costs for the propulsion of electrical vehicles, as a capital maintenance item for grants made in FY 2012 under the Urbanized Area Formula Program, up to a total of $100,000,000. Since total obligations for this purpose are limited to $100,000,000, the use of funds for this purpose will be limited in amount, and will be available only to program recipients that respond to an upcoming announcement posted at *www.grants.gov*. Recipients are advised that this provision does not provide any funding in addition to their Section 5307 program apportionment. Additional information on this provision can be found in IV–C. Urbanized Area Formula Program (49.U.S.C. 5307).

IV. FTA Programs

This section of the notice provides the available FY 2012 funding to date and/or other important program-related information for eleven FTA formula and discretionary programs that are contained in this notice. Funding and/or other important information for each of the formula programs is presented immediately below. This includes program apportionments, program requirements, length of time FY 2012 funding is available for obligation to the recipient and other significant program information.

A. Metropolitan Planning Program (49 U.S.C. 5305(d))

Section 5305(d) authorizes Federal funding to support a cooperative, continuous, and comprehensive planning program for transportation

investment decision-making at the metropolitan area level. The specific requirements of metropolitan transportation planning are set forth in 49 U.S.C. 5303 and further explained in 23 CFR Part 450, as incorporated by reference in 49 CFR Part 613, Statewide Transportation Planning; Metropolitan Transportation Planning. State Departments of Transportation are direct recipients of funds allocated by FTA, which are then sub-allocated to Metropolitan Planning Organizations (MPOs), for planning activities that support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency; increasing the safety and security of the transportation system for motorized and non-motorized users; increasing the accessibility and mobility options available to people and for freight; protecting and enhancing the environment, promoting energy conservation, and improving quality of life; enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight; promoting efficient transportation system management and operation; and emphasizing the preservation of the existing transportation system. This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods in the metropolitan area. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. Eligible work elements or activities include, but are not limited to studies relating to management, mobility management, planning, operations, capital requirements, and economic feasibility; evaluation of previously funded projects; peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analysis among MPOs and other transportation planners; work elements and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment; development of coordinated public transit human services transportation plans. An exhaustive list of eligible work activities is provided in FTA Circular 8100.1C, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants, dated September 1, 2008. For more about the Metropolitan Planning Program and the FTA Circular 8100.1C, contact Victor Austin, Office of Planning and Environment at (202) 366–2996.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $46,943,600 in contract authority for the period October 1, 2011 through March 31, 2012 to the Metropolitan Planning Program (49 U.S.C. 5305(d) to support metropolitan transportation planning activities set forth in 49 U.S.C. 5303. Thus far, the total amount apportioned for the Metropolitan Planning Program to States for MPOs' use in urbanized areas (UZAs) is $46,925,691, as shown in the table below, after the addition of available FY 2011 contract authority and reapportioned funds and deductions for oversight.

METROPOLITAN PLANNING PROGRAM

Total Appropriation	$46,943,600
FY 2011 Contract Authority	195,331
Oversight Deductions	−235,695
Reapportioned Funds	22,455
Total Apportioned	46,925,691

States' apportionments for this program are displayed in Table 2.

2. Basis for Formula Apportionments

As specified in law, 82.72 percent of the amounts authorized for Section 5305 are made available to the Metropolitan Planning program. FTA apportions Metropolitan Planning funds to the States according to a statutory formula. Eighty percent of the funds are apportioned to the States based on the most recent decennial Census for each State's UZA population. The remaining 20 percent is provided to the States as a supplemental apportionment based on an FTA administrative formula to address planning needs in larger, more complex UZAs. The amount published for each State includes the supplemental allocation.

3. Program Requirements

The State allocates Metropolitan Planning funds to MPOs in UZAs or portions thereof to provide funds for planning projects included in a one or two year program of planning work activities (the Unified Planning Work Program, or UPWP) that includes multimodal systems planning activities spanning both highway and transit planning topics. Each State has either reaffirmed or developed, in consultation with their MPOs, an allocation formula among MPOs within the State, based on the 2000 Census. The allocation formula among MPOs in each State may be changed annually, but any change requires approval by the FTA regional office before grant approval. Program guidance for the Metropolitan Planning Program is found in FTA Circular 8100.1C, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants, dated September 1, 2008. For more about the Metropolitan Planning Program and the FTA Circular 8100.1C, contact Victor Austin, Office of Planning and Environment at (202) 366–2996.

4. Period of Availability

The funds apportioned under the Metropolitan Planning program to each State remain available for obligation to recipients for four fiscal years—which includes the year of apportionment plus three additional years. Any FY 2012 apportioned funds that remain unobligated at the close of business on September 30, 2015 will revert to FTA for reapportionment under the Metropolitan Planning Program.

5. Consolidated Planning Grants

FTA and FHWA planning funds under both the Metropolitan Planning and State Planning and Research Programs can be consolidated into a single consolidated planning grant (CPG), awarded by either FTA or FHWA. The CPG eliminates the need to monitor individual fund sources, if several have been used, and ensures that the oldest funds will always be used first. Alternatively, FTA planning funds may be transferred to FHWA to be administered as a combined grant.

Under the CPG, States can report metropolitan planning program expenditures (to comply with the Single Audit Act) for both FTA and FHWA under the Catalogue of Federal Domestic Assistance number for FTA's Metropolitan Planning Program (20.505). Additionally, for States with an FHWA Metropolitan Planning (PL) fund-matching ratio greater than 80 percent, the State can waive the 20 percent local share requirement, with FTA's concurrence, to allow FTA funds used for metropolitan planning in a CPG to be granted at the higher FHWA rate. For some States, this Federal match rate can exceed 90 percent.

States interested in transferring planning funds between FTA and FHWA should contact the FTA Regional Office or FHWA Division Office for more detailed procedures. Current guidelines are included in Federal Highway Administration Memorandum

dated July 12, 2007, ''Information: Final Transfers to Other Agencies that Administer Title 23 Programs.''

For further information on CPGs, contact Nancy Grubb, Office of Budget and Policy, FTA, at (202) 366–1635.

B. State Planning and Research Program (49 U.S.C. 5305(e))

This program provides financial assistance to States for statewide transportation planning and other technical assistance activities, including supplementing the technical assistance program provided through the Metropolitan Planning program. The specific requirements of Statewide transportation planning are set forth in 49 U.S.C. 5304 and further explained in 23 CFR Part 450 as referenced in 49 CFR Part 613, Statewide Transportation Planning; Metropolitan Transportation Planning; Final Rule. This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. For more information, contact Victor Austin, Office of Planning and Environment at (202) 366–2996.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $9,806,400 in contract authority for the period October 1, 2011 through March 31, 2012 to the State Planning and Research Program (49 U.S.C. 5305). Thus far, the total amount apportioned for the State Planning and Research Program (SPRP) is $9,956,684 as shown in the table below, after the addition of available FY 2011 contract authority and reapportioned funds and the deduction for oversight (authorized by 49 U.S.C. 5327).

STATE PLANNING AND RESEARCH PROGRAM

Total Appropriation	$9,806,400
FY 2011 Contract Authority	40,804
Oversight Deduction	−49,236
Reapportioned Funds	158,716
Total Apportioned	9,956,684

State apportionments for this program are displayed in Table 2.

2. Basis for Apportionment Formula

As specified in law, 17.28 percent of the amounts authorized for Section 5305 are allocated to the State Planning and Research program. FTA apportions funds to States by a statutory formula that is based on the most recent decennial Census data available, and the State's UZA population as compared to the UZA population of all States.

3. Requirements

Funds are provided to States for Statewide transportation planning programs. These funds may be used for a variety of purposes such as planning, technical studies and assistance, demonstrations, and management training. In addition, a State may authorize a portion of these funds to be used to supplement Metropolitan Planning funds allocated by the State to its UZAs, as the State deems appropriate. Program guidance for the State Planning and Research program is found in FTA Circular 8100.1C. This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. Eligible work elements or activities include, but are not limited to studies relating to management, planning, operations, capital requirements, and economic feasibility; evaluation of previously funded projects; peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analysis; work elements and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment. An exhaustive list of eligible work activities is provided in FTA Circular 8100.1C, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants, dated September 1, 2008. For more information, contact Victor Austin, Office of Planning and Environment at (202) 366–2996.

4. Period of Availability

The funds apportioned under the State Planning and Research program to each State remain available for obligation for four fiscal years, which include the year of apportionment plus three additional fiscal years. Any apportioned funds that remain unobligated at the close of business on September 30, 2015, will revert to FTA for reapportionment under the State Planning and Research Program.

C. Urbanized Area Formula Program (49 U.S.C. 5307)

Section 5307 authorizes Federal capital assistance, and in some cases, operating assistance for public transportation in urbanized areas. An urbanized area (UZA) is an area with a population of 50,000 or more that has been defined and designated as such in the 2000 Census by the U.S. Census Bureau. The Urbanized Area Formula Program funds may also be used to support planning activities, and may supplement planning projects funded under the Metropolitan Planning program. Urbanized Area Formula Program funds used for planning must be shown in the Unified Planning Work Program (UPWP) for MPO(s) with responsibility for that area. Funding is apportioned directly to each UZA with a population of 200,000 or more, and to the State Governors for UZAs with populations between 50,000 and 199,999. Eligible applicants are limited to entities designated as recipients in accordance with 49 U.S.C. 5307(a)(2) and other public entities with the consent of the Designated Recipient. Generally, operating assistance is not an eligible expense for UZAs with populations of 200,000 or more. However, there are several exceptions to this restriction. The exceptions are described in section 3(d)(5) below. For more information about the Urbanized Area Formula Program contact Adam Schildge or Elan Flippin, Office of Transit Programs, at (202) 366–0778.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $2,080,182,500 in contract authority for the period October 1, 2011 through March 31, 2012 to the Urbanized Area Formula Program (49 U.S.C. 5307). Thus far, the total amount apportioned for the Urbanized Area Formula Program is $2,280,481,376 as shown in the table below, after the addition of available FY 2011 contract authority and reapportioned funds and the 0.75 percent deduction for oversight (authorized by 49 U.S.C. 5327), and including funds apportioned to UZAs pursuant to Section 5340 for Growing States and High Density States.

URBANIZED AREA FORMULA PROGRAM

Total Appropriation	[a] $2,080,182,500
FY 2011 Contract Authority	8,655,561
Oversight Deduction	−15,666,286

URBANIZED AREA FORMULA PROGRAM—Continued

Section 5340 Funds Added	196,585,277
Reapportioned Funds	10,724,324
Total Apportioned	2,280,481,376

[a] Includes one percent set-aside for Small Transit Intensive Cities Formula.

Table 3 displays the amounts apportioned under the Urbanized Area Formula Program.

2. Basis for Formula Apportionment

FTA apportions Urbanized Area Formula Program funds based on legislative formulas. Different formulas apply to UZAs with populations of 200,000 or more and to UZAs with populations less than 200,000. For UZAs with 50,000 to 199,999 in population, the formula is based solely on population and population density. For UZAs with populations of 200,000 and more, the formula is based on a combination of bus revenue vehicle miles, bus passenger miles, fixed guideway revenue vehicle miles, and fixed guideway route miles, as well as population and population density. Table 4 includes detailed information about the formulas.

To calculate a UZA's FY 2012 apportionment, FTA used population and population density statistics from the 2000 Census and (when applicable) validated mileage and transit service data from transit providers' 2010 National Transit Database (NTD) Report Year. Consistent with 49 U.S.C. 5336(b), FTA used 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations system to calculate the apportionment for the Anchorage, Alaska UZA.

FTA has calculated dollar unit values for the formula factors used in the Urbanized Area Formula Program apportionment calculations. These values represent the amount of money each unit of a factor is worth in this year's apportionment. The unit values change each year, based on all of the data used to calculate the apportionments. The dollar unit values for FY 2012 are displayed in Table 5. To replicate the basic formula component of a UZA's apportionment, multiply the dollar unit value by the appropriate formula factor (i.e., the population, population x population density), and when applicable, data from the NTD (i.e., route miles, vehicle revenue miles, passenger miles, and operating cost).

In FY 2012, one percent of funds appropriated for Section 5307, or $20,801,825 based on Temporary Authorization, 2012 and Appropriations Act, 2012, is set aside for Small Transit Intensive Cities (STIC). FTA apportions these funds to UZAs under 200,000 in population that operate at a level of service equal to or above the industry average level of service for all UZAs with a population of at least 200,000, but not more than 999,999, in one or more of six performance categories: passenger miles traveled per vehicle revenue mile, passenger miles traveled per vehicle revenue hour, vehicle revenue miles per capita, vehicle revenue hours per capita, passenger miles traveled per capita, and passengers per capita.

The data for these categories for the purpose of FY 2012 apportionments comes from the NTD reports for the 2010 reporting year. This data is used to determine a UZA's eligibility under the STIC formula, and is also used in the STIC apportionment calculations. Because these performance data change with each year's NTD reports, the UZAs eligible for STIC funds and the amount each receives may vary each year. In FY 2012, FTA apportioned $55,976 for each performance factor/category for which the urbanized area exceeded the national average for UZAs with a population of at least 200,000 but not more than 999,999.

In addition to the funds apportioned to UZAs, according to the Section 5307 formula factors contained in 49 U.S.C. 5336, FTA also apportions funds to urbanized areas under Section 5340 Growing States and High Density States formula factors. In FY 2012, FTA apportions $79,851,565 to UZAs in growing States and $116,733,712 to UZAs in High Density States. Half of the funds appropriated for Section 5340 are available to Growing States and half to High Density States. FTA apportions Growing States funds by a formula based on State population forecasts for 15 years beyond the most recent Census. FTA distributes the amounts apportioned for each State between UZAs and nonurbanized areas based on the ratio of urbanized/nonurbanized population within each State in the 2000 census, and to UZAs proportionately based on UZA population in the 2000 census (because population estimates are not available at the UZA level). FTA apportions the High Density States funds to States with population densities in excess of 370 persons per square mile. These funds are apportioned only to UZAs within those States. FTA pro-rates each UZA's share of the High Density funds based on the population of the UZAs in the State in the 2000 census.

FTA cannot provide unit values for the Growing States or High Density formulas because the allocations to individual States and urbanized areas are based on their relative population data, rather than on a national per capita basis.

Based on language in the conference report accompanying SAFETEA–LU, FTA is to show a single apportionment amount for Section 5307, STIC and Section 5340. FTA shows a single Section 5307 apportionment amount for each UZA in Table 3, the Urbanized Area Formula apportionments. The amount includes funds apportioned based on the Section 5307 formula factors, any STIC funds, and any Growing States and High Density States funding allocated to the area. FTA uses separate formulas to calculate and generate the respective apportionment amounts for the Section 5307, STIC and Section 5340. For technical assistance purposes, the UZAs that received STIC funds are listed in Table 6. FTA will make available breakouts of the funding allocated to each UZA under these formulas, upon request to the regional office.

3. Program Requirements

Program guidance for the Urbanized Area Formula Program is currently found in FTA Circular 9030.1D, Urbanized Area Formula Program: Grant Application Instructions, dated May 1, 2010, and supplemented by additional information or changes provided in this document.

i. Urbanized Area Formula Apportionments to Governors

For small UZAs, those with a population of less than 200,000, FTA apportions funds to the Governor of each State for distribution. A single total Governor's apportionment amount for the Urbanized Area Formula, STIC, and Growing States and High Density States is shown in the Urbanized Area Formula Apportionment Table 3. The table also shows, for informational purposes, the apportionment amount that would be attributable by formula to each small UZA within the State. The Governor is not bound by the small UZA amounts published for informational purposes in this notice and shall determine the sub-allocation of funds among the small UZAs. The Governor's sub-allocation should be sent to the appropriate FTA Regional Office before grants are awarded.

ii. Transit Enhancements

Section 5307(d)(1)(K) requires that one percent of Section 5307 funds apportioned to UZAs with populations of 200,000 or more be spent on eligible transit enhancement activities or

projects. This requirement is now treated as a certification, rather than as a set-aside as was the case under the Transportation Equity Act for the 21st Century (TEA–21). Designated recipients in UZAs with populations of 200,000 or more certify they are spending not less than one percent of Section 5307 funds for transit enhancements. In addition, Designated Recipients must submit an annual report on how they spent the money with the Federal fiscal year's final quarterly progress report in TEAM-Web. The report should include the following elements: (1) Grantee name; (2) UZA name and number; (3) FTA project number; (4) transit enhancement category; (5) brief description of enhancement and progress towards project implementation; (6) activity line item code from the approved budget; and (7) amount awarded by FTA for the enhancement. The list of transit enhancement categories and activity line item (ALI) codes may be found in the table of Scope and ALI codes on TEAM-Web, which can be accessed at *http://FTATEAMWeb.fta.dot.gov.*

The term ''transit enhancement'' includes projects or project elements that are designed to enhance public transportation service or use and are physically or functionally related to transit facilities. Eligible enhancements include the following: (1) Historic preservation, rehabilitation, and operation of historic mass transportation buildings, structures, and facilities (including historic bus and railroad facilities); (2) bus shelters; (3) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights; (4) public art; (5) pedestrian access and walkways; (6) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on mass transportation vehicles; (7) transit connections to parks within the recipient's transit service area; (8) signage; and (9) enhanced access for persons with disabilities to mass transportation.

It is the responsibility of the MPO to determine how the one-percent for transit enhancements will be allotted to transit projects. The one percent minimum requirement does not preclude more than one percent from being expended in a UZA for transit enhancements. However, activities that are only eligible as enhancements—in particular, operating costs for historic facilities—may be assisted only within the one-percent funding level.

iii. Transit Security Projects

Consistent with section 5307(d)(1)(J), each recipient of Urbanized Area Formula funds must certify that of the amount received each fiscal year, it will expend at least one percent on ''public transportation security projects'' or that it has decided the expenditure is not necessary. For applicants not eligible to receive Section 5307 funds for operating assistance, only capital security projects may be funded with the one percent. SAFETEA–LU, however, expanded the definition of eligible ''capital'' projects to include specific crime prevention and security activities, including: (1) Projects to refine and develop security and emergency response plans; (2) projects aimed at detecting chemical and biological agents in public transportation; (3) the conduct of emergency response drills with public transportation agencies and local first response agencies; and (4) security training for public transportation employees, but excluding all expenses related to operations, other than such expenses incurred in conducting emergency drills and training. The one percent may also include security expenditures included within other capital activities, and, where the recipient is eligible, operating assistance.

FTA is often called upon to report to Congress and others on how grantees are expending Federal funds for security enhancements. To facilitate tracking of grantees' security expenditures, which are not always evident when included within larger capital or operating activity line items in the grant budget, we have established a non-additive (''non-add'') scope code for security expenditures—Scope 991–00. The non-add scope is to be used to aggregate activities included in other scopes, and it does not increase the budget total. Section 5307 grantees should include this non-add scope in the project budget for each new Section 5307 grant application or amendment. Under this non-add scope, the applicant should repeat the full amount of any of the line items in the budget that are exclusively for security and include the portion of any other line item in the project budget that is attributable to security, using under the non-add scope the same line item used in the project budget. The grantee can modify the ALI description or use the extended text feature, if necessary, to describe the security expenditures.

The grantee must provide information regarding its use of the one percent for security as part of each Section 5307 grant application, using a special screen in TEAM-Web. If the grantee has certified that it is not necessary to expend one percent for security, the Section 5307 grant application must include information to support that certification. FTA will not process an application for a Section 5307 grant until the security information is complete.

iv. FY 2012 Operating Assistance

UZAs under 200,000 in population may use Section 5307 funds for operating assistance. In addition, Section 5307, as amended, allows some UZAs with a population of 200,000 or more to use Urbanized Area Formula funds for operating assistance under certain conditions. Temporary Authorization, 2012 extends that eligibility until March 31, 2012. The specific provisions allowing the limited use of operating assistance in large UZAs are as follows:

a. Section 5307(b)(1)(E) provides for grants for the operating costs of equipment and facilities for use in public transportation in the Evansville, IN-KY urbanized area, for a portion or portions of the UZA if ''the portion'' of the UZA includes only one State, the population of ''the portion'' is less than 30,000, and the grants will be not used to provide public transportation outside of ''the portion'' of the UZA.

b. Section 5307(b)(1)(F) provides operating costs of equipment and facilities for use in public transportation for local governmental authorities in areas which adopted transit operating and financing plans that became a part of the Houston, Texas, UZA as a result of the 2000 decennial census of population, but lie outside the service area of the principal public transportation agency that serves the Houston UZA.

c. Section 5336(a)(2) prescribes the formula to be used to apportion Section 5307 funds to UZAs with population of 200,000 or more. SAFETEA–LU amended 5336(a)(2) to add language that stated, ''* * * except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations.'' This language has the effect of directing that funds apportioned to the Anchorage urbanized area, under the fixed guideway tiers of the Section 5307 apportionment formula, be made available to the Alaska Railroad, and that these funds may be used for any capital or operating costs related to its passenger operations.

d. Section 3027(c)(3) of TEA–21, as amended (49 U.S.C. 5307 note), provides an exception to the restriction

on the use of operating assistance in a UZA with a population of 200,000 or more, by allowing transit providers/grantees that provide service exclusively to elderly persons and persons with disabilities and that operate 20 or fewer vehicles to use Section 5307 funds apportioned to the UZA for operating assistance. The total amount of funding made available for this purpose under Section 3027(c)(3) is $1.4 million. Transit providers/grantees eligible under this provision have already been identified and notified.

e. Section 5307(b)(2), as amended, allows, in FYs 2008 through 2011 and for the period October 1, 2011 through March 31, 2012, (1) UZAs that grew in population from under 200,000 to over 200,000 or that were under 200,000 but merged into another urbanized area and the population is over 200,000, as a result of the 2000 Census to use Section 5307 funds for operating assistance in an amount up to 50 percent of the grandfathered amount for FY 2002 funds; (2) Areas that were nonurbanized under the 1990 Census and became urbanized, as a result of the 2000 Census, to use no more than 50 percent of the amount apportioned to the area for FY 2003 for operating assistance; and (3) nonurbanized areas under the 1990 Census that merged into urbanized areas over 200,000, as a result of the 2000 Census, to use 50 percent of the amount the area received in FY 2002 Section 5311 funding for operating assistance. These allowances are shown in Table 3–A.

v. Treatment of Fuel and Electrical Propulsion Costs as Capital Maintenance

The Appropriations Act, 2012, permits FTA to treat fuel costs for vehicle operations, including utility costs for the propulsion of electrical vehicles, as a capital maintenance item for grants made in FY 2012 under the Urbanized Area Formula Program, up to a total of $100,000,000. The treatment of these costs as capital maintenance items means that they may be eligible for reimbursement under this program at an 80/20 matching rate. As explained in the preceding section, fuel costs are also eligible for reimbursement as an operating expense for UZAs under 200,000 in population, and under other special conditions noted above, but require a 50 percent match.

Since total obligations for this purpose are limited to $100,000,000, the use of funds for this purpose will be limited in amount, and will be available only to program recipients that respond to an upcoming announcement posted at *www.grants.gov.* Designated recipients for each Urbanized Area are directed to respond to this announcement with the dollar amount, out of their annual urbanized area apportionment funding, that they would like to apply to these costs for grants made in Fiscal Year 2012. While this provision applies to grants made during FY 2012, it is not limited to grants made using FY 2012 apportioned funds and may also include grants made during FY 2012 that contain prior year funds.

Recipients are directed to submit a request for the maximum dollar amount that they would elect to apply to capitalized fuel or propulsion under this provision based on the anticipated availability of full FY 2012 funding. Funds will be distributed as dollar caps for an interested urbanized area's Section 5307 apportionment. FTA will base the amount of the cap it allocates to each urbanized area that responds to the announcement on a fixed percentage applied to the Section 5307 apportionment of that urbanized area, not to exceed the amount requested. However, if all urbanized area 5307 recipients respond to the announcement, each could expect to be permitted to use no more than 2.2% of their annual formula apportionment amount for this purpose. Eligible respondents to this request are only the designated recipients for the urbanized area formula apportionment, including the State DOTs for areas under 200,000. The upcoming funding announcement will provide further direction. FTA will publish the distribution in a **Federal Register** notice.

Recipients are advised that this provision does not provide any funding in addition to their Section 5307 program apportionment. Funds granted under this provision will be treated as an alternative use of the eligible recipient's formula funding. Distribution of such funds among sub-recipients is subject to Federal planning requirements and will require coordination between the designated recipient(s), MPO, and other direct recipients of FTA funds. Funds sub-allocated to direct recipients within a UZA will be included in their FTA grants. Procurements to which these 5307 funds are applied must comply with Federal procurement requirements and include all applicable Federal procurement clauses.

Recipients, if selected to use this provision, will be required to obligate funds no later than September 30, 2012. Once funds are obligated, they will remain available until expended; funds can be requested for the applicant's current fiscal year plus one additional year. FTA does not plan to reallocate funding caps under this provision after it has been initially distributed.

Eligible designated recipients of Section 5307 funding that are interested in using funds under this provision are encouraged to become familiar with using grants.gov and are advised to monitor the site for the upcoming solicitation of interest. In addition, FTA recommends that grantees register for automatic email updates for Section 5307 Urbanized Area Formula Program on the FTA Web site. Further details will be posted with the announcement at *www.grants.gov.*

vi. Sources of Local Match

Consistent with Section 5307(e), the Federal share of an urbanized area formula grant is 80 percent of net project cost for a capital project and 50 percent of net project cost for operating assistance unless the recipient indicates a greater local share. The remainder of the net project cost (i.e., 20 percent and 50 percent, respectively) shall be provided from the following sources:

a. From non-Federal government sources other than revenues from providing public transportation services;

b. From revenues derived from the sale of advertising and concessions;

c. From an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

d. From amounts received under a service agreement with a State or local social service agency or private social service organization; and

e. Proceeds from the issuance of revenue bonds.

f. Funds from Section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) can be used to match Urbanized Area Formula funds.

vii. Designated Transportation Management Areas (TMA)

Guidance for setting the boundaries of TMAs is in the joint transportation planning regulations codified at 23 CFR Part 450 as referenced in 49 CFR Part 613. In some cases, the TMA planning boundaries established by the MPO for the designated TMA includes one or more small UZAs. In addition, one small UZA (Santa Barbara, CA) has been designated as a TMA by Secretary pursuant to section 5303(k). The Governor's Apportionment for small UZAs may include funds attributable to a small UZA designated as a TMA or within the planning boundaries of a TMA.

The list of small UZAs included within the planning boundaries of designated TMAs is provided in the table below.

Designated TMA	Small urbanized area included in TMA planning boundary
Albany, NY	Saratoga Springs, NY.
Houston, TX	Galveston, TX; Lake Jackson-Angleton, TX; Texas City, TX; The Woodlands, TX.
Jacksonville, FL	St. Augustine, FL.
Orlando, FL	Kissimmee, FL.
Palm Bay-Melbourne, FL	Titusville, FL.
Philadelphia, PA–NJ–DE–MD	Pottstown, PA.
Pittsburgh, PA	Monessen, PA; Weirton, WV–Steubenville, OH–PA (PA portion); Uniontown-Connellsville, PA.
Seattle, WA	Bremerton, WA.
Washington, DC–VA–MD	Frederick, MD.

Section 5303(k) provides that the Secretary shall designate ''any additional area as a transportation management area on the request of the Governor and the MPO designated for the area.'' In the event a Governor and an MPO determine that a small UZA should be a TMA or included within the boundaries of a TMA, the MPO and Governor must jointly request such designation from the Associate Administrator for Program Management, Federal Transit Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, in writing, no later than July 1 of each year of the identity of any small UZA within the planning boundaries of a TMA.

viii. Urbanized Area Formula Funds Used for Highway Purposes

Funds apportioned to a TMA are eligible for transfer to FHWA for highway projects, if the Designated Recipient has allocated a portion of the area's Section 5307 funding for such use. However, before funds can be transferred, the following conditions must be met: (1) Approval by the MPO in writing, after appropriate notice and opportunity for comment and appeal are provided to affected transit providers; (2) a determination of the Secretary that funds are not needed for investments required by the Americans with Disabilities Act of 1990 (ADA); and (3) the MPO determines that local transit needs are being addressed.

The MPO should notify the appropriate FTA Regional Administrator of its intent to use FTA funds for highway purposes. Urbanized Area Formula funds that are designated by the MPO for highway projects and meet the conditions cited in the previous paragraph will be transferred to and administered by FHWA.

4. Period of Availability

The Urbanized Area Formula Program funds apportioned in this notice are available for obligation during the year of apportionment plus three additional years. Accordingly, these funds must be obligated in grants by September 30, 2015. Any apportioned funds that remain unobligated at the close of business on September 30, 2015 will revert to FTA for reapportionment under the Urbanized Area Formula Program.

5. Other Program or Apportionment Related Information and Highlights

In each UZA with a population of 200,000 or more, the Governor, in consultation with responsible local officials and publicly owned operators of public transportation, has designated one or more entities to be the Designated Recipient for Section 5307 funds apportioned to the UZA. The same entity(s) may or may not be the Designated Recipient for the Job Access and Reverse Commute (JARC) and New Freedom program funds apportioned to the UZA. In UZAs under 200,000 in population, the State is the Designated Recipient for Section 5307, as well as JARC and New Freedom programs. The Designated Recipient for Section 5307 may authorize other entities to apply directly to FTA for Section 5307 grants pursuant to a supplemental agreement. While the requirement that projects selected for funding be included in a locally developed coordinated public transit/human service transportation plan is not included in Section 5307 as it is in Sections 5310, 5316 (JARC) and 5317 (New Freedom), FTA expects that in their role as public transit providers, recipients of Section 5307 funds will be participants in the local planning process for these programs.

D. Clean Fuels Grant Program (49 U.S.C. 5308)

The Clean Fuels Grant program is a discretionary grant program that supports the use of alternative fuels in air quality maintenance or nonattainment areas for ozone or carbon monoxide through capital grants to urbanized areas for clean fuel vehicles and facilities. Funds will be distributed in response to a discretionary competition announced in the **Federal Register** during the first quarter of calendar year 2012. For more information about this program contact Vanessa Williams, Office of Program Management, at (202) 366–4818.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $25,750,000 in contract authority for the period October 1, 2011 through March 31, 2012 for the Clean Fuels Program. After the addition of available FY 2011 contract authority, a total of $25,857,145 is thus far available for grants, as shown in the table below.

CLEAN FUELS PROGRAM

Total Appropriated	$25,750,000
FY 2011 Contract Authority	107,145
Total Apportioned	25,857,145

2. Requirements

Clean Fuels Grant program funds may be made available to any grantee in a UZA that is designated as maintenance or nonattainment area for ozone or carbon monoxide as defined in the Clean Air Act. Eligible recipients include section 5307 Designated Recipients as well as recipients in small UZAs. The State in which a small UZA is located will act as the recipient of funds. Eligible projects include the purchase or lease of clean fuel buses, the construction or lease of clean fuel or electrical recharging facilities and related equipment for such buses, and construction or improvement of public transportation facilities to accommodate clean fuel buses.

3. Period of Availability

Clean Fuels Program funds are available for three years, which includes the year the funds are allocated to a project through a notice of award or appropriation plus two. FY 2012 funds will be distributed through a competitive discretionary process, which will be announced in a **Federal Register** Notice of Funding Availability during the first quarter of calendar year 2012.

4. Other Program or Apportionment Related Information and Highlights

Table 7 lists prior year carryover of $13,761,707 for Clean Fuels projects allocated FY 2010 program funds. These projects were announced during FY 2011 and are available for obligation until September 30, 2013. For more information about the FY 2011 Clean Fuels Grant Program award announcements, please visit *www.gpo.gov/fdsys/pkg/FR-2011-12-12/pdf/2011-31694.pdf* (Federal Register Citation: 76 FR 77302—FTA Sustainability Program Funds: Announcement of Project Selections, December 12, 2011).

E. Capital Investment Program (49 U.S.C. 5309)—Fixed Guideway Modernization

This program provides capital assistance for the maintenance, recapitalization, and modernization of existing fixed guideway systems. Funds are apportioned by a statutory formula to UZAs with fixed guideway systems that have been in operation for at least seven years. A ''fixed guideway'' refers to any transit service that uses exclusive or controlled rights-of-way or rails, entirely or in part. The term includes heavy rail, commuter rail, light rail, monorail, trolleybus, aerial tramway, inclined plane, cable car, automated guideway transit, ferryboats, that portion of motor bus service operated on exclusive or controlled rights-of-way, and high-occupancy-vehicle (HOV) lanes. Eligible applicants are the public transit authorities in those urbanized areas to which the funds are apportioned. For more information about Fixed Guideway Modernization contact Kimberly Sledge, Office of Transit Programs, at (202) 366–2053.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $833,250,000 in contract authority for the period October 1, 2011 through March 31, 2012 for the Fixed Guideway Modernization Program. Thus far, the total amount apportioned for the Fixed Guideway Modernization Program is $831,257,145, after the addition of available FY 2011 contract authority and reapportioned funds and deductions for oversight, as shown in the table below.

FIXED GUIDEWAY MODERNIZATION PROGRAM

Total Appropriation	$833,250,000
FY 2011 Contract Authority	3,467,122
Oversight Deduction (total)	−8,367,171
Reapportioned Funds	363,287
Total Apportioned	831,257,145

The FY 2012 Fixed Guideway Modernization Program apportionments to eligible areas are displayed in Table 8.

2. Basis for Formula Apportionment

The formula for allocating the Fixed Guideway Modernization funds contains seven tiers. The apportionment of funding under the first four tiers is based on amounts specified in law and NTD data used to apportion funds in FY 1997. Funding under the last three tiers is apportioned based on the latest available data on route miles and revenue vehicle miles on segments at least seven years old, as reported to the NTD. Section 5337(f) of title 49, U.S.C. provides for the inclusion of Morgantown, West Virginia (population 55,997) as an eligible UZA for purposes of apportioning fixed guideway modernization funds. Also, consistent to 49 U.S.C. 5336(b), FTA uses 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations system to calculate the apportionment for the Anchorage, Alaska UZA under the Section 5309 Fixed Guideway Modernization formula.

FY 2012 Formula apportionments are based on data grantees provided to the NTD for the 2010 reporting year. Table 9 provides additional information and details on the formula. Dollar unit values for the formula factors used in the Fixed Guideway Modernization Program are displayed in Table 5. To replicate an area's apportionment, multiply the dollar unit value by the appropriate formula factor, i.e., route miles and revenue vehicle miles.

3. Program Requirements

Fixed Guideway Modernization funds must be used for capital projects to maintain, modernize, or improve fixed guideway systems. Eligible UZAs (those with a population of 200,000 or more) with fixed guideway systems that are at least seven years old are entitled to receive Fixed Guideway Modernization funds. A threshold level of more than one mile of fixed guideway is required in order to receive Fixed Guideway Modernization funds. Therefore, UZAs reporting one mile or less of fixed guideway mileage under the NTD are not included. However, funds apportioned to an urbanized area may be used on any fixed guideway segment in the UZA. Program guidance for Fixed Guideway Modernization is presently found in FTA Circular C9300.1B, Capital Facilities and Formula Grant Programs, dated November 1, 2008.

4. Period of Availability

The funds apportioned in this notice under the Fixed Guideway Modernization Program remain available to recipients to be obligated in a grant during the year of appropriation plus three additional years. FY 2012 Fixed Guideway Modernization funds that remain unobligated at the close of business on September 30, 2015, will revert to FTA for reapportionment under the Fixed Guideway Modernization Program.

F. Capital Investment Program (49 U.S.C. 5309)—Bus and Bus-Related Facilities

This program provides capital assistance for new and replacement buses, and related equipment and facilities. Funds are allocated on a discretionary basis. Eligible purposes are acquisition of buses for fleet and service expansion, bus maintenance and administrative facilities, transfer facilities, bus malls, transportation centers, intermodal terminals, park-and-ride stations, acquisition of replacement vehicles, bus rebuilds, bus preventive maintenance, passenger amenities such as passenger shelters and bus stop signs, accessory and miscellaneous equipment such as mobile radio units, supervisory vehicles, fare boxes, computers, and shop and garage equipment. Eligible applicants are State and local governmental authorities. Eligible sub-recipients include other public agencies, private companies engaged in public transportation and private non-profit organizations.

For more information about Bus and Bus-Related Facilities (Bus Program) contact Samuel Snead, Office of Transit Programs, at (202) 366–1089.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $492,000,000 in contract authority for the period October 1, 2011 through March 31, 2012 for the Bus and Bus-Related Facilities program. The total amount apportioned for the program thus far is $489,106,722, after the addition of available FY 2011 contract authority and deductions for oversight, as shown in the table below.

BUS AND BUS-RELATED FACILITIES

Total Appropriated	$492,000,000
FY 2011 Contract Authority	2,047,194
Oversight Deduction	−4,940,472
Total Apportioned	489,106,722

2. Basis for Allocation

FY 2012 Bus and Bus-Related Facilities program allocations are shown in Table 10. Allocations include nine Section 5309 Capital Investment Program New and Small Starts Bus Rapid Transit (BRT) projects, which are funded through the Bus and Bus-Related Facilities program in FY 2012.

Unallocated 2012 Bus and Bus-Related Facilities Program funds will be distributed through discretionary program competitions. FY 2012 discretionary competitions will include a State of Good Repair program, a Bus Livability program and a Veterans Transportation and Community Living Initiative. FTA will publish one or more Notices of Funding Availability (NOFAs) during the first quarter of calendar year 2012 to announce these discretionary program competitions. Specific program requirements and selection criteria will be published in the relevant notices of funding availability (NOFA).

3. Requirements

Program guidance for Bus and Bus-Related Facilities is found in FTA Circular C9300.1B, ''Capital Investment Program Guidance and Application Instructions,'' (November 1, 2008) and in subsequent notices of funding availability for each discretionary program.

4. Period of Availability

Section 5309 Bus and Bus-Related Facilities funds are available for three years, which includes the year the funds are allocated to a project through a notice of award or appropriation plus two. Fiscal Year 2012 Bus and Bus-Related Facilities allocations, including the Ferry Boat Allocations for FY 2010–2012, listed in Table 10 not obligated in an FTA grant for eligible purposes by September 30, 2014 may be made available for other Bus and Bus-Related Facilities projects under Section 5309 during the following fiscal year.

5. Other Program or Allocation Related Information and Highlights

Prior year unobligated balances for Bus and Bus-Related allocations in the amount of $367,630,155 remain available for obligation in FY 2012. The prior year carryover amounts are displayed in Table 11. Footnotes are included in Table 11 to identify the period of availability for each of these allocations. These tables do not include funds allocated in the recent discretionary competitions announced after September 30, 2011.

This notice publishes the allocation of funds for Section 5309 Ferry Boat Systems projects for FY 2010, FY 2011, and FY 2012. These projects are shown in Table 10. The list of FY 2010 Ferryboat projects replaces the projects published in the FTA FY 2010 apportionment notice (February 16, 2010, Table 10), which incorrectly published a list of Ferry Boat Systems projects administered by the Federal Highway Administration (FHWA).

For more information about the FY 2011 Bus Livability Program award announcements, please visit *www.gpo.gov/fdsys/pkg/FR-2011-11-07/pdf/2011-28779.pdf.* (**Federal Register** Citation: 76 FR 68813–FY 2011 Discretionary Livability Funding Opportunity; Section 5309 Bus and Bus Facilities Livability Initiative Program Grants and Section 5339 Alternatives Analysis Program, November 7, 2011.)

For more information about the FY 2011 State of Good Repair Program award announcements, please visit *www.gpo.gov/fdsys/pkg/FR-2011-11-07/pdf/2011-28774.pdf.* (**Federal Register** Citation: 76 FR 68819—State of Good Repair Bus and Bus Facilities Discretionary Program Funds, November 7, 2011.)

For more information about the FY 2011 Veterans Transportation and Community Living Initiative award announcements, please visit *www.gpo.gov/fdsys/pkg/FR-2011-12-19/pdf/2011-32447.pdf* (**Federal Register** Citation: 76 FR 78732–FY 2011 Discretionary Funding Opportunity; Section 5309 Bus and Bus Facilities Veterans Transportation and Community Living Initiative, December 19, 2011).

G. Capital Investment Program (49 U.S.C. 5309)—New and Small Starts

The New Starts program provides funds for construction of new fixed guideway systems or extensions to existing fixed guideway systems. Eligible purposes are light rail, rapid rail (heavy rail), commuter rail, monorail, automated fixed guideway system (such as a ''people mover''), or a busway/high occupancy vehicle (HOV) facility, Bus Rapid Transit that is fixed guideway, or an extension of any of these. Eligible purposes for the Small Starts program are those mentioned for the New Starts program, as well as corridor based bus systems that do not operate on a fixed guideway but include elements such as substantial transit stations, signal priority or pre-emption, branding of vehicles, and service frequencies of 10 minutes during peak periods and 15 minutes during off peak periods for at least 14 hours per day.

Projects become candidates for funding under this program by successfully completing the appropriate steps in the major capital investment planning and project development process, which includes evaluation and rating by FTA based on several statutorily-defined criteria. Major new fixed guideway projects, or extensions to existing systems, financed with New Starts funds typically receive these funds through a full funding grant agreement (FFGA) that defines the scope of the project and specifies the total multi-year Federal commitment to the project. Small Starts projects typically receive funds through a project construction grant agreement (PCGA) that defines the scope of the project and specifies the Federal commitment to the project or a single year construction grant if the Small Starts contribution is $25 million or less and has already been appropriated.

For more information about the New or Small Starts project development process or evaluation and rating process contact Elizabeth Day, Office of Planning and Environment, at (202) 366–4033, or for information about published allocations contact Eric Hu, Office of Transit Programs, at (202) 366–0870.

1. FY 2012 Funding Availability

The Appropriations Act, 2012 appropriated $1,955,000,000 to the major capital investment program (New and Small Starts) for the full fiscal year. Thus far, the total amount allocated for the major capital investment program (New and Small Starts) is $1,935,450,000, after the one percent deduction for oversight, is shown in the table below.

CAPITAL INVESTMENT PROGRAM (NEW STARTS)

Total Appropriation	$1,955,000,000
Oversight (one percent) ..	− 19,550,000
Total Available	1,935,450,000

2. Basis for Allocation

Congress included authorizations for specific New Starts projects with Full Funding Grant Agreements (FFGA) in SAFETEA–LU. Funds allocated to specific projects are shown in Table 12. These non-discretionary allocations amount to $1,388,515,000. Table 12 also includes a discretionary allocation of $35,481,000 for the Small Starts Project Central Mesa LRT Extension (Mesa, AZ). Unallocated funds total $511,454,000.

The Appropriations Bill, 2012 includes a rescission of $58,500,000 of unspent funds appropriated in FY 2009 under Public law 111–8.

3. Requirements

FY 2010 New Starts projects were earmarked in law. Thus, reprogramming for a purpose other than that specified must also occur in law. While FY 2012 New Starts projects were identified in conference report accompanying the Appropriations Act, 2012 and not the Act itself, New Starts projects are subject to a complex set of approvals related to planning and project development set forth in 49 CFR Part 611. FTA has published a number of rulemakings and interim guidance documents related to the New Starts program since the passage of SAFETEA–LU. Grantees should reference the FTA Web site at *www.fta.dot.gov* for the most current program guidance about project developments and management. Grant related guidance for New Starts is found in FTA Circular C9300.1B, Capital Investment Program Guidance and Application Instructions dated November 1, 2008; and C5200.1A, Full Funding Grant Agreement Guidance, dated December 5, 2002.

4. Period of Availability

New Starts funds that remain unobligated to the projects designated the funds after three fiscal years (including the fiscal year the funds are allocated plus two additional years) may be made available for other section 5309 New Start projects. Therefore, corresponding funds for projects identified in the FY 2012 conference report must be obligated for the project by September 30, 2014.

5. Other Program or Apportionment Related Information and Highlights

Prior year FY 2010 and FY 2011 unobligated discretionary and non-discretionary allocations for New Starts, including Urban Circulator projects, in the amount of $1,323,217,298 remain available for obligation in FY 2012. These unobligated amounts are displayed in Table 13.

H. Special Needs of Elderly Individuals and Individuals With Disabilities Program (49 U.S.C. 5310)

This program provides formula funding to States for capital projects to assist private nonprofit groups in meeting the transportation needs of the elderly and individuals with disabilities when the public transportation service provided in the area is unavailable, insufficient, or inappropriate to meet these needs. A State agency designated by the Governor administers the Section 5310 program. The State's responsibilities include: notifying eligible local entities of funding availability; developing project selection criteria; determining applicant eligibility; selecting projects for funding; and ensuring that all sub-recipients comply with Federal requirements. Eligible nonprofit organizations or public bodies must apply directly to the designated State agency for assistance under this program. For more information about the Elderly and Individuals with Disabilities Program contact Gil Williams, Office of Transit Programs, at (202) 366–0797.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $66,750,000 in contract authority for the period October 1, 2011 through March 31, 2012 for the Elderly and Individuals with Disabilities Program (49 U.S.C. 5310). After deduction of 0.5 percent for oversight, and the addition of reapportioned prior year funds, $67,055,892 remains available for allocation to the States. The FY 2012 Elderly and Individuals with Disabilities Program apportionments to the States are displayed in Table 14.

ELDERLY AND INDIVIDUALS WITH DISABILITIES PROGRAM

Total Appropriation	$66,750,000
FY 2011 Contract Authority	277,744
Oversight Deduction	−335,139
Reapportioned Funds	363,287
Total Apportioned	67,055,892

2. Basis for Apportionment

FTA allocates funds to the States by an administrative formula consisting of a $125,000 floor for each State ($50,000 for smaller territories) with the balance allocated based on 2000 Census population data for persons aged 65 and over and for persons with disabilities.

3. Requirements

Funds are available to support the capital costs of transportation services for older adults and people with disabilities. Uniquely under this program, eligible capital costs include the acquisition of service. Seven specified States (Alaska, Louisiana, Minnesota, North Carolina, Oregon, South Carolina, and Wisconsin) may use up to 33 percent of their apportionment for operating assistance under the terms of the SAFETEA–LU Section 3012(b) pilot program.

Capital assistance is provided on an 80 percent Federal, 20 percent local matching basis except that Section 5310(c) allows States eligible for a higher match under the sliding scale for FHWA programs to use that match ratio for Section 5310 capital projects. Operating assistance is 50 percent Federal, 50 percent local. Funds provided under other Federal programs (other than those of the DOT, with the exception of the Federal Lands Highway Program established by 23 U.S.C. 204) may be used as match. Revenue from service contracts may also be used as local match.

While the assistance is intended primarily for private non-profit organizations, public bodies approved by the State to coordinate services for the elderly and individuals with disabilities, or any public body that certifies to the State that there are no non-profit organizations in the area that are readily available to carry out the service, may receive these funds.

States may use up to ten percent of their annual apportionment to administer, plan, and provide technical assistance for a funded project. No local share is required for these program administrative funds. Funds used under this program for planning must be shown in the United Planning Work Program (UPWP) for MPO(s) with responsibility for that area.

The State recipient must certify that: The projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and, the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public. The locally developed, coordinated public transit-human services transportation planning process must be coordinated and consistent with the metropolitan and statewide planning processes and funding for the program must be included in the metropolitan and statewide Transportation Improvement Program (TIP and STIP) at a level of specificity or aggregation consistent with State and local policies and procedures. Finally, the State must certify that allocations to sub-recipients are made on a fair and equitable basis.

The coordinated planning requirement is a requirement in two additional programs. Projects selected for funding under the Job Access Reverse Commute program and the New Freedom program also are required to be derived from a locally developed coordinated public transit/human service transportation plan. FTA anticipates that most areas will develop one consolidated plan for all the programs, which may include separate elements and other human service transportation programs.

The Section 5310 program is subject to the requirements of Section 5307

formula program to the extent the Secretary determines appropriate. Program guidance is found in FTA Circular 9070.1F, dated May 1, 2007. The circular is posted on the FTA Web site at *www.fta.dot.gov*.

4. Period of Availability

Section 5310 funds are available for three years, which includes the year of apportionment plus two. Fiscal Year 2012 Section 5310 funds not obligated in an FTA grant for eligible purposes by September 30, 2014 will revert to FTA for reapportionment among the States under the Elderly and Individuals with Disabilities Program.

5. Other Program or Apportionment Related Information and Highlights

States may transfer Section 5310 funds to Section 5307 or Section 5311, but only for projects selected under the Section 5310 program, not as a general supplement for those programs. FTA anticipates that the States would use this flexibility primarily for projects to be implemented by a Section 5307 recipient in a small urbanized area, or for federally recognized Indian Tribes that elect to receive funds as a direct recipient from FTA under Section 5311. A State that transfers Section 5310 funds to Section 5307 must certify that each project for which the funds are transferred has been coordinated with private nonprofit providers of services. FTA has established a scope code (641) in the TEAM grant system to track Section 5310 projects included within a Section 5307 or 5311 grant. Transfer to Section 5307 or 5311 is permitted, but not required. FTA expects primarily to award stand-alone Section 5310 grants to the State for any and all sub-recipients.

6. Performance Measures

To support the evaluation of the program, FTA has established performance measures for the Section 5310 program, which should be submitted with the State's annual program of projects status report on October 31, 2012. States should submit performance measures on behalf of their sub-recipients. Information on the Section 5310 performance measures can be found at *http://www.fta.dot.gov/laws/circulars/leg_reg_6622.html.*

I. Nonurbanized Area Formula Program (49 U.S.C. 5311)

This program provides formula funding to States and Indian Tribes for the purpose of supporting public transportation in areas with a population of less than 50,000. Funding may be used for capital, operating, State administration, and project administration expenses. Eligible sub-recipients include State and local governmental authority, Indian Tribes, private non-profit organizations, and private operators of public transportation services, including intercity bus companies. Indian Tribes are also eligible direct recipients under Section 5311, both for funds apportioned to the States and for projects selected to be funded with funds set aside for a separate Tribal Transit Program. For more information about the Nonurbanized Area Formula Program contact Lorna Wilson, Office of Transit Programs, at (202) 366–0893.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $232,500,000 in contract authority for the Nonurbanized Area Formula Program (49 U.S.C. 5311) for the period October 1, 2011 through March 31, 2012. Thus far, the total amount apportioned for the Nonurbanized Area Formula Program is $269,879,990 after take-downs of two percent for the Rural Transportation Assistance Program (RTAP), 0.5 percent for oversight, and $7,500,000 for the Tribal Transit Program, and the addition of Section 5340 funding for Growing States and of reapportioned funds, as shown in the table below.

NONURBANIZED AREA FORMULA PROGRAM

Total Appropriation	$232,500,000
FY 2011 Contract Authority	916,869
Oversight Deduction	−1,167,337
Tribal Takedown	−7,500,000
RTAP Takedown	−4,650,000
Section 5340 Funds Added	36,882,147
Reapportioned Funds	748,311
Total Apportioned	269,879,990

The FY 2012 Nonurbanized Area Formula apportionments to the States are displayed in Table 15.

2. Basis for Apportionments

FTA apportions the funds after take-down for oversight, the Tribal Transit Program, and RTAP according to a statutory formula. FTA apportions the first twenty percent to the States based on land area in nonurbanized areas with no state receiving more than 5 percent of the amount apportioned. FTA apportions the remaining eighty percent based on nonurbanized population of each State relative to the national nonurbanized population. FTA does not apportion Section 5311 funds to the Virgin Islands, which by a statutory exception are treated as an urbanized area for purposes of the Section 5307 formula program.

FTA is allocating $36,729,317 to the States and territories for nonurbanized areas from the Growing States portion of Section 5340. FTA apportions Growing States funds by a formula based on State population forecasts for 15 years beyond the most recent census. FTA distributes the amounts apportioned for each State between UZAs and nonurbanized areas based on the ratio of urbanized/nonurbanized population within each State in the 2000 census.

3. Program Requirements

The Nonurbanized Area Formula Program provides capital, operating and administrative assistance for public transit service in nonurbanized areas under 50,000 in population.

The Federal share for capital assistance is 80 percent and for operating assistance is 50 percent, except that States eligible for the sliding scale match under FHWA programs may use that match ratio for Section 5311 capital projects and 62.5 percent of the sliding scale capital match ratio for operating projects.

Each State must spend no less than 15 percent of its FY 2012 Nonurbanized Area Formula apportionment for the development and support of intercity bus transportation, unless the State certifies, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being adequately met. FTA also encourages consultation with other stakeholders, such as communities affected by loss of intercity service.

Each State prepares an annual program of projects, which must provide for fair and equitable distribution of funds within the States, including Indian reservations, and must provide for maximum feasible coordination with transportation services assisted by other Federal sources.

To retain eligibility for funding, recipients of Section 5311 funding must report data annually to the NTD. Additional information on NTD reporting is contained in paragraph 5 of this section, below.

Program guidance for the Nonurbanized Area Formula Program is found in FTA Circular 9040.1F, ''Nonurbanized Area Formula Program Guidance and Grant Application Instructions,'' dated April 1, 2007. The circular is posted at *www.fta.dot.gov*.

4. Period of Availability

Section 5311 Nonurbanized Area Formula Program funds are available for

three years, which includes the year of appropriation, plus two. Fiscal Year 2012 Nonurbanized Area Formula funds not obligated in an FTA grant for eligible purposes by September 30, 2014 will revert to FTA for reapportionment among the States under the Nonurbanized Area Formula Program.

5. Other Program or Apportionment Related Information and Highlights

i. NTD Reporting

By law, FTA requires that each recipient under the Section 5311 program submit an annual report to the NTD containing information on capital investments, operations, and service provided with funds received under the Section 5311 program. Section 5311(b)(4), as amended by SAFETEA–LU, specifies that the report shall include information on total annual revenue, sources of revenue, total annual operating costs, total annual capital costs, fleet size and type, and related facilities, revenue vehicle miles, and ridership. State or Territorial DOT 5311 grant recipients must complete a one-page form of basic data for each 5311 sub-recipient, unless the sub-recipient is already providing a full report to the NTD as a Tribal Transit direct recipient or as an urbanized area reporter (without receiving a Nine or Fewer Vehicles Waiver). For the 2012 Report Year, State or Territorial DOTs must report on behalf of any sub-recipient receiving Section 5311 grants in 2012, or that continued to benefit in 2012 from capital assets purchased using Section 5311 grants. Tribal Transit direct recipients must report if they received an obligation or an outlay for a Section 5311 grant in 2012, or if they continued to benefit in 2012 from capital assets using Section 5311 Grants, unless the Tribe is already filing a full NTD Report as an urbanized area reporter or unless the Tribe only received $50,000 or less in planning grants. The NTD Rural Reporting Manual contains detailed reporting instructions and is posted on the NTD Web site, *www.ntdprogram.gov*.

ii. Extension of Intercity Bus Pilot of In-Kind Match

Beginning in FY 2007, FTA implemented a two year pilot program of in-kind match for intercity bus service. The initial program was set to expire after FY 2008; however, FTA decided to extend the program through FY 2011. Through this notice FTA extends the In-Kind Match program through FY 2012. FTA published guidance on the in-kind match pilot in the **Federal Register** on February 28, 2007, as Appendix 1 of the Notice announcing the final revised circular 9040.1F, which is available at *www.fta.dot.gov*.

J. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))

This program provides funding to assist in the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in nonurbanized areas. For more information about Rural Transportation Assistance Program (RTAP) contact Lorna Wilson, Office of Transit Programs, at (202) 366–0893.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $4,650,000 in contract authority for RTAP (49 U.S.C. 5311(b)(2)), as a two percent takedown from the funds appropriated for Section 5311 for the period October 1, 2011 through March 31, 2012. FTA has reserved 15 percent for the National RTAP program. After the reservation for the National RTAP program and the addition of FY 2011 contract authority and reapportioned funds, thus far a total of 4,105,923 is available for allocation to the States, as shown in the table below.

RURAL TRANSIT ASSISTANCE PROGRAM

Total Appropriation	$4,650,000
FY 2011 Contract Authority	19,348
National RTAP Takedown	−697,500
Reapportioned Funds	134,075
Total Apportioned	4,105,923

Table 15 shows the FY 2012 RTAP allocations to the States.

2. Basis for Allocation

FTA allocates funds to the States by an administrative formula. First, FTA allocates $65,000 to each State ($10,000 to territories), and then allocates the balance based on nonurbanized population in the 2000 census.

3. Program Requirements

States may use the funds to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in nonurbanized areas. These funds are to be used in conjunction with a State's administration of the Nonurbanized Area Formula Program, but also may support the rural components of the Section 5310, JARC, and New Freedom programs.

4. Period of Availability

Section 5311 RTAP funds are available for three years, which includes the year the funds are made available to a project through a notice of award, plus two.

5. Other Program or Apportionment Related Information and Highlights

The National RTAP project is administered by cooperative agreement and re-competed at five-year intervals. In FY 2008, FTA awarded the cooperative agreement to the Neponset Valley Transportation Management Association (NVTMA) located in Waltham, Massachusetts through a competitive process. The National RTAP projects are guided by a project review board that consists of managers of rural transit systems and State DOT RTAP programs. National RTAP resources also support the biennial TRB National Conference on Rural Public and Intercity Bus Transportation and other research and technical assistance projects of a national scope.

K. Public Transportation on Indian Reservations Program (49 U.S.C. 5311(c)(1))

FTA refers to this program as the Tribal Transit Program. It is funded as a takedown from funds made available for the Section 5311 program. Eligible direct recipients are federally recognized Indian Tribes. The funds are to be allocated for grants to Indian Tribes for any purpose eligible under Section 5311, which includes capital, operating, planning, and administrative assistance for rural public transit services and rural intercity bus service. For more information about the Tribal Transit Program contact Lorna Wilson, Office of Transit Programs, at (202) 366–0893.

1. Funding Availability in FY 2012

Based on the Temporary Authorization, 2012 FTA is allocating $7,500,000 for the Tribal Transit Program for the period October 1, 2011 through March 31, 2012. After the addition of available FY 2011 contract authority and reapportioned funds, and the deduction of FY 2012 funds apportioned to the program in FY 2011, a total of $8,020,905 is available for grants, as shown in the table below.

TRIBAL TRANSIT PROGRAM

Total Appropriated	$7,500,000
FY 2011 Contract Authority	31,207
FY 2011 Program Apportionment	−36,410

TRIBAL TRANSIT PROGRAM—Continued

Reapportioned Funds	489,698
Total Apportioned	8,020,905

2. Basis for Allocation

Based on procedures developed in consultation with the Tribes, FTA will issue a Notice of Funding Availability (NOFA) soliciting applications for FY 2012 funds. Projects are competitively selected based on the criteria published in the NOFA.

3. Requirements

FTA developed streamlined program requirements based on statutory authority allowing the Secretary to determine the terms and conditions appropriate to the program. These conditions are contained in the annual NOFA. Beginning with grants awarded in FY 2009, the grant agreement has incorporated the statement of warranty for labor protective arrangements, and tribal grants will be submitted to the Department of Labor (DOL) for information upon FTA approval. Projects funded under the Tribal Transit Program are not required to have local match.

4. Period of Availability

Section 5311 Tribal Transit funds are available for three years, which includes the year of allocation, plus two. Fiscal Year 2012 Tribal Transit funds announced during FY 2012 that are not obligated in an FTA grant for eligible purposes by September 30, 2014 may be made available for other Tribal Transit projects under Section 5311 during the following fiscal year.

5. Other Program Changes and Highlights

The funds set aside for the Tribal Transit Program are not meant to replace or reduce funds that Indian Tribes receive from States through the Section 5311 program but are to be used to enhance public transportation on Indian reservations and transit serving tribal communities. Funds allocated to Tribes by the States may be included in the State's Section 5311 application or awarded by FTA in a grant directly to the Tribe. We encourage Tribes intending to apply to FTA as direct recipients to contact the appropriate FTA regional office at the earliest opportunity.

Technical assistance for Tribes may be available from the State DOT using the State's allocation of RTAP or funds available for State administration under Section 5311, from the Tribal Transportation Assistance Program (TTAP) Centers supported by FHWA, and from the Community Transportation Association of America under a program funded by the United States Department of Agriculture (USDA). The National RTAP will also be developing new resources for Tribal Transit. The National RTAP program, in conjunction with FTA, will be hosting a Tribal Transit Training and Technical Assistance meeting in Scottsdale, Arizona from March 18–21, 2012. Tribes who have active grants with FTA's Tribal Transit program are encouraged to attend the two and half day training session. For more information contact Lorna Wilson, Program Manager at (202) 366–0893 or visit the National RTAP Web site regarding preliminary conference logistics at *http://www.nationalrtap.org.*

Table 16 lists prior year carryover of $6,373,776 for Tribal Transit program projects allocated project funding in FY 2010. The FY 2010 allocations were announced on March 30, 2011 and are available for obligation until September 30, 2013. For more information about the FY 2011 Tribal Transit program selections announced on December 1, 2011, please visit *www.fta.dot.gov/tribaltransit.* FTA anticipates publishing its FY 2011 Tribal Transit Program Notice of Award, formally announcing the FY 2011 program selections, in the **Federal Register** in early January.

L. Growing States and High Density States Formula Factors (49 U.S.C. 5340)

The Temporary Authorization, 2012 makes $232,500,000 in contract authority available for apportionment in accordance with the formula factors prescribed for Growing States and High Density States set forth in 49 U.S.C. 5340 for the period October 1, 2011 through March 31, 2012. After the addition of available FY 2011 contract authority, a total of $233,467,424 is available for apportionment. Fifty percent of this amount is apportioned to eligible States and urbanized areas using the Growing State formula factors. The other 50 percent is apportioned to eligible States and urbanized areas using the High Density States formula factors.

The term ''State,'' for purposes of this program, is defined to mean only the 50 States. For the Growing State portion of the program, funds are allocated based on the population forecasts for fifteen years after the date of that census. Forecasts are based on the trend between the most recent decennial census and Census Bureau population estimates for the most current year. Census population estimates as of July 1, 2010 were used in the FY 2012 apportionments. Funds allocated to the States are then sub-allocated to urbanized and non-urbanized areas based on forecast population, where available. If forecasted population data at the urbanized level is not available, as is currently the case, funds are allocated to current urbanized and non-urbanized areas on the basis of current population in the 2000 Census. Funds allocated to urbanized areas are included in their Section 5307 apportionment. Funds allocated for non-urbanized areas are included in the states' Section 5311 apportionments.

M. Job Access and Reverse Commute Program (49 U.S.C. 5316)

The Job Access and Reverse Commute (JARC) program provides formula funding to States and Designated Recipients to support the development and maintenance of job access projects designed to transport welfare recipients and low-income individuals to and from jobs and activities related to their employment, and for reverse commute projects designed to transport residents of UZAs and other than urbanized areas to suburban employment opportunities. For more information about the JARC program contact Gil Williams, Office of Transit Programs, at (202) 366–0797.

1. Funding Availability in FY 2012

The Temporary Authorization, 2012 provides $82,250,000 in contract authority for the JARC Program for the period October 1, 2011 through March 31, 2012. The Appropriations Act, 2012 allows for a takedown of one percent of JARC program funds for oversight. After this takedown of one percent for oversight, and the addition of available FY 2011 contract authority and reapportioned funds, a total of 95,047,060 is thus far available for allocation to the States, as shown in the table below.

JOB ACCESS AND REVERSE COMMUTE PROGRAM

Total Appropriation	$82,250,000
FY 2011 Contract Authority	342,239
Oversight Deduction	−822,500
Reapportioned Funds	13,277,321
Total Apportioned	95,047,060

Table 17 shows the FY 2012 JARC apportionments.

2. Basis for Formula Apportionment

By law, FTA allocates 60 percent of funds available to UZAs with populations of 200,000 or more persons (large UZAs); 20 percent to the States for urbanized areas with populations ranging from 50,000 to 199,999 persons

(small UZAs), and 20 percent to the States for rural and small urban areas with populations of less than 50,000 persons. FTA apportions funds based upon the number of low income individuals residing in a State or large urbanized area, using data from the 2000 Census for individuals with incomes below 150 percent of the poverty level. FTA publishes apportionments to each State for small UZAs and for rural and small urban areas and a single apportionment for each large UZA.

The Designated Recipient, either for the State or for a large UZA, is responsible for further allocating the funds to specific projects and sub-recipients through a competitive selection process. If the Governor has designated more than one recipient of JARC funds in a large UZA, the Designated Recipients may agree to conduct a single competitive selection process or sub-allocate funds to each Designated Recipient, based upon a percentage split agreed upon locally, and conduct separate competitions.

States may transfer funds between the small UZA and the nonurbanized apportionments, if all of the objectives of JARC are met in the size area the funds are taken from. States may also use funds apportioned to the small UZA and nonurbanized area apportionments for projects anywhere in the State (including large UZAs) if the State has established a statewide program for meeting the objectives of JARC. A State that is planning to transfer funds under either of these provisions should submit a request to the FTA regional office. FTA will assign new accounting codes to the funds before obligating them in a grant.

3. Requirements

States and Designated Recipients must solicit grant applications and select projects competitively, based on application procedures and requirements established by the Designated Recipient, consistent with the Federal JARC program objectives. In the case of large UZAs, the area-wide solicitation shall be conducted in cooperation with the appropriate MPO(s).

Funds are available to support the planning, capital, and operating costs of transportation services that are eligible for funding under the program. Assistance may be provided for a variety of transportation services and strategies directed at assisting welfare recipients and eligible low-income individuals to address unmet transportation needs, and to provide reverse commute services. The transportation services may be provided by public, non-profit, or private-for-profit operators. The Federal share is 80 percent of capital and planning expenses and 50 percent of operating expenses. Funds provided under other Federal programs (other than those of the DOT, with the exception of the Federal Lands Highway Program established by 23 U.S.C. 204) may be used for local/State match for funds provided under Section 5316, and revenue from service contracts may be used as local match.

States and Designated Recipients may use up to ten percent of their annual apportionment for administration, planning, and to provide technical assistance. No local share is required for these program administrative funds. Funds used under this program for planning in urbanized areas must be shown in the UPWP for MPO(s) with responsibility for that area.

The Designated Recipient must certify that: The projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and, the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public, including those representing the needs of welfare recipients and eligible low-income individuals. The locally developed, coordinated public transit-human services transportation planning process must be coordinated and consistent with the metropolitan and statewide planning processes and funding for the program must be included in the metropolitan and statewide Transportation Improvement Program (TIP and STIP) at a level of specificity or aggregation consistent with State and local policies and procedures. Finally, the State must certify that allocations of the grant to sub-recipients are made on a fair and equitable basis.

The coordinated planning requirement is also a requirement in two additional programs. Projects selected for funding under the Elderly and Individuals with Disabilities Program (Section 5310) and the New Freedom program (Section 5317) also are required to be derived from a locally developed coordinated public transit-human service transportation plan. FTA anticipates that most areas will develop one consolidated plan for all the programs, which may include separate elements and other human service transportation programs. The goal of the coordinated planning process is not to be an exhaustive document, but to serve as a tool for planning and implementing beneficial projects. The level of effort required to develop the plan will vary among communities based on factors such as the availability of resources. FTA does not approve coordinated plans.

The JARC program is subject to the relevant requirements of Section 5307, including the requirement for certification of labor protections. JARC program requirements are published in FTA Circular 9050.1, dated April 1, 2007. The circular and other guidance including frequently asked questions are posted on the FTA Web site at *www.fta.dot.gov.*

4. Period of Availability

Section 5316 JARC funds are available for three years, which includes the year of apportionment, plus two. Fiscal Year 2012 JARC funds not obligated in an FTA grant for eligible purposes by September 30, 2014 will revert to FTA for reapportionment among the States and large UZAs under the JARC program.

5. Other Program or Apportionment Related Information and Highlights

Transfers to Section 5307 or Section 5311: States may transfer JARC funds to Section 5307 or Section 5311, but only for projects competitively selected under the JARC program, not as a general supplement for those programs. FTA anticipates that the States would use this flexibility primarily for projects to be implemented by a Section 5307 recipient in a small urbanized area or for federally recognized Indian Tribes that elect to receive funds as a direct recipient from FTA under Section 5311. FTA has established a scope code (646) to track JARC projects included within a Section 5307 or 5311 grant. All activities within a Section 5307 or Section 5311 grant application that are funded with JARC resources should be listed under the 646–00 scope code. Transfer to Section 5307 or 5311 is permitted but not required. FTA also will award stand-alone JARC grants to the State for any and all sub-recipients. To track disbursements accurately against the appropriate program, FTA will not combine JARC funds with Section 5307 funds in a single Section 5307 grant, nor will FTA combine JARC with New Freedom funds in a single Section 5307 grant.

N. New Freedom Program (49 U.S.C. 5317)

SAFETEA–LU established the New Freedom Program under 49 U.S.C. 5317. The program purpose is to provide new public transportation services and public transportation alternatives beyond those currently required by the

Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services. For more information about the New Freedom program contact Gil Williams, Office of Transit Programs, at (202) 366–0797.

1. Funding Availability in FY 2012

The Temporary Authorization, 2012 provides $46,250,000 in contract authority for the New Freedom Program for the period October 1, 2011 through March 31, 2012. After the addition of available FY 2011 contract authority and reapportioned funds, a total of 54,405,514 is available for allocation to the States, as shown in the table below.

NEW FREEDOM PROGRAM

Total Appropriated	$46,250,000
FY 2011 Contract Authority	192,445
Reapportioned Funds	7,963,069
Total Apportioned	54,405,514

Table 18 shows the FY 2012 New Freedom apportionments.

2. Basis for Formula Apportionment

By law, FTA allocates 60 percent of funds available to UZAs with populations of 200,000 or more persons (large UZAs); 20 percent to the States for urbanized areas with populations ranging from 50,000 to 199,999 persons (small UZAs), and 20 percent to the States for rural and small urban areas with populations of less than 50,000 persons. FTA apportions funds based upon the number of persons with disabilities over the age of five residing in a State or large urbanized area, using data from the 2000 Census. FTA publishes apportionments to each State for small UZAs and for rural and small urban areas and a single apportionment for each large UZA.

The Designated Recipient, either for the State or for a large UZA, is responsible for further allocating the funds to specific projects and sub-recipients through a competitive selection process. If the Governor has designated more than one recipient of New Freedom funds in a large UZA, the Designated Recipients may agree to conduct a single competitive selection process or sub-allocate funds to each Designated Recipient, based upon a percentage split agreed on locally and conduct separate competitions.

3. Requirements

States and Designated Recipients must solicit grant applications and select projects competitively, based on application procedures and requirements established by the Designated Recipient, consistent with the Federal New Freedom program objectives. In the case of large UZAs, the area-wide solicitation shall be conducted in cooperation with the appropriate MPO(s).

Funds are available to support the capital and operating costs of new public transportation services and public transportation alternatives that are beyond those required by the Americans with Disabilities Act (ADA). Funds provided under other Federal programs (other than those of the DOT, with the exception of the Federal Lands Highway Program established by 23 U.S.C. 204) may be used as match for capital funds provided under Section 5317, and revenue from contract services may be used as local match.

Funding is available for transportation services provided by public, non-profit, or private-for-profit operators. Assistance may be provided for a variety of transportation services and strategies directed at assisting persons with disabilities to address unmet transportation needs. Eligible public transportation services and public transportation alternatives funded under the New Freedom program must be both new and beyond the ADA. In a notice of policy change published on April 29, 2009, (**Federal Register** Volume 74 Number 81, April 29, 2009) FTA expanded the type of projects it considers to be ''beyond the ADA'' and thus increased the types of projects eligible for funding under the New Freedom program. Under interpretation published in the **Federal Register,** new and expanded fixed route and demand responsive transit service planned for and designed to meet the needs of individuals with disabilities are eligible projects.

The Federal share is 80 percent of capital expenses and 50 percent of operating expenses. Funds provided under other Federal programs (other than those of the DOT) may be used for local/state match for funds provided under Section 5317, and revenue from service contracts may be used as local match.

States and Designated Recipients may use up to ten percent of their annual apportionment to administer, plan, and provide technical assistance for a funded project. No local share is required for these program administrative funds. Funds used under this program for planning must be shown in the UPWP for MPO(s) with responsibility for that area.

The Designated Recipient must certify that: the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and, the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public, including those representing the needs of welfare recipients and eligible low-income individuals. The locally developed, coordinated public transit-human services transportation planning process must be coordinated and consistent with the metropolitan and statewide planning processes and funding for the program must be included in the metropolitan and statewide Transportation Improvement Program (TIP and STIP) at a level of specificity or aggregation consistent with State and local policies and procedures. Finally, the State must certify that allocations of the grant to sub-recipients are made on a fair and equitable basis.

The coordinated planning requirement is also a requirement in two additional programs. Projects selected for funding under the Section 5310 program and the JARC program are also required to be derived from a locally developed coordinated public transit-human service transportation plan. FTA anticipates that most areas will develop one consolidated plan for all the programs, which may include separate elements and other human service transportation programs.

The New Freedom program is subject to the relevant requirements of Section 5307, but certification of labor protections is not required. New Freedom Program requirements are published in FTA Circular 9045.1, which was effective May 1, 2007. The circular and other guidance including frequently asked questions are posted on the FTA Web site at *www.fta.dot.gov.*

4. Period of Availability

Section 5317 New Freedom funds are available for three years, which includes the year of apportionment, plus two. Fiscal Year 2012 New Freedom funds not obligated in an FTA grant for eligible purposes by September 30, 2014 will revert to FTA for reapportionment among the States and large UZAs to be used for New Freedom program purposes.

5. Other Program or Apportionment Related Information and Highlights

Transfers to Section 5307 or 5311: States may transfer New Freedom funds to Section 5307 or Section 5311, but only for projects competitively selected

under the New Freedom program, not as a general supplement for those programs. FTA anticipates that the States would use this flexibility for projects to be implemented by a Section 5307 recipient in a small urbanized area or for federally recognized Indian Tribes that elect to receive funds as a direct recipient from FTA under Section 5311. FTA has established a scope code (647) to track New Freedom projects included within a Section 5307 or 5311 grant. All activities within a Section 5307 or Section 5311 grant application that are funded with New Freedom resources should be listed under the 647–00 scope code. Transfer to Section 5307 or 5311 is permitted but not required. FTA also will award stand-alone New Freedom Program grants to the State for any and all sub-recipients. In order to track disbursements accurately against the appropriate program, FTA will not combine New Freedom funds with Section 5307 funds in a single Section 5307 grant, nor will FTA combine New Freedom with JARC funds in a single Section 5307 grant.

O. Paul S. Sarbanes Transit in Parks Program (49 U.S.C. 5320)

The Paul S. Sarbanes Transit in Parks Program (Transit in Parks), formally the Alternative Transportation in Parks and Public Lands (ATPPL) Program, is administered by FTA in partnership with the Department of the Interior (DOI) and the U.S. Department of Agriculture's Forest Service. The purpose of the program is to enhance the protection of national parks and Federal lands, and increase the enjoyment of those visiting them. The Program funds capital and planning expenses for alternative transportation systems such as buses, trams, ferries and bicycle or pedestrian facilities in federally-managed parks and public lands. Federal land management agencies and State, tribal and local governments acting with the consent of a Federal land management agency are eligible to apply.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $13,450,000 in contract authority to the Paul S. Sarbanes Transit in Parks Program for the period October 1, 2011 through March 31, 2012. After the addition of available FY 2011 contract authority and the deduction for oversight, a total of $13,438,435 is available for grants, as shown in the table below. Up to ten percent of the funds may be reserved for planning, research, and technical assistance.

PAUL S. SARBANES TRANSIT IN PARKS PROGRAM

Total Appropriated	$13,450,000
FY 2011 Contract Authority	55,965
Oversight Deduction	67,530
Total Apportioned	13,438,435

As stated in the FY 2011 Notice of Funding Availability, FY 2012 funds may be used to fund project applications received in response to the 2011 program competition. An announcement of project selections using both FY 2011 and FY 2012 funds will be published in or around January 2012. Depending upon the availability of additional full-year funding, FTA may publish a separate notice of Funding Availability (NOFA) in the **Federal Register** inviting additional applications for funding in FY 2012. For information on the FY 2011 program competition and award announcements, please visit *www.fta.dot.gov/transitinparks.*

2. Program Requirements

Projects are competitively selected based on criteria specified in the Notice of Funding Availability. The terms and conditions applicable to the program are also specified in the NOFA. Projects must conserve natural, historical, and cultural resources, reduce congestion and pollution, and improve visitor mobility and accessibility. By statute, no more than 25 percent of the amount provided may be allocated for any one project. Projects funded under the Transit in Parks Program are not required to have local match.

3. Period of Availability

Funds awarded under the Transit in Parks Program remain available until expended. Consistent with section 9.5.2a of the ''Department of Transportation Financial Management Policies Manual (October 24, 2006), funds awarded to Federal land management agencies through interagency agreements remain available for a period of five years from execution of the agreement.

P. Alternatives Analysis Program (49 U.S.C. 5339)

The Alternatives Analysis Program provides grants to States, authorities of the States, metropolitan planning organizations, and local government authorities to develop studies as part of the transportation planning process. These studies include: an assessment of a wide range of public transportation alternatives designed to address transportation needs in a defined corridor or subarea; an initiation of the environmental review process by performing the planning-level consideration of environmental issues; sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under the Major Capital Investment Program (New Starts and Small Starts); the selection of a locally preferred alternative; and the adoption of the locally preferred alternative as part of the Long Range Statewide Transportation Plan or Metropolitan Transportation Plan. For more information about this program contact Kenneth Cervenka, Office of Planning and Environment, at (202) 493–0512, or for information about published allocations contact Eric Hu, Office of Transit Programs, at (202) 366–0870.

1. FY 2012 Funding Availability

The Temporary Authorization, 2012 provides $12,500,000 in contract authority to the Alternatives Analysis Program for the period October 1, 2011 through March 31, 2012. After the addition of available FY 2011 contract authority, a total of $12,552,012 is currently available for grants, as shown in the table below.

ALTERNATIVES ANALYSIS PROGRAM

Total Appropriated	$12,500,000
FY 2011 Contract Authority	52,012
Total Apportioned	12,552,012

2. Requirements

The Government's share of the cost of an activity funded may not exceed 80 percent of the cost of the activity. The funds will be awarded as separate Section 5339 grants. The grant requirements will be comparable to those for Section 5309 grants. Eligible projects include planning and corridor studies, which lay the foundation for the adoption of locally preferred alternatives within the fiscally constrained Metropolitan Transportation Plan for that area, and early scoping of the environmental review process, which supports the incorporation of the planning studies' results into subsequent NEPA documents. Funds awarded under the Alternatives Analysis Program must be shown in the UPWP for MPO(s) with responsibility for that area. Pre-award authority for Section 5339 funds applies to projects only after FTA funding allocations for a particular fiscal year are published in an FTA notice of apportionments and allocations. For

more information on pre-award authority see Section V of this notice.

Unless otherwise specified in law, grants made under the Alternatives Analysis program must meet all other eligibility requirements as outlined in Section 5309.

3. Period of Availability

Section 5338 Alternatives Analysis funds are available for three years, which includes the year the funds are allocated to a project through a notice of award or the year of appropriation, plus two.

4. Other Program or Apportionment Related Information and Highlights

Table 19 lists prior year carryover of $15,031,000 for Alternatives Analysis projects allocated project funding in FY 2010. Funding for these projects not obligated in an FTA grant by September 30, 2012 may be made available for other Alternatives Analysis projects during the next fiscal year. For more information about the FY 2011 Alternatives Analysis award announcements, please visit *www.gpo.gov/fdsys/pkg/FR-2011-11-07/pdf/2011-28779.pdf.* (**Federal Register** Citation: 76 FR 68813—FY 2011 Discretionary Livability Funding Opportunity; Section 5309 Bus and Bus Facilities Livability Initiative Program Grants and Section 5339 Alternatives Analysis Program, November 7, 2011).

Q. Over-the-Road Bus Accessibility Program (Section 3038, Pub. L. 105–85 [49 U.S.C. 5310 Note])

The Over-the-Road Bus Accessibility (OTRB) Program authorizes FTA to make grants to operators of over-the-road buses to help finance the incremental capital and training costs of complying with the DOT over-the-road bus accessibility final rule, 49 CFR Part 37, published on September 28, 1998 (63 FR 51670). FTA conducts a national solicitation of applications, and grantees are selected on a competitive basis. For more information about the OTRB program contact Blenda Younger, Office of Transit Programs, at (202) 366–4345.

1. Funding Availability in FY 2012

The Temporary Authorization, 2012 provides $4,400,000 in contract authority to the Over-the-Road Bus Accessibility Program for the period October 1, 2011 through March 31, 2012. After the addition of available FY 2011 contract authority, a total of $4,418,308 is thus far available for grants, as shown in the table below.

OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM

Total Appropriated	$4,400,000
FY 2011 Contract Authority	18,308
Total Apportioned	4,418,308

Of this amount, $3,313,731 is allocable to providers of intercity fixed-route service, and $1,104,577 to other providers of over-the-road bus services, including local fixed-route service, commuter service, and charter and tour service.

2. Program Requirements

Projects are competitively selected. The Federal share of the project is 90 percent of net project cost. Program guidance is provided in the **Federal Register** notice soliciting applications. Assistance under the program is available to private operators of over-the-road buses that are used substantially or exclusively in intercity, fixed route and over-the-road bus service. Assistance is also available to private operators of over-the-road buses in other services, such as charter, tour, and commuter service. Capital projects eligible for funding include projects to add lifts and other accessibility components to new vehicle purchases and to purchase lifts to retrofit existing vehicles. Eligible training costs include developing training materials or providing training for local providers of over-the-road bus services. A comprehensive listing of program requirements is published annually in the OTRB Program Notice of Funding Availability (NOFA).

3. Period of Availability

FTA has observed that some private operators selected to receive funding under this program have not acted promptly to obligate the funds in a grant and request reimbursement for expenditures. While the program does not have a statutory period of availability, in the FY 2008 Apportionment Notice, FTA published its intention to limit the period of availability to a selected operator to three years, which includes the year of allocation plus two additional years. Over the Road Bus funds allocated to projects in March 2011 must be obligated in an FTA grant by September 30, 2013. (**Federal Register** Citation: 76 FR 17738—Over-the-Road Bus Accessibility Program Announcement of Project Selections, March 30, 2011; *http://www.gpo.gov/fdsys/pkg/FR-2011-03-30/pdf/2011-7409.pdf*)

4. Other Program or Apportionment Related Information and Highlights

FTA will publish a notice of award for the FY 2011 program competition and a NOFA soliciting 2012 applications in early calendar year 2012. The notice will be available at *http://www.fta.dot.gov/legislation_law/Federal_register_notices.php.* For more information about the Over the Road Bus Program, visit *www.fta.dot.gov/otrb.*

R. Research Programs (49 U.S.C. 5312, 5313, 5314, 5322 and 5506)

FTA's Research Programs (NRPs) include the National Research and Technology Program (NRTP), the Transit Cooperative Research Program (TCRP), the National Transit Institute (NTI), and the University Transportation Centers Program (UTC). Funds for FTA Human Resource Programs are also provided under the Research appropriations account heading.

Through funding under these programs, FTA seeks to deliver solutions that improve public transportation. For more information contact Linda Wolfe, Office of Research, Demonstration and Innovation, at (202) 366–8511.

1. Funding Availability in FY 2012

The Appropriations Act, 2012 appropriated $44,000,000 under the Research and University Research Centers account heading for FY 2012. Of this amount, Congress specified that $6,500,000 is allocated for TCRP, $3,500,000 for NTI, $4,000,000 for the UTC. As requested in the conference report accompanying the Appropriations Act, 2012, FTA intends to direct $25,000,000 to fund the research, development, demonstration and deployment of new and cutting edge bus and transit technologies authorized under section 5312 of chapter 53. The remaining $5,000,000 is available to fund eligible projects under section 5306, 5312–15, 5322, and 5506. All research and research and development projects, as defined by the Office of Management and Budget, are subject to a 2.6% reduction for the Small Business Innovative Research Program (SBIR).

2. Program Requirements

Program Requirements are defined in *FTA Circular 6100.1D Research, Technical Assistance, and Training Programs: Application Instructions and Program Management Guidelines* published on May 1, 2011 and available at *www.fta.dot.gov.* Projects must support FTA's Strategic Goals and meet the Office of Management and Budget's Research and Development Investment

Criteria. All recipients are required to work with FTA to develop approved Statements of Work and plans to evaluate results before award.

Eligible activities under the National Research Program include research, development, demonstration and deployment projects as described in 49 U.S.C. 5312(a); Joint Partnership projects for deployment of innovation as described in 49 U.S.C. 5312(b); International Mass Transportation Projects as described in 49 U.S.C. 5312(c); Unless otherwise specified in law, all projects must meet one of these eligibility requirements.

Problem Statements for TCRP can be submitted on TCRP's Web site: *http://www.tcrponline.org.* Information about NTI courses can be found at *http://www.ntionline.com.* UTC funds are transferred to the Research and Innovative Technology Administration to make awards.

3. Period of Availability

Funds are available until expended.

4. Other Program or Apportionment Related Information and Highlights

Funds not designated by Congress for specific projects and activities will be programmed by FTA based on national priorities. Opportunities are posted in *www.grants.gov* under Catalogue of Federal Domestic Assistance Number 20.514.

S. Washington Metropolitan Area Transit Authority Grants

The Appropriations Act, 2012 appropriated $150,000,000 in funding this fiscal year for grants to the Washington Metropolitan Transit Authority, WMATA. Such funding is authorized under section 601 of the Passenger Rail Investment and Improvement Act of 2008. See Public Law 110–432, Division B, Title VI. Grants may be provided for capital and preventive maintenance expenditures for WMATA after it has been determined that WMATA has placed the highest priority on investments that will improve the safety of the system, including but not limited to fixing the track signal system, replacing 1000 series cars, installing guarded turnouts, buying equipment for wayside worker protection, and installing rollback protection on cars that are not equipped with the safety feature. FTA will communicate further program requirements directly to WMATA.

V. FTA Policy and Procedures for FY 2012 Grants

A. Automatic Pre-Award Authority To Incur Project Costs

1. Caution to New Grantees and Grantees Using Innovative Financing

While we provide pre-award authority to incur expenses before grant award for many projects, we recommend that first-time grant recipients NOT utilize this automatic pre-award authority and wait until the grant is actually awarded by FTA before incurring costs. As a new grantee, it is easy to misunderstand pre-award authority conditions and be unaware of all of the applicable FTA requirements that must be met in order to be reimbursed for project expenditures incurred in advance of grant award. FTA programs have specific statutory requirements that are often different from those for other Federal grant programs with which new grantees may be familiar. If funds are expended for an ineligible project or activity, or for an eligible activity but at an inappropriate time (e.g., prior to NEPA completion), FTA will be unable to reimburse the project sponsor and, in certain cases, the entire project may be rendered ineligible for FTA assistance.

Grantees proposing to use innovative financing techniques or capital leasing are required to consult with the applicable FTA Regional Office (see Appendix A) before entering into the financial agreement—especially when the grantee expects to use Federal funds for debt service or capital lease payments. Consulting with FTA before entering into the agreement allows FTA to advise the project sponsor of any applicable Federal regulations, such as the Capital Leasing Regulation, and will minimize the risk of the costs being ineligible for reimbursement at a later date.

2. Policy

FTA provides pre-award authority to incur expenses before grant award for certain program areas described below. This pre-award authority allows grantees to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval. The grantee assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility. This pre-award spending authority permits an eligible grantee to incur costs on an eligible transit capital, operating, planning, or administrative project without prejudice to possible future Federal participation in the cost of the project. In the **Federal Register** Notice of November 30, 2006, FTA extended pre-award authority for capital assistance under all formula programs through FY 2009, the duration of SAFETEA–LU. Since that time, FTA has extended the same pre-award authority through FY 2011. In this notice, FTA extends pre-award authority through FY 2012 for capital assistance under all formula programs. FTA provides pre-award authority for planning and operating assistance under the formula programs without regard to the period of the authorization. In addition, we extend pre-award authority for certain discretionary programs based on the annual Appropriations Act each year. All pre-award authority is subject to conditions and triggers stated below:

i. FTA does not impose additional conditions on pre-award authority for operating, planning, or administrative assistance under the formula grant programs. Grantees may be reimbursed for expenses incurred before grant award so long as funds have been expended in accordance with all Federal requirements and the grantee is otherwise eligible to receive the funding. In addition to cross-cutting Federal grant requirements, program specific requirements must be met. For example, a planning project must have been included in a Unified Planning Work Program (UPWP); a New Freedom operating assistance project or a JARC planning or operating project must have been derived from a coordinated public transit-human services transportation plan (coordinated plan) and competitively selected by the Designated recipient before incurring expenses; expenditure on State Administration expenses under State Administered programs must be consistent with the State Management Plan (as defined in FTA Circular 9040.1F, Section 6). Designated Recipients for JARC and New Freedom have pre-award authority for the ten percent of the apportionment they may use for program administration, if the use is consistent with their Program Management Plan.

ii. Pre-Award authority for Alternatives Analysis planning projects under 49 U.S.C. 5339 is triggered by the publication of the allocation in FTA's **Federal Register** Notice of Apportionments and Allocations following the annual Appropriations Act, or announcement of additional discretionary allocations. The projects must be included in the UPWP of the MPO for that metropolitan area.

iii. Pre-award authority for design and environmental work on a capital project is triggered by the authorization of formula funds, the appropriation of

funds for a earmarked project, or the announcement of competitively selected projects.

iv. Following authorization of formula funds or appropriation and publication of earmarked projects or the announcement of competitively selected projects, pre-award authority for capital project implementation activities, such as property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials, may be exercised only after FTA concurs that all applicable environmental requirements have been satisfied, including those for actions classified as normally requiring preparation of environmental impact statements, environmental assessments, and categorical exclusions found in 23 CFR 771.117. Other conditions and requirements set forth in paragraph 3, below, must also be satisfied. Before exercising pre-award authority, grantees must comply with the conditions and Federal requirements outlined in paragraph 3 below. Failure to do so will render an otherwise eligible project ineligible for FTA financial assistance. Capital projects under the Section 5310, JARC, and New Freedom programs must comply with specific program requirements, including coordinated planning and competitive selection. In addition, before incurring costs, grantees are strongly encouraged to consult with the appropriate FTA regional office regarding the eligibility of the project for future FTA funds and the applicability of the conditions and Federal requirements.

v. As a general rule, pre-award authority applies to the Section 5309 Capital Investment Bus and Bus-Related Facilities, the Clean Fuels Bus program, high priority project designations, and any other transit discretionary projects only AFTER funds have been appropriated or allocated to the project (e.g., published in a **Federal Register** Notice of Award). For Section 5309 Capital Investment Bus and Bus-Related Facilities, Clean Fuels Program, or other transit capital discretionary projects, the date that costs may be incurred is: (1) For design and environmental review, the appropriations act which directs funds to the project was enacted or the announcement of the discretionary allocation of funds for the project; and (2) for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials, the date that FTA approves the document (Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE) determination) that completes the environmental review process required by the National Environmental Policy Act (NEPA) and its implementing regulations. FTA introduced this new trigger for pre-award authority in FY 2006 in recognition of the growing prevalence of new grantees unfamiliar with Federal and FTA requirements to ensure FTA's continued ability to comply with NEPA and related environmental laws. Because FTA does not sign a final NEPA document until MPO and statewide planning requirements (including air quality conformity requirements, if applicable) have been satisfied, this new trigger for pre-award will ensure compliance with both planning and environmental requirements before irreversible action by the grantee.

vi. The pre-award authority described above does not apply to Section 5309 Capital Investment Program (New and Small Starts) funds. Specific instances of pre-award authority for Capital Investment Program projects are described in paragraph 4 below. Before an applicant may incur costs for Capital Investment New and Small Starts projects, Bus and Bus-Related Facilities projects, or any other projects not yet published in a notice of apportionments and allocations, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described below.

vii. Pre-award authority does not apply to Section 5314 National Research Programs. Before an applicant may incur costs for National Research Programs, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA headquarters office. Information about LONP procedures may be obtained from the appropriate headquarters office.

3. Conditions

The conditions under which pre-award authority may be utilized are specified below:

i. Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.

ii. All FTA statutory, procedural, and contractual requirements must be met.

iii. No action will be taken by the grantee that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.

iv. Local funds expended by the grantee pursuant to and after the date of the pre-award authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant or grant amendment for the project. Local funds expended by the grantee before the date of the pre-award authority will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds or undertaking of project implementation activities such as land acquisition, demolition, or construction before the date of pre-award authority for those activities (i.e., the completion of the NEPA process) would compromise FTA's ability to comply with Federal environmental laws and may render the project ineligible for FTA funding.

v. The Federal amount of any future FTA assistance awarded to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

vi. For funds to which the pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.

vii. When a grant for the project is subsequently awarded, the Financial Status Report, in TEAM-Web, must indicate the use of pre-award authority.

viii. Planning, Environmental, and Other Federal requirements.

All Federal grant requirements must be met at the appropriate time for the project to remain eligible for Federal funding. The growth of the Federal transit program has resulted in a growing number of inexperienced grantees who make compliance with Federal planning and environmental laws increasingly challenging. FTA has therefore modified its approach to pre-award authority to use the completion of the NEPA process, which has as a prerequisite the completion of planning and air quality requirements, as the trigger for pre-award authority for all activities except design and environmental review.

The requirement that a project be included in a locally-adopted Metropolitan Transportation Plan, the metropolitan transportation improvement program and federally-approved statewide transportation improvement program (23 CFR Part 450) must be satisfied before the grantee may advance the project beyond planning and preliminary design with non-Federal funds under pre-award authority. If the project is located within an EPA-designated non-attainment or

maintenance area for air quality, the conformity requirements of the Clean Air Act, 40 CFR Part 93, must also be met before the project may be advanced into implementation-related activities under pre-award authority. Compliance with NEPA and other environmental laws and executive orders (e.g., protection of parklands, wetlands, historic properties, and assurance of tribal consultation) must be completed before State or local funds are spent on implementation activities, such as site preparation, construction, and acquisition, for a project that is expected to be subsequently funded with FTA funds. The grantee may not advance the project beyond planning and preliminary design/engineering before FTA has determined the project to be a Categorical Exclusion (CE), or has issued a Finding of No Significant Impact (FONSI) or a Record of Decision (ROD), in accordance with FTA environmental regulations, 23 CFR Part 771. For a planning project to have pre-award authority, the planning project must be included in a MPO-approved Unified Planning Work Program (UPWP) that has been coordinated with the State.

ix. In addition, Federal procurement procedures, as well as the whole range of applicable Federal requirements (e.g., Buy America, Davis-Bacon Act, Disadvantaged Business Enterprise) must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this increased administrative flexibility requires a grantee to make certain that no Federal requirements are circumvented through the use of pre-award authority.

x. If a grantee has questions or concerns regarding the environmental requirements, or any other Federal requirements that must be met before incurring costs, it should contact the appropriate regional office.

4. Pre-Award Authority for the Major Capital Investment Program (New and Small Starts Projects)

i. Preliminary Engineering (PE), Final Design (FD), and Project Development (PD). Projects proposed for Section 5309 capital investment program funds (New and Small Starts) are required to follow a federally defined project development process. For New Starts projects, this process includes, among other things, FTA approval of the entry of the project into PE and later into FD. For Small Starts projects, this process includes, among other things, approval of the entry of the project into PD. In accordance with Sections 5309(d) and (e), FTA considers the merits of the project, the strength of its financial plan, and its readiness to enter the next phase in deciding whether or not to approve entry into PE, FD, or PD. For New Starts projects, upon FTA approval to enter PE, FTA extends pre-award authority to incur costs for PE activities. Upon completion of NEPA for a New Starts project, FTA extends pre-award authority to incur costs for utility relocation, real property acquisition and associated relocations, and vehicle purchases, which activities are further addressed below. Upon FTA approval to enter FD, FTA extends pre-award authority to incur costs for FD activities, demolition, and non-construction activities such as procurement of long-lead time items or items for which market conditions play a significant role in the acquisition price. This includes, but is not limited to procurement of rails, ties, and other specialized equipment, and commodities. Please contact the FTA Regional Office for a determination of activities not listed here, but which meet the intent described above. For Small Starts projects, upon FTA approval to enter PD, FTA extends pre-award authority to incur costs for the design and engineering activities necessary to complete the NEPA process. Upon completion of NEPA for a Small Starts project, FTA extends pre-award authority to incur costs for utility relocation, real property acquisition and associated relocations, and vehicle purchases, which activities are further addressed below. Because Small Starts projects are not subject to approval into FD, they are not granted pre-award authority for procurement of rails, ties, and other specialized equipment; the procurement of commodities; and demolition. The pre-award authority for each phase is automatic upon FTA's signing of a letter to the project sponsor approving entry into that phase.

ii. Real Property Acquisition Activities and Vehicle Purchases. FTA extends automatic pre-award authority for the acquisition of real property, real property rights and acquisition of vehicles for a major capital investment program (New or Small Starts) project upon completion of the NEPA process for that project. The NEPA process is completed when FTA signs an environmental Record of Decision (ROD) or Finding of No Significant Impact (FONSI), or makes a Categorical Exclusion (CE) determination. With the limitations and caveats described below, real estate acquisition and vehicle purchases for a New or Small Starts project may commence, at the project sponsor's risk, upon completion of the NEPA process.

For FTA-assisted projects, any acquisition of real property or real property rights must be conducted in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations, 49 CFR Part 24. This pre-award authority is strictly limited to costs incurred: (i) To acquire real property and real property rights in accordance with the URA regulation, and (ii) to provide relocation assistance in accordance with the URA regulation. This pre-award authority is limited to the acquisition of real property and real property rights that are explicitly identified in the final environmental impact statement (FEIS), environmental assessment (EA), or CE document, as needed for the selected alternative that is the subject of the FTA-signed ROD or FONSI, or CE determination. This pre-award authority regarding property acquisition that is granted at the completion of NEPA does not cover site preparation, demolition, or any other activity that is not strictly necessary to comply with the URA, with one exception. That exception is when a building that has been acquired, has been emptied of its occupants, and awaits demolition poses a potential fire-safety hazard or other hazard to the community in which it is located, or is susceptible to reoccupation by vagrants. Demolition of the building is also covered by this pre-award authority upon FTA's written agreement that the adverse condition exists.

Pre-award authority for property acquisition is also provided when FTA makes a CE determination for a protective buy or hardship acquisition in accordance with 23 CFR 771.117(d)(12), and when FTA makes a CE determination for the acquisition of a pre-existing railroad right-of-way in accordance with 49 U.S.C. 5324(c). When a tiered environmental review in accordance with 23 CFR 771.111(g) is being used, pre-award authority is NOT provided upon completion of the first-tier environmental document except when the Tier-1 ROD or FONSI signed by FTA explicitly provides such pre-award authority for a particular identified acquisition.

Project sponsors should use pre-award authority for real property acquisition relocation assistance, and vehicle purchases very carefully, with a clear understanding that it does not constitute a funding commitment by FTA. FTA provides pre-award authority upon completion of the NEPA process for real property acquisition and

relocation assistance to maximize the time available to project sponsors to move people out of their homes and places of business, in accordance with the requirements of the Uniform Relocation Act, but also with maximum sensitivity to the plight of the people so affected. FTA provides pre-award authority upon the completion of the NEPA process for vehicles purchases in recognition of the long-lead time and complexity of this activity as well as its relationship to the ''critical path'' project schedule. FTA cautions grantees that do not currently operate the type of vehicle proposed in the New or Small Starts project about exercising this pre-award authority and encourages these sponsors to wait until later in the project development process when project plans are more fully developed and Federal support for the project is more certain. FTA reminds project sponsors that the procurement of vehicles must comply with all Federal requirements including, but not limited to, competitive procurement practices, the Americans with Disabilities Act, and Buy America. FTA encourages project sponsors to discuss the procurement of vehicles with FTA in regards to Federal requirements before exercising pre-award authority.

Although FTA provides pre-award authority for property acquisition and vehicle purchases upon completion of the NEPA process, FTA will not make a grant to reimburse the sponsor for real estate activities conducted under pre-award authority until the New Starts project has been approved into FD or the Small Starts project has received its construction grant. FTA will only reimburse the sponsor for vehicle purchases through an executed Full Funding Grant Agreement (New Starts) or a Project Construction Grant Agreement or single year capital grant (Small Starts). This is to ensure that Federal funds are not risked on a project whose advancement into 0construction is still not yet assured.

iii. National Environmental Policy Act (NEPA) Activities. NEPA requires that major projects proposed for FTA funding assistance be subjected to a public and interagency review of the need for the project, its environmental and community impacts, and alternatives to avoid and reduce adverse impacts. Projects of more limited scope also need a level of environmental review, either to support an FTA finding of no significant impact (FONSI) or to demonstrate that the action is categorically excluded (i.e., CE) from the more rigorous level of NEPA review.

FTA's regulation titled ''Environmental Impact and Related Procedures,'' at 23 CFR Part 771 states that the costs incurred by a grant applicant for the preparation of environmental documents requested by FTA are eligible for FTA financial assistance (23 CFR 771.105(e)). Accordingly, FTA extends pre-award authority for costs incurred to comply with NEPA regulations and to conduct NEPA-related activities, effective as of the date of the Federal approval of the relevant STIP or STIP amendment that includes the project or any phase of the project, or that includes a project grouping under 23 CFR 450.216(j) that includes the project. The grant applicant must notify the FTA regional office upon initiation of the Federal environmental review process in accordance with the ''Dear Colleague'' letter from the FTA Administrator dated February 24, 2011. NEPA-related activities include, but are not limited to, public involvement activities, historic preservation reviews, section 4(f) evaluations, wetlands evaluations, endangered species consultations, and biological assessments. This pre-award authority is strictly limited to costs incurred to conduct the NEPA process, and to prepare environmental, historic preservation and related documents. When any transit project (including New Starts and Small Starts) is adopted into the STIP or STIP amendment and pre-award authority is granted, reimbursement for NEPA activities may be sought at any time through Section 5339 (Alternatives Analysis program), Section 5307 (Urbanized Area Formula Program), or the flexible highway programs (STP and CMAQ).

FTA assistance for environmental documents for New Starts and Small Starts projects is subject to certain additional restrictions. Under SAFETEA–LU, Section 5309 capital investment program funds (New and Small Starts) cannot be used to reimburse any activity, including a NEPA-related activity that occurs before the approval of a New Starts project into PE or a Small Starts project into PD. Only when a project has PE approval (for New Starts) or PD approval (for Small Starts) may the grant applicant seek reimbursement of Section 5309 major capital improvement program funds for NEPA work conducted after the PE or PD approval. Prior to PE or PD approval, any NEPA related work for a New Starts or Small Starts project can only be reimbursed through the use of Section 5339 (Alternatives Analysis Program), Section 5307 (Urbanized Area Formula Program) and the flexible highway programs. NEPA-related activities include, but are not limited to, public involvement activities, historic preservation reviews, section 4(f) evaluations, wetlands evaluations, endangered species consultations, tribal consultation, and biological assessments. NEPA-related activities do not include PE activities beyond those necessary for NEPA compliance. As with any pre-award authority, FTA reimbursement for costs incurred is not guaranteed.

iv. Other New and Small Starts Project Activities Requiring Letter of No Prejudice (LONP). Except as discussed in paragraphs a through c above, a project sponsor must obtain a written LONP from FTA before incurring costs for any activity expected to be funded by major capital investment program funds not yet awarded. To obtain an LONP, an applicant must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described in B below.

B. Letter of No Prejudice (LONP) Policy

1. Policy

LONP authority allows an applicant to incur costs on a project utilizing non-Federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project at a later date. LONPs are applicable to projects and project activities not covered by automatic pre-award authority. The majority of LONPs will be for Section 5309 capital investment program (New Starts or Small Starts) projects undertaking activities not covered under automatic pre-award authority, or for Section 5309 Bus and Bus-Related projects authorized but not yet appropriated funds by Congress. LONPs may be issued for formula and discretionary funds beyond the life of the current authorization or FTA's extension of automatic pre-award authority; however, the LONP is limited to a five-year period, unless otherwise authorized.

2. Conditions and Federal Requirements

The conditions for pre-award authority specified in section IV.A.2 above apply to all LONPs. The Planning, Environmental and Other Federal Requirements described in section IV.A.3 also apply to all LONPs. Because project implementation activities may not be initiated before NEPA completion, FTA will not issue an LONP for such activities until the NEPA process has been completed with a ROD, FONSI, or CE determination.

3. Request for LONP

Before incurring costs for project activities not covered by automatic pre-award authority, the project sponsor must first submit a written request for an LONP, accompanied by adequate information and justification, to the appropriate regional office and obtain written approval from FTA. FTA approval of an LONP for a New Starts or Small Starts project is determined on a case-by-case basis. Federal funding under the major capital investment program for a New or Small Starts project is not implied or guaranteed by an LONP. Specifically, when requesting an LONP, the applicant shall provide sufficient information to allow FTA to consider the following items:

i. Description of the activities to be covered by the LONP.

ii. Justification for advancing the identified activities. The justification should include an accurate assessment of the consequences to the project scope, schedule, and budget should the LONP not be approved.

iii. Allocated level of risk and contingency for the activity requested.

iv. Status of procurement progress, including, if appropriate, submittal of bids and expiration of those bids for the activities covered by the LONP.

v. Strength of the capital and operating financial plan for the New or Small Starts project and the future transit system.

vi. Adequacy of the Project Management Plan.

vii. Resolution of any readiness issues that would affect the project, such as land acquisition, status of third party agreements, and technical capacity to carry out the project.

FTA will, following the completion of the requirements under NEPA, expedite the issuance of LONPs for New and Small Starts projects, when appropriate, by no longer performing a detailed review of the cost and scope of the request in every instance. Rather, a limited review will be performed in those cases that are of a more routine nature, especially those involving an experienced sponsor.

C. FTA FY 2012 Annual List of Certifications and Assurances

The full text of the FY 2012 Certifications and Assurances was published in the **Federal Register** on November 1, 2011, and is available on the FTA Web site and in TEAM–Web. The FY 2012 Certifications and Assurances must be used for all grants made in FY 2012, including obligation of carryover funds. All grantees with active grants are required to have signed the FY 2012 Certifications and Assurances within 90 days after publication. Any questions regarding this document may be addressed to the appropriate Regional Office or to FTA's Office of Administration at (202) 366–4022.

D. FHWA Funds Used for Transit Purposes

SAFETEA–LU continues provisions in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and TEA–21 that expanded modal choice options in transportation funding by including substantial flexibility to transfer funds between FTA and FHWA formula program funding categories. The provisions also allow for transfer of certain discretionary program funds for administration of highway projects by FHWA and transit projects by FTA. FTA and FHWA execute Flex Funding Transfers between the Formula and Bus Grants Transit programs and the Federal Aid Highway programs. These transfers are based on a State's requests to transfer funding from the Highway and/or Transit programs to fund States and local project priorities, and joint planning needs. This practice can result in transfers to the Federal Transit Program from the Federal Aid Highway Program or vice versa.

1. Transfer Process for Funds

SAFETEA–LU was signed into law on August 10, 2005. With the enactment of SAFETEA–LU, beginning in FY2006, with few exceptions, Federal transit programs were funded solely from general funds or trust funds. The transit formula and bus grant programs are now funded from Mass Transit Account of the Highway Trust Fund. The Formula and Bus Grant Programs can also receive flex funding transfers from the Federal Aid Highway Program.

As a result of the changes to program funding mechanisms, there is no longer a requirement to transfer budget authority and liquidating cash resources simultaneously upon the execution of a flex funding transfer request by a State. Since the transfers are between trust fund accounts, the only requirement is to transfer budget authority (obligation limitation) between the Federal Aid Program trust fund account and the Federal Transit Formula and Bus Grant Program account. At the point in time that the obligation resulting from the transfer of budgetary authority is expended, a transfer of liquidating cash will be required.

Beginning in FY 2007, the accounting process was changed for transfers of flex funds and other specific programs to allow budget authority and the liquidating cash to be transferred separately. FTA requires that flex fund transfers to FTA be in separate and identifiable grants in order to ensure that the draw-down of flexed funds can be tracked, thus securing the internal controls for monitoring these resources from the Federal Highway Administration to avoid deficiencies in FTA's Formula and Bus Grants account.

FTA monitors the expenditures of flexed funded grants and requests the transfer of liquidating cash from FHWA to ensure sufficient funds are available to meet expenditures. To facilitate tracking of grantees' flex funding expenditures, FTA developed codes to provide distinct identification of ''flex funds.''

The process for transferring flexible funds between FTA and FHWA programs is described below. Note that the new transfer process for ''flex funds'' that began in FY 2007 does not apply to the transfer of funds from FHWA to FTA to be combined with Metropolitan and Statewide Planning and Research resources as Consolidated Planning Grants (CPG). These transfers are based on States requests to transfer funding from the Highway and/or Transit programs to fund States and local project priorities, and joint planning needs. Planning funds transferred will be allowed to be merged in a single grant with FTA planning resources using the same process implemented in FY 2006. For information on the process for the transfer of funds between FTA and FHWA planning programs refer to section III.A and B. Note also that certain prior year appropriations earmarks (Sections 330, 115, 117, and 112) are allotted annually for administration rather than being transferred. For information regarding these procedures, please contact Nancy Grubb, FTA Budget Office, at (202) 366–1635; or FHWA Budget Division, at (202) 366–2845.

i. Transfer From FHWA to FTA

FHWA funds transferred to FTA are used primarily for transit capital projects and eligible operating activities that have been designated as part of the metropolitan and statewide planning and programming process. The project must be included in an approved STIP before the funds can be transferred. By letter, the State DOT requests the FHWA Division Office to transfer highway funds for a transit project. The letter should specify the project, amount to be transferred, apportionment year, State, urbanized area, Federal aid apportionment category (i.e., Surface

Transportation Program (STP), Congestion Mitigation and Air Quality (CMAQ) or identification of the earmark and indication of the intended FTA formula program (i.e., Section 5307, 5311 or 5310) and should include a description of the project as contained in the STIP. Note that FTA may also administer certain transfers of statutory earmarks under the Section 5309 bus program, for tracking purposes.

The FHWA Division Office confirms that the apportionment amount is available for transfer and concurs in the transfer, by letter to the State DOT and FTA. The FHWA Office of Budget and Finance then transfers budget authority. All FHWA CMAQ and STP funds transferred to FTA will be transferred to one of the three FTA formula programs (i.e. Urbanized Area Formula (Section 5307), Nonurbanized Area Formula (Section 5311) or Elderly and Persons with Disabilities (Section 5310). High Priority projects in Section 1702 of SAFETEA–LU or Transportation Improvement projects in Section 1934 of SAFETEA–LU and other Congressional earmarks that are transferred to FTA will be aligned with and administered through FTA's discretionary Bus and Bus Related Facilities Program (Section 5309). The most recent guidance on transfers of FHWA funds as allowed under SAFETEA–LU is FHWA Memorandum, dated July 19, 2007, ''Information Fund Transfers to Other Agencies and Among Title 23 Programs.''

The FTA grantee's application for the project must specify which program the funds will be used for, and the application must be prepared in accordance with the requirements and procedures governing that program. Upon review and approval of the grantee's application, FTA obligates funds for the project.

Transferred funds are treated as FTA formula or discretionary funds, except for local match purposes as described in c below, but are assigned a distinct identifying code for tracking purposes. The funds may be transferred for any capital purpose eligible under the FTA formula program to which they are transferred and, in the case of CMAQ, for certain operating costs. FHWA issued revised guidance on project eligibility under the CMAQ program in a Notice at 73 FR 62362 *et seq.* (October 1, 2008) incorporating changes made by SAFETEA–LU. In accordance with 23 U.S.C. 104(k), all FTA requirements except local share, which remains the same as required under the FHWA program, are applicable to transferred funds except in certain cases when CMAQ funds are authorized for operating expenses. Earmarks that are transferred to the Section 5309 Bus Program for administration, however, can be used for the congressionally designated transit purposes, and in some cases where the law provides, are not limited to eligibility under the Bus Program.

In the event that transferred formula funds are not obligated for the intended purpose within the period of availability of the formula program to which they were transferred, they become available to the Governor for any eligible capital transit project. Earmarked funds, however, can only be used for the congressionally designated purposes.

ii. Transfers From FTA to FHWA

The MPO submits a written request to the FTA regional office for a transfer of FTA Section 5307 formula funds (apportioned to a UZA 200,000 and over in population) to FHWA based on approved use of the funds for highway purposes, as determined by the designated recipient under Section 5307 and contained in the Governor's approved State Transportation Improvement Program. The MPO must certify that: (1) Notice and opportunity for comment and appeal has been provided to affected transit providers; (2) the funds are not needed for capital investments required by the Americans with Disabilities Act, and (3) local transit needs are being addressed. The FTA Regional Administrator reviews and, if he or she concurs in the request, then forwards the approval in written format to FTA Headquarters, where a reduction equal to the dollar amount being transferred to FHWA is made to the grantee's Urbanized Area Formula Program apportionment.

Transfers of discretionary earmarks for administration by FHWA are handled on a case by case basis, by the FTA regional office, in consultation with the FTA Office of Program Management, Office of Chief Counsel, and Office of Budget and Policy.

2. Matching Share for FHWA Transfers

Section 104(k) of title 23 U.S.C., regarding the non-Federal share, applies to Title 23 funds used for transit projects. Thus, FHWA funds transferred to FTA retain the same matching share that the funds would have if used for highway purposes and administered by FHWA.

There are four instances in which a Federal share higher than 80 percent would be permitted. First, in States with large areas of Indian and certain public domain lands and national forests, parks and monuments, the local share for highway projects is determined by a sliding scale rate, calculated based on the percentage of public lands within that State. This sliding scale, which permits a greater Federal share, but not to exceed 95 percent, is applicable to transfers used to fund transit projects in these public land States. FHWA develops the sliding scale matching ratios for the increased Federal share.

Second, commuter carpooling and vanpooling projects and transit safety projects using FHWA transfers administered by FTA may retain the same 100 percent Federal share that would be allowed for ride-sharing or safety projects administered by FHWA.

The third instance is the 100 percent federally-funded safety projects; however, these are subject to a nationwide 10 percent program limitation.

The fourth instance occurs with CMAQ funds. Section 1131 of The Energy Independence and Security Act, 2007 (Pub. L. 11–140) amended 23 U.S.C. 120 to increase the Federal share of CMAQ projects to 100% at the State's discretion. FTA will honor this increased match for CMAQ funds transferred to FTA for implementation if the state chooses to fund the project at a higher Federal share than 80 percent. The Federal share for CMAQ projects cannot be lower than 80 percent.

E. Civil Rights Requirements

Recipients of FTA funds are reminded that they must comply with all applicable civil rights requirements. All recipients must submit a Title VI program on a triennial basis, consistent with Title VI of the Civil Rights Act of 1964 and subsequent implementing regulations. Specifically, recipients are encouraged to consult their Regional Civil Rights Officer (RCRO) and FTA Circular 4702.1A, ''Title VI and Title VI–Dependent Guidelines for Federal Transit Administration Recipients,'' dated May 13, 2007; and Part II, Section 114(c) of the FTA Agreement to develop this program. Recipients receiving $250,000 or more in planning, capital or operating assistance are reminded that under 49 CFR Part 26, they must have a Disadvantaged Business Enterprise (DBE) program and develop a triennial DBE goal. The FTA Reporting Schedule for Recipients' 3 year Goal for Disadvantage Business Enterprise Programs can be found on FTA's DBE Web site under ''DBE Guidance'' at *http://www.fta.dot.gov/civilrights/12326_13310.html.* FTA funding recipients that have 50 or more transit-related employees, and that have received capital or operating assistance in excess of $1,000,000 or planning assistance in excess of $250,000 in the

previous Federal fiscal year, are required to provide an EEO program submission pursuant to Title VII of the Civil Rights Act of 1964; Title 49, Chapter 53, Section 5332 of the United States Code and FTA Circular 4704.1, ''Equal Employment Opportunity Program Guidelines for Grant Recipients,'' dated July 26, 1988.

Recent changes to 49 CFR Part 26, the USDOT's DBE regulation, became effective in February 2011. Pursuant to those changes, all recipients who are required to have DBE programs in place must now also have a small business participation element in their DBE program. Recipients must submit to FTA by February 28, 2012, an amendment to the DBE program plan that sets forth in detail the steps to be taken to facilitate competition by small business concerns. Specifically, fostering small business participation includes taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. Tools that recipients may choose to utilize in their small business program could include establishing a race-neutral small business set-aside goal in contracts, requiring prime contractors to provide subcontracting opportunities of the type size that small businesses, including DBEs, can reasonably perform, identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs to compete for an perform prime contacts. The small business program amendment may be submitted as a standalone document, but it should also be incorporated into the recipient's existing DBE program. Please be advised that if you have not updated your DBE program in the last two years, you are encouraged to consult with your Regional Civil Rights Officer as there may be other updates necessary for you to bring your DBE program into full compliance with 49 CFR Part 26. Please visit FTA's Web site at *http://www.fta.dot.gov/civilrights/12326.html* for guidance on the small business requirements. In addition, once you have developed your small business program, you must attach the full version of your DBE Program containing the new section into FTA's Transportation Electronic Award Management (TEAM) system. Again, you must submit your small business program within your DBE Program to FTA by February 28, 2012, and that program must be loaded into TEAM. Paper submissions to FTA will not be accepted.

Please also be advised that recipients in an urbanized area of 200,000 or more must analyze the impact of any proposed changes to transit service and fares. It is important that you conduct this analysis now under the existing requirements. This is true even as we consider changes to FTA's Title VI Circular 4702.1A itself, via the proposal that was published in the **Federal Register** on September 29, 2011.

Specifically, Chapter V of FTA's Title VI Circular, ''Program-Specific Requirements and Guidelines for Recipients Serving Large Urbanized Areas'' sets out directives that include, most notably, the requirement to properly assess the impacts of service and fare changes. In other words, public transportation agencies serving large urbanized areas must conduct a service and fare equity analysis at the planning and programming stages to determine whether service and/or fare changes have a discriminatory impact. Service change analysis is required both for service reductions and service improvements. FTA has developed a service and fare analysis questionnaire that can also assist you by following this link: *http://www.fta.dot.gov/civilrights/12881.html.* In addition, although our proposed changes to the Title VI Circular are not final, you may find the examples included in the appendices of the proposed circular helpful as you develop your service and fare analysis. You can review the proposed Circular at the following link: *http://www.fta.dot.gov/12349_13816.html.* Please submit this analysis to FTA in advance of implementing the changes by attaching the full version to FTA's TEAM system.

As always, FTA staff stands ready to assist you with civil rights compliance. Please check the FTA civil rights web page for training opportunities. You can also contact your regional civil rights officer for assistance.

F. Deferred Local Share

A recipient may request on a case by case basis that the local share for a project funded with FTA formula funds be deferred until 100 percent of the Federal funds have been drawn down. A request for the deferral must accompany the grant application. FTA must approve the deferral of local share prior to obligating the grant for which the local share is deferred. Approval is contingent upon the deferral's resulting in benefits to transit and upon the recipient's demonstrating that the recipient has the financial capacity to complete the project. In order to complete the project, the local funds must be available to match all the Federal funds that were previously drawn down.

Deferred local share does not apply to FTA discretionary programs. Generally, FTA will not approve retroactive deferral of local share. In exceptional circumstances, FTA may approve retroactive deferral of local share, for example in response to a catastrophic event such as a hurricane or flood where sources of local funds are temporarily disrupted.

G. Technical Assistance

FTA headquarters and regional staff will be pleased to answer your questions and provide any technical assistance you may need to apply for FTA program funds and manage the grants you receive. This notice and the program guidance circulars previously identified in this document may be accessed via the FTA Web site at *www.fta.dot.gov.*

In addition, copies of the following circulars and other useful information are available on the FTA Web site and may be obtained from FTA regional offices; Circular 4220.1F, ''Third Party Contracting Guidance,'' and Circular 5010.1D, ''Grant Management Guidelines.'' Both circulars were recently revised and can be found at *http://www.fta.dot.gov/laws/leg_reg_circulars_guidance.html.* The FY 2012 Annual List of Certifications and Assurances and Master Agreement are also posted on the FTA Web site.

The DOT final rule on ''Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,'' which was effective July 16, 2003, can be found at *http://www.access.gpo.gov/nara/cfr/waisidx_04/49cfr26_04.html/.*

Issued in Washington, DC, this 5th day of January, 2012.

Peter Rogoff,

Administrator.

APPENDIX A—FTA REGIONAL OFFICES

Mary Beth Mello, Regional Administrator, Region 1—Boston, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Tel. 617–494–2055.

States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Anthony Carr, Acting Regional Administrator, Region 2—New York, One Bowling Green, Room 429, New York, NY 10004–1415, Tel. 212–668–2170.

States served: New Jersey, New York

New York Metropolitan Office, Region 2—New York, One Bowling Green, Room 428, New York, NY 10004–1415, Tel. 212–668–2202.

Brigid Cherin-Hynes, Regional Administrator, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7100.

States served: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia.

Philadelphia Metropolitan Office, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7070.

Washington, D.C. Metropolitan Office, 1990 K Street NW., Room 510, Washington, DC 20006, Tel. 202–219–3562.

Yvette Taylor, Regional Administrator, Region 4—Atlanta, 230 Peachtree Street NW., Suite 800, Atlanta, GA 30303, Tel. 404–865–5600.

States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands.

Marisol Simon, Regional Administrator, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789.

States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Chicago Metropolitan Office, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789.

Robert C. Patrick, Regional Administrator, Region 6—Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817–978–0550.

States served: Arkansas, Louisiana, Oklahoma, New Mexico and Texas.

Mokhtee Ahmad, Regional Administrator, Region 7—Kansas City, MO, 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816–329–3920.

States served: Iowa, Kansas, Missouri, and Nebraska.

Terry Rosapep, Regional Administrator, Region 8—Denver, 12300 West Dakota Ave., Suite 310, Lakewood, CO 80228–2583, Tel. 720–963–3300.

States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Leslie T. Rogers, Regional Administrator, Region 9—San Francisco, 201 Mission Street, Room 1650, San Francisco, CA 94105–1926, Tel. 415–744–3133.

States served: American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands.

Los Angeles Metropolitan Office, Region 9—Los Angeles, 888 S. Figueroa Street, Suite 1850, Los Angeles, CA 90017–1850, Tel. 213–202–3952.

Rick Krochalis, Regional Administrator, Region 10—Seattle, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, Tel. 206–220–7954.

States served: Alaska, Idaho, Oregon, and Washington.

BILLING CODE P

FEDERAL TRANSIT ADMINISTRATION

TABLE 1

FY 2012 APPROPRIATIONS AND APPORTIONMENTS FOR GRANT PROGRAMS

(The total available amount for a program is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

FORMULA AND BUS GRANTS	
Section 5303 Metropolitan Transportation Planning Program	
Total FY 2012 Available	$46,943,600
Available FY 2011 Contract Authority	$195,331
Less FY 2012 Oversight (one half percent)	($234,718)
Less FY 2011 Oversight (one-half percent)	($977)
Reapportioned Funds	$22,455
Total Apportioned	$46,925,691
Section 5304 Statewide Transportation Planning Program	
Total FY 2012 Available	$9,806,400
Available FY 2011 Contract Authority	$40,804
Less FY 2012 Oversight (one half percent)	($49,032)
Less FY 2011 Oversight (one-half percent)	($204)
Reapportioned Funds	$158,716
Total Apportioned	$9,956,684
Section 5307 Urbanized Area Formula Program	
Total FY 2012 Available	$2,080,182,500
Available FY 2011 Contract Authority	$8,655,561
Less FY 2012 Oversight (three-fourths percent)	($15,601,369)
Less FY 2011 Oversight (three-fourths percent)	($64,917)
Section 5340 High Density States	$116,250,000
Available FY 2011 Contract Authority	$483,712
Section 5340 Growing States	$79,520,683
Available FY 2011 Contract Authority	$330,883
Reapportioned Funds	$10,724,324
Total Apportioned	$2,280,481,376
Section 5308 Clean Fuels Grant Program	
Total FY 2012 Available	$25,750,000
Available FY 2011 Contract Authority	$107,145
Total Available for Allocation	$25,857,145
Section 5309 Bus and Bus Facilities Program	
Total FY 2012 Available	$492,000,000
Available FY 2011 Contract Authority	$2,047,194
Less FY 2012 Oversight (one percent)	($4,920,000)
Less FY 2011 Oversight (one percent)	($20,472)
Total Available for Allocation	$489,106,722

FEDERAL TRANSIT ADMINISTRATION

TABLE 1

FY 2012 APPROPRIATIONS AND APPORTIONMENTS FOR GRANT PROGRAMS

(The total available amount for a program is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

FORMULA AND BUS GRANTS	
Section 5309 Fixed Guideway Modernization	
Total FY 2012 Available	$833,250,000
Available FY 2011 Contract Authority	$3,467,122
Less FY 2012 Oversight (one percent)	($8,332,500)
Less FY 2011 Oversight (one percent)	($34,671)
Reapportioned Funds	$2,907,194
Total Apportioned	$831,257,145
Section 5310 Special Needs of Elderly Individuals and Individuals with Disabilities Program	
Total FY 2012 Available	$66,750,000
Available FY 2011 Contract Authority	$277,744
Less FY 2012 Oversight (one-half percent)	($333,750)
Less FY 2011 Oversight (one-half percent)	($1,389)
Reapportioned Funds	$363,287
Total Apportioned	$67,055,892
Section 5311 Nonurbanized Area Formula Program	
Total FY 2012 Available	$220,350,000
Available FY 2011 Contract Authority	$916,869
Less FY 2012 Oversight (one-half percent)	($1,162,500)
Less FY 2011 Oversight (one-half percent)	($4,837)
Section 5340 Growing States	$36,729,317
Available FY 2011 Contract Authority	$152,829
Reapportioned Funds	$748,311
Total Apportioned	$257,729,990
Section 5311(b)(3) Rural Transit Assistance Program (RTAP)	
Total FY 2012 Available	$4,650,000
Available FY 2011 Contract Authority	$19,348
Less Amount Reserved for National RTAP	($697,500)
Reapportioned Funds	$134,075
Total Apportioned	$4,105,923
Section 5311(c) Public Transportation on Indian Reservations	
Total FY 2012 Available	$7,500,000
Available FY 2011 Contract Authority	$31,207
Less Amount Apportioned for FY 2011 TTP Program	($36,410)
Reapportioned Funds	$489,698
Total Available for Allocation	$7,984,495

FEDERAL TRANSIT ADMINISTRATION

TABLE 1

FY 2012 APPROPRIATIONS AND APPORTIONMENTS FOR GRANT PROGRAMS

(The total available amount for a program is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

FORMULA AND BUS GRANTS	
Section 5316 Job Access and Reverse Commute Program	
Total FY 2012 Available	$82,250,000
Available FY 2011 Contract Authority	$342,239
Less FY 2012 Oversight (one percent)	($822,500)
Reapportioned Funds	$13,277,321
Total Apportioned	$95,047,060
Section 5317 New Freedom Program	
Total FY 2012 Available	$46,250,000
Available FY 2011 Contract Authority	$192,445
Reapportioned Funds	$7,963,069
Total Apportioned	$54,405,514
Section 5320 Paul S. Sarbanes Transit in Parks Program	
Total FY 2012 Available	$13,450,000
Available FY 2011 Contract Authority	$55,965
Less FY 2012 Oversight (one-half percent)	($67,250)
Less FY 2011 Oversight (one-half percent)	($280)
Total Available for Allocation	$13,438,435
Section 5339 Alternative Analysis Program	
Total FY 2012 Available	$12,500,000
Available FY 2011 Contract Authority	$52,012
Total Available for Allocation	$12,552,012
Over-the-Road Bus Accessibility Program (Pub. L. 105-85, Section 3038)	
Total FY 2012 Available	$4,400,000
Available FY 2011 Contract Authority	$18,308
Total Available for Allocation	$4,418,308
CAPITAL INVESTMENT GRANTS	
Section 5309 New Starts	
Total FY 2012 Available	$1,955,000,000
Less FY 2012 Oversight (one percent)	($19,550,000)
Total Available for Allocation	$1,935,450,000
RESEARCH	
Research and University Research Centers	$44,000,000
OTHER	
Washington Metropolitan Area Transit Authority (WMATA)	
Total FY 2012 Available	$150,000,000
Total Available	$150,000,000
TOTAL APPROPRIATION (Above Grant Programs)	**$6,095,032,500**
TOTAL APPORTIONMENT/ALLOCATION (Above Grant Programs)	**$6,329,772,392**

FEDERAL TRANSIT ADMINISTRATION
TABLE 2
FY 2012 SECTION 5303 METROPOLITAN TRANSPORTATION PLANNING PROGRAM
AND SECTION 5304 STATEWIDE TRANSPORTATION PLANNING PROGRAM APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30).

STATE	SECTION 5303 APPORTIONMENT	SECTION 5304 APPORTIONMENT
Alabama	$355,209	$94,210
Alaska	187,703	49,783
Arizona	938,466	189,670
Arkansas	187,703	49,783
California	7,382,234	1,456,906
Colorado	703,263	155,931
Connecticut	521,255	138,242
Delaware	187,703	49,783
District of Columbia	187,703	49,783
Florida	3,066,616	653,728
Georgia	1,209,528	243,150
Hawaii	187,703	49,783
Idaho	187,703	49,783
Illinois	2,602,336	472,577
Indiana	706,967	165,538
Iowa	203,988	54,103
Kansas	238,511	58,618
Kentucky	297,682	76,038
Louisiana	465,062	123,058
Maine	187,703	49,783
Maryland	1,051,861	208,563
Massachusetts	1,382,019	273,482
Michigan	1,543,787	319,270
Minnesota	658,825	131,606
Mississippi	187,703	49,783
Missouri	694,899	149,994
Montana	187,703	49,783
Nebraska	187,703	49,783
Nevada	343,552	81,354
New Hampshire	187,703	49,783
New Jersey	2,176,877	376,305
New Mexico	187,703	49,783
New York	4,149,194	752,467
North Carolina	688,177	182,521
North Dakota	187,703	49,783
Ohio	1,493,336	354,830
Oklahoma	271,481	72,003
Oregon	417,620	95,905
Pennsylvania	1,927,909	398,495
Puerto Rico	778,656	168,730
Rhode Island	193,950	49,783
South Carolina	342,878	90,940
South Dakota	187,703	49,783
Tennessee	542,495	143,883
Texas	3,444,696	718,069
Utah	319,869	84,837
Vermont	187,703	49,783
Virginia	1,064,923	228,745
Washington	1,000,313	208,871
West Virginia	187,703	49,783
Wisconsin	556,306	137,951
Wyoming	187,703	49,783
TOTAL	**$46,925,691**	**$9,956,684**

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2012 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-66/112-30)

(Note: In accordance with language in the SAFETEA-LU conference report, urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular 5 section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
1,000,000 or more in Population	$1,815,554,544
200,000 - 999,999 in Population	427,757,245
50,000 - 199,999 in Population	237,169,587
National Total	**$2,280,481,376**
Amounts Apportioned to Urbanized Areas 1,000,000 or more in Population:	
Atlanta, GA	$35,146,942
Baltimore, MD	29,212,923
Boston, MA--NH--RI	74,412,897
Chicago, IL--IN	119,397,153
Cincinnati, OH--KY--IN	8,657,859
Cleveland, OH	13,183,448
Columbus, OH	6,665,948
Dallas--Fort Worth--Arlington, TX	34,540,687
Denver--Aurora, CO	24,264,802
Detroit, MI	22,399,489
Houston, TX	35,300,375
Indianapolis, IN	5,952,969
Kansas City, MO--KS	7,745,836
Las Vegas, NV	12,375,887
Los Angeles--Long Beach--Santa Ana, CA	151,281,842
Miami, FL	50,504,861
Milwaukee, WI	10,527,863
Minneapolis--St. Paul, MN	27,213,609
New Orleans, LA	8,884,088
New York--Newark, NY--NJ--CT	440,436,648
Orlando, FL	9,149,554
Philadelphia, PA--NJ--DE--MD	72,073,131
Phoenix--Mesa, AZ	26,690,340
Pittsburgh, PA	16,914,243
Portland, OR--WA	19,628,170
Providence, RI--MA	17,267,917
Riverside--San Bernardino, CA	14,432,693
Sacramento, CA	11,287,826
San Antonio, TX	12,674,852
San Diego, CA	29,738,824
San Francisco--Oakland, CA	93,671,940
San Jose, CA	20,953,862
San Juan, PR	14,337,882
Seattle, WA	49,920,116
St. Louis, MO--IL	16,417,101
Tampa--St. Petersburg, FL	12,581,788
Virginia Beach, VA	10,234,840
Washington, DC--VA--MD	81,564,658
Total	**$1,815,554,544**
Amounts Apportioned to Urbanized Areas 200,000 to 999,999 in Population:	
Aguadilla--Isabela--San Sebastian, PR	$1,715,510
Akron, OH	3,328,108
Albany, NY	5,406,758
Albuquerque, NM	7,648,835
Allentown--Bethlehem, PA--NJ	4,005,576
Anchorage, AK	11,368,828
Ann Arbor, MI	2,948,786
Antioch, CA	3,086,873
Asheville, NC	966,717
Atlantic City, NJ	5,818,778
Augusta-Richmond County, GA--SC	1,228,769
Austin, TX	14,326,036
Bakersfield, CA	3,078,608
Barnstable Town, MA	2,969,883
Baton Rouge, LA	2,231,193
Birmingham, AL	3,291,176
Boise City, ID	1,390,948
Bonita Springs--Naples, FL	1,451,957
Bridgeport--Stamford, CT--NY	13,198,387
Buffalo, NY	9,459,399
Canton, OH	1,775,508
Cape Coral, FL	2,128,216
Charleston--North Charleston, SC	2,579,950
Charlotte, NC--SC	8,308,894
Chattanooga, TN--GA	1,753,828
Colorado Springs, CO	2,870,843
Columbia, SC	1,922,476
Columbus, GA--AL	1,105,551
Concord, CA	9,917,594
Corpus Christi, TX	2,444,473
Davenport, IA--IL	2,002,940
Dayton, OH	7,108,798
Daytona Beach--Port Orange, FL	2,103,861

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2012 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-66/112-30)

(Note: In accordance with language in the SAFETEA-LU conference report, urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Denton--Lewisville, TX	1,853,183
Des Moines, IA	3,160,812
Durham, NC	3,480,216
El Paso, TX--NM	5,365,834
Eugene, OR	2,820,279
Evansville, IN--KY	1,201,719
Fayetteville, NC	1,199,849
Flint, MI	3,372,212
Fort Collins, CO	1,328,802
Fort Wayne, IN	1,483,738
Fresno, CA	4,855,888
Grand Rapids, MI	4,113,403
Greensboro, NC	2,765,872
Greenville, SC	1,073,810
Gulfport--Biloxi, MS	1,170,392
Harrisburg, PA	2,756,850
Hartford, CT	10,093,509
Honolulu, HI	15,853,336
Huntsville, AL	920,112
Indio--Cathedral City--Palm Springs, CA	1,939,477
Jackson, MS	1,269,947
Jacksonville, FL	6,948,326
Knoxville, TN	2,419,419
Lancaster, PA	3,767,374
Lancaster--Palmdale, CA	4,390,551
Lansing, MI	2,053,887
Lexington-Fayette, KY	2,281,867
Lincoln, NE	1,420,853
Little Rock, AR	2,091,004
Louisville, KY--IN	8,593,180
Lubbock, TX	1,503,753
Madison, WI	3,559,279
McAllen, TX	1,794,831
Memphis, TN--MS--AR	6,318,183
Mission Viejo, CA	4,975,487
Mobile, AL	1,534,637
Modesto, CA	2,101,942
Nashville-Davidson, TN	5,939,223
New Haven, CT	9,634,180
Ogden--Layton, UT	5,077,801
Oklahoma City, OK	3,614,268
Omaha, NE--IA	3,810,358
Oxnard, CA	3,777,620
Palm Bay--Melbourne, FL	2,247,148
Pensacola, FL--AL	1,478,730
Peoria, IL	1,580,526
Port St. Lucie, FL	1,181,832
Poughkeepsie--Newburgh, NY	9,079,270
Provo--Orem, UT	2,477,198
Raleigh, NC	4,156,806
Reading, PA	1,865,749
Reno, NV	2,432,859
Richmond, VA	5,802,234
Rochester, NY	5,923,528
Rockford, IL	1,408,542
Round Lake Beach--McHenry--Grayslake, IL--WI	2,028,584
Salem, OR	2,538,271
Salt Lake City, UT	13,337,506
Santa Rosa, CA	2,269,704
Sarasota--Bradenton, FL	3,873,121
Savannah, GA	1,656,850
Scranton, PA	2,117,891
Shreveport, LA	1,719,887
South Bend, IN--MI	1,984,123
Spokane, WA--ID	4,000,315
Springfield, MA--CT	6,348,801
Springfield, MO	1,867,853
Stockton, CA	3,712,144
Syracuse, NY	3,887,759
Tallahassee, FL	1,412,297
Temecula--Murrieta, CA	1,612,840
Thousand Oaks, CA	1,547,695
Toledo, OH--MI	3,147,037
Trenton, NJ	5,624,826
Tucson, AZ	6,371,885
Tulsa, OK	3,184,179
Victorville--Hesperia--Apple Valley, CA	1,331,558
Wichita, KS	2,580,300
Winston-Salem, NC	1,616,878
Worcester, MA--CT	4,484,874
Youngstown, OH--PA	2,126,755
Total	**$427,757,245**

Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 199,999 in Population

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2012 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-56/112-30)

(Note: In accordance with language in the SAFETEA-LU conference report, urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes eligible Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
ALABAMA	$4,223,852
Anniston, AL	382,230
Auburn, AL	362,611
Decatur, AL	344,839
Dothan, AL	330,782
Florence, AL	415,650
Gadsden, AL	325,468
Montgomery, AL	1,341,921
Tuscaloosa, AL	710,960
ALASKA	$269,836
Fairbanks, AK	269,836
ARIZONA	$2,199,062
Avondale, AZ	562,704
Flagstaff, AZ	570,171
Prescott, AZ	368,861
Yuma, AZ--CA	732,126
ARKANSAS	$2,850,521
Fayetteville--Springdale, AR	1,084,504
Fort Smith, AR--OK	701,355
Hot Springs, AR	283,514
Jonesboro, AR	395,873
Pine Bluff, AR	367,472
Texarkana, TX--Texarkana, AR	138,813
CALIFORNIA	$22,442,710
Atascadero--El Paso de Robles (Paso Robles), CA	456,746
Camarillo, CA	524,910
Chico, CA	620,667
Davis, CA	1,147,378
El Centro, CA	738,073
Fairfield, CA	1,192,790
Gilroy--Morgan Hill, CA	606,951
Hanford, CA	821,483
Hemet, CA	951,890
Livermore, CA	707,078
Lodi, CA	761,278
Lompoc, CA	416,860
Madera, CA	449,274
Manteca, CA	484,037
Merced, CA	944,897
Napa, CA	724,349
Petaluma, CA	529,485
Porterville, CA	628,426
Redding, CA	633,727
Salinas, CA	1,861,822
San Luis Obispo, CA	698,712
Santa Barbara, CA	2,149,173
Santa Clarita, CA	1,805,506
Santa Cruz, CA	1,869,187
Santa Maria, CA	1,229,696
Seaside--Monterey--Marina, CA	1,340,149
Simi Valley, CA	1,154,499
Tracy, CA	651,194
Turlock, CA	587,104
Vacaville, CA	974,850
Vallejo, CA	1,769,221
Visalia, CA	1,146,158
Watsonville, CA	743,847
Yuba City, CA	788,494
Yuma, AZ--CA	5,364
COLORADO	$5,254,181
Boulder, CO	1,421,963
Grand Junction, CO	582,963
Greeley, CO	763,092
Lafayette--Louisville, CO	540,289
Longmont, CO	1,039,177
Pueblo, CO	906,697
CONNECTICUT	$8,180,553
Danbury, CT--NY	1,819,297
Norwich--New London, CT	1,769,453
Waterbury, CT	4,591,782
DELAWARE	$924,708
Dover, DE	905,576
Salisbury, MD--DE	19,132
FLORIDA	$12,267,394
Brooksville, FL	575,452
Deltona, FL	933,209
Fort Walton Beach, FL	948,340
Gainesville, FL	1,441,821
Kissimmee, FL	1,358,537
Lady Lake, FL	289,687
Lakeland, FL	1,281,579
Leesburg--Eustis, FL	572,730
North Port--Punta Gorda, FL	719,554
Ocala, FL	596,019
Panama City, FL	762,825

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2012 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-56/112-30)

(Note: In accordance with language in the SAFETEA-LU conference report, urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An urban apportionment amount includes regular 5 urban 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
St. Augustine, FL	339,208
Titusville, FL	534,485
Vero Beach--Sebastian, FL	732,256
Winter Haven, FL	930,071
Zephyrhills, FL	311,561
GEORGIA	$5,046,514
Albany, GA	538,594
Athens-Clarke County, GA	817,656
Brunswick, GA	289,414
Dalton, GA	310,590
Gainesville, GA	485,849
Hinesville, GA	334,807
Macon, GA	880,784
Rome, GA	479,458
Valdosta, GA	362,434
Warner Robins, GA	497,828
HAWAII	$1,241,509
Kailua (Honolulu County)--Kaneohe, HI	1,241,509
IDAHO	$2,355,441
Coeur d'Alene, ID	468,970
Idaho Falls, ID	479,291
Lewiston, ID--WA	207,626
Nampa, ID	740,291
Pocatello, ID	439,863
ILLINOIS	$8,338,714
Alton, IL	538,719
Beloit, WI--IL	82,358
Bloomington--Normal, IL	1,080,391
Champaign, IL	1,440,408
Danville, IL	339,112
Decatur, IL	709,828
DeKalb, IL	479,570
Dubuque, IA--IL	16,587
Kankakee, IL	611,530
Springfield, IL	1,061,217
INDIANA	$5,991,882
Anderson, IN	589,856
Bloomington, IN	850,191
Columbus, IN	337,755
Elkhart, IN--MI	820,810
Kokomo, IN	545,812
Lafayette, IN	1,115,088
Michigan City, IN--MI	447,518
Muncie, IN	765,764
Terre Haute, IN	520,303
IOWA	$4,713,830
Ames, IA	773,004
Cedar Rapids, IA	1,210,507
Dubuque, IA--IL	443,957
Iowa City, IA	885,970
Sioux City, IA--NE--SD	643,591
Waterloo, IA	746,817
KANSAS	$1,919,931
Lawrence, KS	932,749
St. Joseph, MO--KS	7,001
Topeka, KS	977,181
KENTUCKY	$1,667,115
Bowling Green, KY	380,464
Clarksville, TN--KY	152,405
Huntington, WV--KY--OH	327,437
Owensboro, KY	435,183
Radcliff--Elizabethtown, KY	366,647
LOUISIANA	$4,708,555
Alexandria, LA	450,858
Houma, LA	781,882
Lafayette, LA	1,178,176
Lake Charles, LA	799,952
Mandeville--Covington, LA	361,853
Monroe, LA	672,799
Slidell, LA	468,875
MAINE	$2,098,793
Bangor, ME	356,249
Dover--Rochester, NH--ME	38,881
Lewiston, ME	512,230
Portland, ME	1,134,743
Portsmouth, NH--ME	46,690
MARYLAND	$6,109,155
Aberdeen--Havre de Grace--Bel Air, MD	1,592,587
Cumberland, MD--WV--PA	470,001
Frederick, MD	1,110,803
Hagerstown, MD--WV--PA	831,885
Salisbury, MD--DE	654,307
St. Charles, MD	760,375
Westminster, MD	641,197
MASSACHUSETTS	$3,841,228
Leominster--Fitchburg, MA	1,313,870
Nashua, NH--MA	393
New Bedford, MA	1,883,470

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2012 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-56/112-30)

(Note: In accordance with language in the SAFETEA-LU conference report, urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An urban apportionment amount includes regular 5 urban 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Pittsfield, MA	983,893
MICHIGAN	$3,268,542
Battle Creek, MI	478,804
Bay City, MI	617,173
Benton Harbor--St. Joseph, MI	355,223
Elkhart, IN--MI	9,506
Holland, MI	610,782
Jackson, MI	555,322
Kalamazoo, MI	1,197,184
Michigan City, IN--MI	2,915
Monroe, MI	342,867
Muskegon, MI	937,967
Port Huron, MI	658,820
Saginaw, MI	935,868
South Lyon--Howell--Brighton, MI	569,341
MINNESOTA	$3,017,734
Duluth, MN--WI	935,706
Fargo, ND--MN	279,533
Grand Forks, ND--MN	67,865
La Crosse, WI--MN	43,291
Rochester, MN	659,518
St. Cloud, MN	932,361
MISSISSIPPI	$941,698
Hattiesburg, MS	376,638
Pascagoula, MS	485,060
MISSOURI	$2,514,278
Columbia, MO	782,308
Jefferson City, MO	315,415
Joplin, MO	406,007
Lee's Summit, MO	415,344
St. Joseph, MO--KS	595,204
MONTANA	$1,176,289
Billings, MT	716,412
Great Falls, MT	465,176
Missoula, MT	596,690
N. MARIANA ISLANDS	$485,703
Saipan, MP	485,703
NEBRASKA	$124,740
Sioux City, IA--NE--SD	124,740
NEVADA	$413,240
Carson City, NV	413,240
NEW HAMPSHIRE	$2,794,477
Dover--Rochester, NH--ME	415,233
Manchester, NH	983,878
Nashua, NH--MA	1,164,473
Portsmouth, NH--ME	231,894
NEW JERSEY	$2,061,430
Hightstown, NJ	930,062
Vineland, NJ	924,907
Wildwood--North Wildwood--Cape May, NJ	606,469
NEW MEXICO	$1,604,779
Farmington, NM	300,208
Las Cruces, NM	651,801
Santa Fe, NM	652,878
NEW YORK	$7,795,128
Binghamton, NY--PA	1,252,476
Danbury, CT--NY	2,224,849
Elmira, NY	636,884
Glens Falls, NY	461,263
Ithaca, NY	796,768
Kingston, NY	434,299
Middletown, NY	412,563
Saratoga Springs, NY	389,891
Utica, NY	990,540
NORTH CAROLINA	$8,754,344
Burlington, NC	688,407
Concord, NC	955,994
Gastonia, NC	789,831
Goldsboro, NC	335,848
Greenville, NC	561,201
Hickory, NC	959,253
High Point, NC	789,302
Jacksonville, NC	579,428
Rocky Mount, NC	376,209
Wilmington, NC	1,008,870
NORTH DAKOTA	$2,119,695
Bismarck, ND	867,867
Fargo, ND--MN	944,178
Grand Forks, ND--MN	507,861
OHIO	$5,235,152
Huntington, WV--KY--OH	211,631
Lima, OH	455,368
Lorain--Elyria, OH	1,379,435
Mansfield, OH	489,516
Middletown, OH	635,192
Newark, OH	539,595
Parkersburg, WV--OH	148,209

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2012 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-56/112-30)

(Note: In accordance with language in the SAFETEA-LU conference report, urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An urban apportionment amount includes regular 5 urban 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Sandusky, OH	322,358
Springfield, OH	615,878
Weirton, WV--Steubenville, OH--PA	255,145
Wheeling, WV--OH	187,335
OKLAHOMA	$1,280,810
Fort Smith, AR--OK	13,047
Lawton, OK	557,600
Norman, OK	709,863
OREGON	$1,917,764
Bend, OR	555,295
Corvallis, OR	531,322
Longview, WA--OR	9,396
Medford, OR	921,751
PENNSYLVANIA	$9,380,563
Altoona, PA	587,604
Binghamton, NY--PA	35,264
Cumberland, MD--WV--PA	92
Erie, PA	1,669,478
Hagerstown, MD--WV--PA	7,581
Hazleton, PA	334,632
Johnstown, PA	699,307
Lebanon, PA	513,771
Monessen, PA	475,055
Pottstown, PA	422,573
State College, PA	1,032,211
Uniontown--Connellsville, PA	464,632
Weirton, WV--Steubenville, OH--PA	1,681
Williamsport, PA	910,986
York, PA	1,326,306
PUERTO RICO	$7,246,891
Arecibo, PR	909,468
Fajardo, PR	876,847
Florida--Barceloneta--Bajadero, PR	374,848
Guayama, PR	621,443
Juana Diaz, PR	460,893
Mayaguez, PR	959,765
Ponce, PR	1,677,466
San German--Cabo Rojo--Sabana Grande, PR	589,561
Yauco, PR	771,372
RHODE ISLAND	0
SOUTH CAROLINA	$3,925,578
Anderson, SC	373,409
Florence, SC	494,956
Mauldin--Simpsonville, SC	458,709
Myrtle Beach, SC	690,572
Rock Hill, SC	384,894
Spartanburg, SC	908,338
Sumter, SC	515,604
SOUTH DAKOTA	$1,558,361
Rapid City, SD	478,846
Sioux City, IA--NE--SD	21,757
Sioux Falls, SD	1,057,858
TENNESSEE	$3,777,840
Bristol, TN--Bristol, VA	204,836
Clarksville, TN--KY	591,713
Cleveland, TN	324,337
Jackson, TN	477,932
Johnson City, TN	556,888
Kingsport, TN--VA	489,413
Morristown, TN	382,327
Murfreesboro, TN	929,393
TEXAS	$20,173,367
Abilene, TX	781,101
Amarillo, TX	1,957,271
Beaumont, TX	696,124
Brownsville, TX	1,511,580
College Station--Bryan, TX	1,061,259
Galveston, TX	665,103
Harlingen, TX	741,291
Killeen, TX	1,325,509
Lake Jackson--Angleton, TX	528,331
Laredo, TX	1,941,175
Longview, TX	481,220
McKinney, TX	376,847
Midland, TX	714,867
Odessa, TX	764,523
Port Arthur, TX	882,368
San Angelo, TX	662,482
Sherman, TX	487,894
Temple, TX	466,100
Texarkana, TX--Texarkana, AR	270,790
Texas City, TX	610,360
The Woodlands, TX	935,205
Tyler, TX	661,831
Victoria, TX	348,873
Waco, TX	1,104,676
Wichita Falls, TX	671,698
UTAH	$1,075,960
Logan, UT	656,749
St. George, UT	419,210
VERMONT	$928,724

FEDERAL TRANSIT ADMINISTRATION

TABLE 3

FY 2012 SECTION 5307 AND SECTION 5340 URBANIZED AREA APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-56/112-30)

(Note: In accordance with language in the SAFETEA-LU conference report, urbanized area apportionments for Section 5307 and Section 5340 were combined to show a single amount. An area's apportionment amount includes regular Section 5307 funds, Small Transit Intensive Cities funds, and Growing States and High Density States formula funds, as appropriate.)

URBANIZED AREA/STATE	APPORTIONMENT
Burlington, VT	929,724
VIRGIN ISLANDS*	480,653
VIRGINIA	$5,476,055
Blacksburg, VA	737,760
Bristol, TN--Bristol, VA	115,726
Charlottesville, VA	770,564
Danville, VA	313,880
Fredericksburg, VA	595,593
Harrisonburg, VA	556,130
Kingsport, TN--VA	9,256
Lynchburg, VA	767,548
Roanoke, VA	1,278,236
Winchester, VA	334,137
WASHINGTON	$9,167,499
Bellingham, WA	682,713
Bremerton, WA	1,349,413
Kennewick--Richland, WA	1,405,884
Lewiston, ID--WA	131,321
Longview, WA--OR	429,356
Marysville, WA	703,623
Mount Vernon, WA	516,989
Olympia--Lacey, WA	1,149,719
Wenatchee, WA	650,826
Yakima, WA	948,943
WEST VIRGINIA	$3,430,887
Charleston, WV	1,252,080
Cumberland, MD--WV--PA	13,566
Hagerstown, MD--WV--PA	176,850
Huntington, WV--KY--OH	572,895
Morgantown, WV	480,081
Parkersburg, WV--OH	391,811
Weirton, WV--Steubenville, OH--PA	179,864
Wheeling, WV--OH	363,681
WISCONSIN	$9,025,550
Appleton, WI	1,449,196
Beloit, WI--IL	304,808
Duluth, MN--WI	260,433
Eau Claire, WI	829,861
Fond du Lac, WI	377,898
Green Bay, WI	1,360,810
Janesville, WI	476,376
Kenosha, WI	868,181
La Crosse, WI--MN	734,408
Oshkosh, WI	692,841
Racine, WI	1,053,760
Sheboygan, WI	606,130
Wausau, WI	511,858
WYOMING	$884,563
Casper, WY	415,273
Cheyenne, WY	469,290
Total	**$237,169,597**

* Language in section 5307(j) of SAFETEA-LU directs that the Virgin Islands be treated as an urbanized area.

FEDERAL TRANSIT ADMINISTRATION

TABLE 3A

URBANIZED AREAS 200,000 OR MORE IN POPULATION ELIGIBLE TO USE SECTION 5307 FUNDS FOR OPERATING ASSISTANCE

State	2000 Census Urbanized Area Description	Population	FY 2002 Apportionment	FY 2012 Apportionment Operating Limitation
AL	Huntsville, AL	213,253	$1,677,473	$838,737
CA	Antioch, CA	217,591	$1,914,688	$957,344
CA	Indio--Cathedral City--Palm Springs, CA	254,856	$1,849,608	$924,804
	(Indio-Coachella, CA -- $621,797)			
	(Palm Springs, CA -- $1,227,811)			
CA	Lancaster--Palmdale, CA	263,532	$2,206,544	$1,103,272
CA	Santa Rosa, CA	285,408	$2,636,339	$1,318,170
CA	Victorville--Hesperia--Apple Valley, CA	200,436	$1,311,837	$655,919
CA	Temecula--Murrieta, CA	229,810	----------	$623,817
CO	Fort Collins, CO	206,757	$1,156,197	$578,099
CT	Bridgeport--Stamford, CT--NY	888,890	$9,676,425	$4,838,213
	(Stamford, CT-NY -- $5,332,860)			
	(Norwalk, CT -- $4,343,565)			
CT	Hartford, CT	851,535	$2,824,453	$1,412,227
	(Bristol, CT -- $983,277)			
	(New Britain, CT -- $1,841,176)			
FL	Port St. Lucie, FL	270,774	$1,982,206	$991,103
	(Fort Pierce, FL -- $1,142,501)			
	(Stuart, FL -- $839,705)			
FL	Bonita Springs--Naples, FL	221,251	$954,953	$477,477
FL	Tallahassee, FL	204,260	$1,617,975	$808,988
GA	Savannah, GA	208,886	$1,824,225	$912,113
ID	Boise City, ID	272,625	$2,021,464	$1,010,732
IL	Round Lake Beach--McHenry--Grayslake, IL--WI	226,848	$1,088,609	$544,305
IL	Chicago, IL--IN	8,307,904	$6,599,240	$3,299,620
	(Aurora, IL -- $2,290,318)			
	(Crystal Lake, IL -- $746,464)			
	(Elgin, IL -- $1,652,124)			
	(Joliet, IL -- $1,910,334)			
IN	Evansville, IN--KY	211,989	$2,251,898	$1,125,949
MA	Barnstable Town, MA	243,667	$538,120	$269,060
MA	Boston, MA--NH--RI	4,032,484	$4,760,673	$2,380,337
	(Brockton, MA -- $1,906,558)			
	(Lowell, MA-NH -- $2,366,926)			
	(Taunton, MA -- $487,189)			
MD	Baltimore, MD	2,076,354	$858,335	$429,168
	(Annapolis, MD -- $858,335)			
MO	Springfield, MO	215,004	$1,748,930	$874,465
MS	Gulfport--Biloxi, MS	205,754	$1,687,127	$843,564
NC	Winston-Salem, NC	299,290	$1,811,413	$905,707
NC	Asheville, NC	221,570	$968,044	$484,022
NC	Greensboro, NC	267,884	$2,211,540	$1,105,770
NE	Lincoln, NE	226,582	$2,658,761	$1,329,381
NJ	Atlantic City, NJ	227,180	$1,842,968	$921,484
NY	Poughkeepsie--Newburgh, NY	351,982	$2,225,147	$1,112,574
	(Poughkeepsie, NY -- $1,507,504)			
	(Newburgh, NY -- $717,643)			
OH	Youngstown, OH--PA	417,437	$465,043	$232,522

	(Sharon, PA-OH -- $465,043)			
OH	Cincinnati, OH--KY--IN	1,503,262	$1,384,842	$692,421
	(Hamilton, OH -- $1,384,842)			
OR	Eugene, OR	224,049	$2,559,936	$1,279,968
OR	Salem, OR	207,229	$2,070,221	$1,035,111
PA	Reading, PA	240,264	$2,636,837	$1,318,419
PA	Lancaster, PA	323,554	$2,258,871	$1,129,436
PR	Aguadilla--Isabela--San Sebastian, PR	299,086	$1,148,984	$574,492
PR	San Juan, PR	2,216,616	$5,925,223	$2,962,612
	(Caguas, PR -- $2,811,557)			
	(Cayey, PR -- $831,273)			
	(Humacao, PR -- $719,451)			
	(Vega Baja-Manati, PR -- $1,562,942)			
RI	Providence, RI--MA	1,174,548	$2,695,482	$1,347,741
	(Newport, RI -- $644,329)			
	(Fall River, MA-RI -- $2,051,153)			
TX	Lubbock, TX	202,225	$1,939,424	$969,712
TX	Denton--Lewisville, TX	299,823	$1,291,722	$645,861
	(Denton, TX -- $599,570)			
	(Lewisville, TX -- $692,152)			
VA	Richmond, VA	818,836	$1,016,957	$508,479
	(Petersburg, VA -- $1,016,957)			

* The amount shown represents the amount allowable based on funding provided in the Surface and Air Transportation Programs Extension Act of 2011 (Pub. L. 112-30, Div. C) and the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112-055). In cases where an urbanized area's FY 2012 available apportionment is less than the allowable amount, FTA will set the operating assistance budget, in TEAM-Web, at an amount not to exceed the FY 2012 available apportionment.

Note: For informational purposes, the affected 1990 census small urbanized areas (less than 200,000 population) that were merged into an existing urbanized area of at least 200,000 population are shown in parentheses immediately below the eligible 2000 census urbanized area. FTA is unable to identify the urbanized areas which now incorporate rural areas that received Section 5311 in FY 2002 and they are not included in this table.

FEDERAL TRANSIT ADMINISTRATION
TABLE 4

FY 2012 SECTION 5307 APPORTIONMENT FORMULA

Distribution of Available Funds

Of the funds made available to the Section 5307 program, a one percent takedown is authorized for Small Transit Intensive Cities. This amount is apportioned to the Governors based on a separate formula that uses criteria related to specific service performance categories.

The remaining funds are apportioned to small, medium, and large sized urbanized areas (UZAs). 9.32% is made available for UZAs 50,000-199,999 in population, and 90.68% to UZAs 200,000 or more in population.

UZA Population and Weighting Factors

50,000-199,999 in population :
(Apportioned to Governors)

9.32% of available Section 5307 funds
50% apportioned based on population
50% apportioned based on population x population density

200,000 and greater in population:
(Apportioned to UZAs)

90.68% of available Section 5307 funds
33.29% (Fixed Guideway Tier*)
95.61% (Non-incentive Portion of Tier)
--- at least 0.75% to each UZA with commuter rail and pop. 750,000 or greater
60% - fixed guideway revenue vehicle miles
40% - fixed guideway route miles

4.39% ("Incentive" Portion of Tier)
-- at least 0.75% to each UZA with commuter rail and pop. 750,000 or greater
-- fixed guideway passenger miles x fixed guideway passenger miles/operating cost

66.71% ("Bus" Tier)
90.8% (Non-incentive Portion of Tier)
73.39% for UZAs with population 1,000,000 or greater
50% - bus revenue vehicle miles
25% - population
25% - population x population density
26.61% for UZAs pop. < 1,000,000
50% - bus revenue vehicle miles
25% - population
25% - population x density
9.2% ("Incentive" Portion of Tier)
-- bus passenger miles x bus passenger miles/operating cost

* Includes all fixed guideway modes, such as heavy rail, commuter rail, light rail, trolleybus, aerial tramway, inclined plane, cable car, automated guideway transit, ferryboats, exclusive busways, and HOV lanes.

FEDERAL TRANSIT ADMINISTRATION
TABLE 5

FISCAL YEAR 2012 FORMULA PROGRAMS APPORTIONMENT DATA UNIT VALUES

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

	APPORTIONMENT DATA UNIT VALUE
Section 5307 Urbanized Area Formula Program - Bus Tier	
Urbanized Areas Over 1,000,000:	
Population	$1.74568100
Population x Density	$0.00044294
Bus Revenue Vehicle Mile	$0.21647380
Urbanized Areas Under 1,000,000:	
Population	$1.59984792
Population x Density	$0.00069999
Bus Revenue Vehicle Mile	$0.27182732
Bus Incentive (PM denotes Passenger Mile):	
Bus PM x Bus PM = / Operating Cost	$0.00505970
Section 5307 Urbanized Area Formula Program - Fixed Guideway Tier	
Fixed Guideway Revenue Vehicle Mile	$0.30745826
Fixed Guideway Route Mile	$15,703
Commuter Rail Floor	$4,465,712
Fixed Guideway Incentive:	
Fixed Guideway PM x Fixed Guideway PM = / Operating Cost	$0.00036576
Commuter Rail Incentive Floor	$205,046
Section 5307 Urbanized Area Formula Program - Areas Under 200,000	
Population	$3.21775150
Population x Density	$0.00160066
Section 5307 Small Transit Intensive Cities	
For Each Qualifying Performance Category	$65,894
Section 5311 Urbanized Area Formula Program - Areas Under 50,000	
Population	$2.46681247

Section 5309 Capital Program - Fixed Guideway Modernization

	Tier 2	Tier 3	Tier 4	Tier 5	Tier 6	Tier 7
Legislatively Specified Areas:						
Revenue Vehicle Mile	$0.03043443	------	$0.13671435	$0.03239541	$0.00000000	$0.00000000
Route Mile	$2,122.43	------	$7,825.39	$2,512.01	$0.00	$0.00
Other Urbanized Areas:						
Revenue Vehicle Mile	$0.16288440	$0.00576164	$0.13671435	$0.05643728	$0.00000000	$0.00000000
Route Mile	$4,758.70	$168.33	$7,825.39	$1,571.13	$0.00	$0.00

Notes:

1. Unit values for Section 5307 do not take into account Section 5340 funding added to the program.
2. The unit value for Section 5311 is based on the total nonurbanized/rural population for the States and territories. It does not take into account Section 5311 funds allocated based on land area in nonurbanized areas, or Section 5340 funding added to the program.

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

FY 2012 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @~ $65,894 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.536**	**109.294**	**12.609**	**0.819**	**97.343**	**16.388**		
Alabama	Anniston, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Auburn, AL	1.035	16.618	5.241	0.326	5.423	0.904	0	0
Alabama	Decatur, AL	0.886	12.811	10.510	0.739	9.311	3.926	0	0
Alabama	Dothan, AL	0.998	17.395	7.468	0.429	7.454	0.735	0	0
Alabama	Florence, AL	2.222	26.692	7.266	0.605	16.148	5.159	0	0
Alabama	Gadsden, AL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Alabama	Montgomery, AL	4.426	71.244	8.305	0.516	36.765	6.917	0	0
Alabama	Tuscaloosa, AL	4.015	47.828	2.777	0.233	11.150	2.034	0	0
Alaska	Fairbanks, AK	5.332	88.144	11.315	0.684	60.334	8.067	0	0
Arizona	Avondale, AZ	1.261	17.968	5.504	0.386	6.943	1.622	0	0
Arizona	Flagstaff, AZ	3.971	52.733	12.952	0.975	51.438	20.927	3	197,682
Arizona	Prescott, AZ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arizona	Yuma, AZ--CA	2.192	42.785	12.306	0.630	26.971	3.843	0	0
Arkansas	Fayetteville--Springdale, AR	3.656	46.701	5.565	0.436	20.348	10.490	0	0
Arkansas	Fort Smith, AR--OK	2.508	33.182	4.340	0.328	10.885	2.280	0	0
Arkansas	Hot Springs, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Jonesboro, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Arkansas	Pine Bluff, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Atascadero--El Paso de Robles (Paso Robles), CA	14.052	393.895	2.140	0.076	30.086	1.107	2	131,788
California	Camarillo, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Chico, CA	5.514	80.940	14.226	0.969	78.447	14.475	2	131,788
California	Davis, CA	3.299	113.571	17.305	1.417	160.911	57.387	6	395,362
California	El Centro, CA	12.865	252.072	13.998	0.721	181.759	10.018	4	263,576
California	Fairfield, CA	4.578	83.537	12.058	0.660	55.171	6.163	0	0
California	Gilroy--Morgan Hill, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Hanford, CA	4.165	130.759	47.565	1.515	198.092	13.530	4	263,576
California	Hemet, CA	2.318	44.936	6.996	0.361	16.218	1.819	0	0
California	Livermore, CA	4.065	58.964	4.230	0.292	17.194	3.472	0	0
California	Lodi, CA	1.680	18.347	4.673	0.428	7.853	2.722	0	0
California	Lompoc, CA	9.652	131.045	8.417	0.620	81.239	5.005	2	131,788
California	Madera, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Manteca, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Merced, CA	1.706	28.381	11.276	0.678	19.235	5.695	0	0
California	Napa, CA	2.286	27.177	7.945	0.668	18.182	4.580	0	0
California	Petaluma, CA	3.880	46.998	8.807	0.533	25.052	4.669	0	0
California	Porterville, CA	4.813	109.807	13.452	0.590	64.744	9.044	2	131,788
California	Redding, CA	4.028	57.220	9.281	0.658	37.380	7.001	0	0
California	Salinas, CA	6.597	107.639	9.269	0.568	61.141	8.953	1	65,894
California	San Luis Obispo, CA	9.567	160.457	17.457	1.041	166.999	23.275	6	395,362
California	Santa Barbara, CA	10.665	145.049	16.750	1.232	178.641	41.237	6	395,362
California	Santa Clarita, CA	10.729	185.880	14.557	0.841	156.171	15.117	5	329,470
California	Santa Cruz, CA	10.104	142.739	21.618	1.530	218.438	34.514	6	395,362
California	Santa Maria, CA	8.617	148.867	10.843	0.628	93.440	10.835	2	131,788
California	Seaside--Monterey--Marina, CA	5.743	92.456	19.832	1.232	113.887	16.723	4	263,576
California	Simi Valley, CA	3.806	51.447	5.524	0.409	21.026	4.249	0	0
California	Tracy, CA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
California	Turlock, CA	1.927	26.978	3.456	0.247	6.660	1.840	0	0
California	Vacaville, CA	7.294	139.293	0.663	0.035	4.838	0.497	2	131,788
California	Vallejo, CA	4.989	74.675	7.748	0.518	38.656	5.115	0	0
California	Visalia, CA	4.049	80.074	22.898	1.157	92.646	14.064	2	131,788
California	Watsonville, CA	8.234	124.143	9.469	0.628	77.969	12.092	2	131,788
California	Yuba City, CA	8.096	92.439	12.055	0.795	73.483	10.864	0	0
Colorado	Boulder, CO	8.862	121.643	25.199	1.836	223.311	44.695	6	395,362
Colorado	Grand Junction, CO	4.439	70.643	9.051	0.569	40.179	10.650	0	0
Colorado	Greeley, CO	3.460	43.861	5.904	0.466	20.425	5.518	0	0
Colorado	Lafayette--Louisville, CO	8.599	120.657	8.904	0.492	59.372	11.654	2	131,788
Colorado	Longmont, CO	8.036	109.400	14.842	1.090	119.266	24.194	6	395,362
Colorado	Pueblo, CO	3.630	51.269	7.019	0.497	25.482	8.128	0	0
Connecticut	Danbury, CT--NY	26.472	716.358	35.585	1.315	942.000	42.767	6	395,362
Connecticut	Norwich--New London, CT	5.908	117.145	9.262	0.467	54.718	6.518	1	65,894
Connecticut	Waterbury, CT	26.111	611.974	29.712	1.268	775.811	43.937	6	395,362
Delaware	Dover, DE	3.359	57.591	34.619	2.019	116.269	15.767	3	197,682
Florida	Brooksville, FL	3.236	44.988	3.594	0.179	8.036	0.993	0	0
Florida	Deltona, FL	3.498	54.188	7.284	0.470	25.481	4.982	0	0
Florida	Fort Walton Beach, FL	1.385	19.201	6.443	0.465	8.926	1.555	0	0
Florida	Gainesville, FL	8.370	95.433	19.930	1.748	186.824	59.041	5	329,470
Florida	Kissimmee, FL	4.940	74.288	13.813	0.919	68.236	11.809	2	131,788
Florida	Lady Lake, FL	2.361	39.315	11.074	0.665	26.145	2.473	0	0

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

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State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @~ $65,894 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.536**	**109.294**	**12.609**	**0.819**	**97.343**	**16.388**		
Florida	Lakeland, FL	4.565	69.174	9.169	0.605	41.858	7.939	0	0
Florida	Leesburg--Eustis, FL	2.435	41.042	12.005	0.712	29.232	2.757	0	0
Florida	North Port--Punta Gorda, FL	1.103	17.971	3.895	0.239	4.286	0.548	0	0
Florida	Ocala, FL	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Florida	Panama City, FL	3.307	59.790	9.734	0.538	32.187	6.881	0	0
Florida	St. Augustine, FL	2.759	53.415	9.680	0.500	26.704	3.651	0	0
Florida	Titusville, FL	5.953	198.771	21.564	0.848	128.374	6.003	3	197,682
Florida	Vero Beach--Sebastian, FL	3.220	44.514	8.487	0.614	27.324	6.257	0	0
Florida	Winter Haven, FL	2.166	35.907	10.984	0.663	23.793	3.473	0	0
Florida	Zephyrhills, FL	3.942	66.895	6.055	0.357	23.869	3.572	0	0
Georgia	Albany, GA	6.673	109.144	6.586	0.403	43.951	9.158	1	65,894
Georgia	Athens-Clarke County, GA	6.258	52.758	15.111	1.792	94.565	103.725	3	197,682
Georgia	Brunswick, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Dalton, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Gainesville, GA	0.604	10.479	3.975	0.229	2.400	1.857	0	0
Georgia	Hinesville, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Macon, GA	2.770	39.419	8.700	0.611	24.103	5.624	0	0
Georgia	Rome, GA	8.231	128.397	9.954	0.638	81.926	12.309	2	131,788
Georgia	Valdosta, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Georgia	Warner Robins, GA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Hawaii	Kailua (Honolulu County)--Kaneohe, HI	10.130	141.213	2.504	0.180	25.365	4.532	2	131,788
Idaho	Coeur d'Alene, ID	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Idaho Falls, ID	1.766	25.715	11.390	0.782	20.108	2.512	0	0
Idaho	Lewiston, ID--WA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Idaho	Nampa, ID	5.454	131.425	4.992	0.224	27.229	1.817	1	65,894
Idaho	Pocatello, ID	4.871	66.890	7.830	0.572	38.137	7.895	0	0
Illinois	Alton, IL	4.390	77.229	5.000	0.284	21.951	3.135	0	0
Illinois	Bloomington--Normal, IL	2.323	33.055	13.872	0.975	32.226	11.221	2	131,788
Illinois	Champaign, IL	9.343	110.838	27.235	2.296	254.444	82.145	6	395,363
Illinois	Danville, IL	4.596	83.602	10.295	0.566	47.320	9.923	0	0
Illinois	Decatur, IL	3.373	46.545	11.653	0.844	39.306	13.254	1	65,894
Illinois	DeKalb, IL	1.886	29.009	11.662	0.758	21.994	2.404	0	0
Illinois	Kankakee, IL	5.992	78.077	14.068	1.080	84.206	11.344	2	131,788
Illinois	Springfield, IL	2.886	35.133	10.515	0.864	30.351	10.846	1	65,894
Indiana	Anderson, IN	1.851	24.396	4.247	0.322	7.861	1.811	0	0
Indiana	Bloomington, IN	6.633	70.726	11.924	1.118	79.087	35.317	3	197,682
Indiana	Columbus, IN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Elkhart, IN--MI	2.356	39.491	6.063	0.362	14.283	2.200	0	0
Indiana	Kokomo, IN	1.224	13.486	14.954	1.583	18.187	3.516	2	131,788
Indiana	Lafayette, IN	6.053	66.774	13.165	1.193	79.691	39.338	3	197,682
Indiana	Michigan City, IN--MI	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Indiana	Muncie, IN	5.888	79.395	11.587	0.859	68.228	21.966	2	131,788
Indiana	Terre Haute, IN	1.079	8.859	5.784	0.705	6.242	3.677	0	0
Iowa	Ames, IA	7.254	75.909	22.774	2.176	165.206	106.004	5	329,470
Iowa	Cedar Rapids, IA	4.277	55.637	8.562	0.658	36.619	7.552	0	0
Iowa	Dubuque, IA--IL	2.159	25.581	8.454	0.713	18.240	5.727	0	0
Iowa	Iowa City, IA	5.470	60.668	23.492	2.119	128.492	75.907	4	263,576
Iowa	Sioux City, IA--NE--SD	8.613	105.210	6.952	0.569	59.880	11.681	1	65,894
Iowa	Waterloo, IA	1.059	15.980	9.589	0.635	10.152	5.000	0	0
Kansas	Lawrence, KS	4.899	51.272	15.270	1.459	74.796	39.402	3	197,682
Kansas	Topeka, KS	3.468	52.096	9.946	0.662	34.492	8.779	0	0
Kentucky	Bowling Green, KY	0.853	9.992	3.670	0.313	3.130	1.549	0	0
Kentucky	Owensboro, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Kentucky	Radcliff--Elizabethtown, KY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Alexandria, LA	5.215	81.925	8.130	0.518	42.399	9.977	0	0
Louisiana	Houma, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Lafayette, LA	9.072	116.435	4.672	0.364	42.399	8.142	2	131,788
Louisiana	Lake Charles, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Mandeville--Covington, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Louisiana	Monroe, LA	4.544	65.515	7.289	0.506	33.118	10.286	0	0
Louisiana	Slidell, LA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Maine	Bangor, ME	5.250	72.398	11.155	0.809	58.569	15.271	0	0
Maine	Lewiston, ME	2.181	27.152	16.340	1.312	35.629	12.288	2	131,788
Maine	Portland, ME	5.859	67.783	8.882	0.768	52.038	12.953	0	0
Maryland	Aberdeen--Havre de Grace--Bel Air, MD	4.238	74.968	3.317	0.186	14.058	1.849	0	0
Maryland	Cumberland, MD--WV--PA	4.032	57.569	7.500	0.525	30.240	3.316	0	0
Maryland	Frederick, MD	3.282	44.866	9.643	0.701	31.451	6.603	0	0
Maryland	Hagerstown, MD--WV--PA	3.057	46.359	3.890	0.257	11.892	3.164	0	0

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	Average for UZAs with populations 200,000 - 999,999	**6.536**	**109.294**	**12.609**	**0.819**	**97.343**	**16.388**		
Maryland	Salisbury, MD--DE	1.344	44.078	33.289	1.015	44.727	6.406	2	131,788
Maryland	St. Charles, MD	4.149	87.977	7.574	0.462	31.425	3.742	0	0
Maryland	Westminster, MD	1.520	20.449	11.097	0.825	16.866	1.921	1	65,894
Massachusetts	Leominster--Fitchburg, MA	2.815	42.178	24.019	1.489	62.816	7.580	2	131,788
Massachusetts	New Bedford, MA	4.785	55.185	5.855	0.508	28.017	6.929	0	0
Massachusetts	Pittsfield, MA	3.687	53.607	15.925	1.095	58.718	7.313	2	131,788
Michigan	Battle Creek, MI	3.752	49.646	6.775	0.512	25.424	6.826	0	0
Michigan	Bay City, MI	2.485	45.996	20.857	1.127	51.824	7.912	2	131,788
Michigan	Benton Harbor--St. Joseph, MI	1.458	16.967	9.244	0.794	13.475	2.778	0	0
Michigan	Holland, MI	1.989	24.622	8.447	0.682	16.804	3.681	0	0
Michigan	Jackson, MI	2.766	40.112	8.271	0.570	23.880	8.847	0	0
Michigan	Kalamazoo, MI	3.693	52.580	11.515	0.809	42.528	12.044	0	0
Michigan	Monroe, MI	2.707	34.681	9.111	0.711	24.659	5.492	0	0
Michigan	Muskegon, MI	3.799	48.787	5.437	0.425	20.658	4.976	0	0
Michigan	Port Huron, MI	1.423	22.605	27.003	1.700	38.422	13.540	2	131,788
Michigan	Saginaw, MI	4.295	72.002	5.906	0.352	25.363	7.187	0	0
Michigan	South Lyon--Howell--Brighton, MI	2.325	42.984	5.069	0.274	11.785	0.934	0	0
Minnesota	Duluth, MN--WI	6.841	91.852	16.840	1.254	115.211	27.030	5	329,471
Minnesota	Rochester, MN	4.869	74.617	12.687	0.828	61.770	17.106	3	197,682
Minnesota	St. Cloud, MN	5.112	72.013	19.119	1.357	97.740	26.445	4	263,576
Mississippi	Hattiesburg, MS	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Mississippi	Pascagoula, MS	6.844	352.913	4.412	0.086	30.192	0.676	2	131,788
Missouri	Columbia, MO	5.907	56.393	8.145	0.853	48.114	22.317	2	131,788
Missouri	Jefferson City, MO	1.856	30.928	9.453	0.584	17.541	6.042	0	0
Missouri	Joplin, MO	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Missouri	Lee's Summit, MO	1.880	26.256	0.787	0.056	1.480	0.225	0	0
Missouri	St. Joseph, MO--KS	2.060	23.521	11.104	0.972	22.873	4.574	1	65,894
Montana	Billings, MT	3.556	48.133	7.444	0.550	26.468	6.874	0	0
Montana	Great Falls, MT	1.498	19.092	8.409	0.660	12.594	5.916	0	0
Montana	Missoula, MT	4.156	56.285	12.138	0.896	50.438	17.282	2	131,788
N. Mariana Islands	Saipan, MP	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Nevada	Carson City, NV	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Hampshire	Dover--Rochester, NH--ME	5.752	89.393	8.503	0.547	48.905	12.339	0	0
New Hampshire	Manchester, NH	2.313	24.903	3.490	0.324	8.070	3.209	0	0
New Hampshire	Nashua, NH--MA	4.729	67.093	2.569	0.181	12.150	2.390	0	0
New Hampshire	Portsmouth, NH--ME	5.647	87.666	6.860	0.442	38.738	9.690	0	0
New Jersey	Hightstown, NJ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Jersey	Vineland, NJ	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Jersey	Wildwood--North Wildwood--Cape May, NJ	1.000	20.996	15.564	0.741	15.564	3.185	1	65,894
New Mexico	Farmington, NM	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New Mexico	Las Cruces, NM	3.225	40.005	8.681	0.539	21.547	8.296	0	0
New Mexico	Santa Fe, NM	4.550	59.285	16.376	1.257	74.506	12.502	2	131,788
New York	Binghamton, NY--PA	5.236	77.182	16.333	1.108	85.515	19.431	3	197,682
New York	Elmira, NY	3.123	59.011	14.055	0.744	43.897	10.115	1	65,894
New York	Glens Falls, NY	3.403	56.686	5.967	0.358	20.304	5.642	0	0
New York	Ithaca, NY	4.552	64.962	39.585	2.774	180.186	68.142	4	263,576
New York	Kingston, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Middletown, NY	0.000	0.000	0.000	0.000	0.000	0.000	0	0
New York	Saratoga Springs, NY	0.948	11.683	5.524	0.448	5.239	2.450	0	0
New York	Utica, NY	3.060	36.396	9.247	0.777	28.294	9.721	0	0
North Carolina	Burlington, NC	10.200	460.925	2.599	0.060	27.529	0.691	2	131,788
North Carolina	Concord, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Gastonia, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Goldsboro, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Greenville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Hickory, NC	3.056	51.958	3.667	0.216	11.240	1.106	0	0
North Carolina	High Point, NC	5.112	89.957	10.902	0.620	55.730	7.692	0	0
North Carolina	Jacksonville, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Rocky Mount, NC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
North Carolina	Wilmington, NC	1.770	22.813	11.625	0.902	20.573	8.827	1	65,894
North Dakota	Bismarck, ND	1.226	18.188	12.967	0.874	15.891	3.993	2	131,788
North Dakota	Fargo, ND--MN	5.207	66.695	9.203	0.719	47.923	14.111	0	0
North Dakota	Grand Forks, ND--MN	2.138	27.565	11.731	0.910	25.087	6.149	1	65,894
Ohio	Lima, OH	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Ohio	Lorain--Elyria, OH	0.455	4.151	0.811	0.089	0.369	0.514	0	0
Ohio	Mansfield, OH	2.491	30.774	4.179	0.338	10.408	3.335	0	0
Ohio	Middletown, OH	4.214	60.299	2.652	0.185	11.177	2.230	0	0
Ohio	Newark, OH	1.023	18.837	14.167	0.769	14.488	1.808	1	65,894

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

FY 2012 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ -- $65,894 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.536**	**109.294**	**12.609**	**0.819**	**97.343**	**16.388**		
Ohio	Sandusky, OH	1.467	16.472	5.986	0.540	8.902	2.024	0	0
Ohio	Springfield, OH	2.007	25.227	3.129	0.249	6.281	3.238	0	0
Ohio	Weirton, WV--Steubenville, OH--PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Oklahoma	Lawton, OK	2.579	37.705	7.866	0.538	20.288	4.515	0	0
Oklahoma	Norman, OK	5.297	62.996	6.518	0.548	34.525	15.106	0	0
Oregon	Bend, OR	0.424	5.031	7.202	0.606	3.050	6.561	0	0
Oregon	Corvallis, OR	9.062	125.738	6.422	0.463	58.193	12.038	2	131,788
Oregon	Medford, OR	5.419	91.451	7.692	0.456	41.679	8.023	0	0
Pennsylvania	Altoona, PA	4.454	56.997	6.574	0.514	29.283	8.476	0	0
Pennsylvania	Erie, PA	3.662	42.038	15.158	1.321	55.514	16.495	3	197,682
Pennsylvania	Hazleton, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	Johnstown, PA	4.473	60.395	15.284	1.132	68.356	16.850	3	197,682
Pennsylvania	Lebanon, PA	3.279	52.659	12.911	0.804	42.339	5.518	1	65,894
Pennsylvania	Monessen, PA	11.508	204.581	5.977	0.336	68.784	3.261	2	131,788
Pennsylvania	Pottstown, PA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Pennsylvania	State College, PA	9.788	155.593	27.829	1.751	272.390	102.311	6	395,363
Pennsylvania	Uniontown--Connellsville, PA	1.505	25.787	20.889	1.219	31.438	3.845	2	131,788
Pennsylvania	Williamsport, PA	7.407	111.982	14.421	0.954	106.817	22.098	6	395,363
Pennsylvania	York, PA	3.000	42.651	13.543	0.953	40.633	7.571	2	131,788
Puerto Rico	Arecibo, PR	4.305	43.552	11.041	1.091	47.535	12.248	1	65,894
Puerto Rico	Fajardo, PR	17.601	175.773	18.814	1.884	331.132	41.811	6	395,363
Puerto Rico	Florida--Barceloneta--Bajadero, PR	4.135	48.663	2.516	0.214	10.401	2.873	0	0
Puerto Rico	Guayama, PR	7.120	60.168	7.674	0.908	54.639	12.006	2	131,788
Puerto Rico	Juana Diaz, PR	2.957	43.587	14.705	0.998	43.482	12.484	2	131,788
Puerto Rico	Mayaguez, PR	3.586	34.173	24.534	2.575	87.981	28.327	3	197,682
Puerto Rico	Ponce, PR	3.688	39.589	6.488	0.604	23.931	8.388	0	0
Puerto Rico	San German--Cabo Rojo--Sabana Grande, PR	3.796	46.392	6.522	0.542	25.138	6.474	0	0
Puerto Rico	Yauco, PR	3.587	54.621	20.548	1.350	73.712	14.169	2	131,788
South Carolina	Anderson, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Florence, SC	2.479	52.279	35.439	1.680	87.852	4.559	2	131,788
South Carolina	Mauldin--Simpsonville, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Myrtle Beach, SC	2.162	37.507	7.129	0.411	15.412	2.902	0	0
South Carolina	Rock Hill, SC	0.000	0.000	0.000	0.000	0.000	0.000	0	0
South Carolina	Spartanburg, SC	2.733	43.470	15.143	0.952	41.383	5.275	2	131,788
South Carolina	Sumter, SC	2.903	57.322	24.256	1.228	70.412	4.986	2	131,788
South Dakota	Rapid City, SD	2.398	28.390	8.047	0.679	19.279	5.088	0	0
South Dakota	Sioux Falls, SD	4.971	62.097	10.988	0.880	54.618	8.618	1	65,894
Tennessee	Bristol, TN--Bristol, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Clarksville, TN--KY	3.044	48.968	11.072	0.688	33.705	6.025	0	0
Tennessee	Cleveland, TN	0.835	7.779	4.696	0.504	3.922	1.424	0	0
Tennessee	Jackson, TN	3.348	44.933	11.875	0.885	39.756	9.144	1	65,894
Tennessee	Johnson City, TN	3.734	43.932	5.911	0.502	22.074	5.886	0	0
Tennessee	Kingsport, TN--VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Morristown, TN	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Tennessee	Murfreesboro, TN	1.648	13.551	3.966	0.482	6.535	1.940	0	0
Texas	Abilene, TX	2.065	31.395	8.142	0.535	16.809	5.066	0	0
Texas	Amarillo, TX	1.714	26.626	5.142	0.331	8.810	2.010	0	0
Texas	Beaumont, TX	3.283	44.146	6.198	0.461	20.348	4.339	0	0
Texas	Brownsville, TX	13.766	184.036	5.574	0.488	76.726	8.997	2	131,788
Texas	College Station--Bryan, TX	1.166	20.746	4.795	0.270	5.593	1.636	0	0
Texas	Galveston, TX	3.217	39.231	10.869	0.891	34.960	11.175	1	65,894
Texas	Harlingen, TX	0.787	11.481	1.355	0.090	1.038	0.159	0	0
Texas	Killeen, TX	2.932	49.335	5.766	0.343	16.904	2.176	0	0
Texas	Lake Jackson--Angleton, TX	2.080	35.979	2.459	0.142	5.114	0.480	0	0
Texas	Laredo, TX	5.870	63.487	11.042	1.021	64.821	19.467	2	131,788
Texas	Longview, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	McKinney, TX	1.198	14.608	5.998	0.492	7.183	0.921	0	0
Texas	Midland, TX	1.150	17.257	4.565	0.304	5.252	2.571	0	0
Texas	Odessa, TX	1.150	17.355	3.508	0.239	4.151	2.094	0	0
Texas	Port Arthur, TX	3.225	46.778	2.984	0.206	9.626	1.187	0	0
Texas	San Angelo, TX	1.502	21.093	12.159	0.866	18.266	3.948	1	65,894
Texas	Sherman, TX	2.559	47.894	18.248	0.975	46.697	2.266	2	131,788
Texas	Temple, TX	1.629	23.933	8.633	0.588	14.066	2.206	0	0
Texas	Texarkana, TX--Texarkana, AR	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Texas City, TX	1.552	26.856	4.740	0.274	7.354	0.672	0	0
Texas	The Woodlands, TX	29.649	732.280	4.395	0.178	130.311	3.920	3	197,682
Texas	Tyler, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Texas	Victoria, TX	0.985	13.359	10.751	0.793	10.595	4.218	0	0

FEDERAL TRANSIT ADMINISTRATION

TABLE 6

FY 2012 Small Transit Intensive Cities Performance Data and Apportionments

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

State	Urbanized Area (UZA) Description	Passenger Miles per Vehicle Revenue Mile	Passenger Miles per Vehicle Revenue Hour	Vehicle Revenue Mile per Capita	Vehicle Revenue Hour per Capita	Passenger Miles per Capita	Passenger Trips per Capita	Number of Performance Factors Met or Exceeded	STIC Funding: @ -- $65,894 per Factor Met or Exceeded
	Average for UZAs with populations 200,000 - 999,999	**6.536**	**109.294**	**12.609**	**0.819**	**97.343**	**16.388**		
Texas	Waco, TX	3.849	59.446	6.519	0.422	25.091	4.748	0	0
Texas	Wichita Falls, TX	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Utah	Logan, UT	7.350	107.993	10.915	0.743	80.224	22.568	2	131,788
Utah	St. George, UT	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Vermont	Burlington, VT	6.678	82.976	13.828	1.113	92.335	22.716	4	263,576
Virgin Islands	Virgin Islands	0.084	4.882	6.919	0.118	0.578	0.131	0	0
Virginia	Blacksburg, VA	8.136	83.852	19.603	1.902	159.489	68.848	5	329,470
Virginia	Charlottesville, VA	3.403	43.539	27.027	2.112	91.969	30.049	3	197,682
Virginia	Danville, VA	3.710	60.426	6.756	0.415	25.067	4.845	0	0
Virginia	Fredericksburg, VA	4.144	77.908	11.409	0.607	47.285	5.074	0	0
Virginia	Harrisonburg, VA	8.645	94.650	11.100	1.134	95.968	35.377	3	197,682
Virginia	Lynchburg, VA	3.245	39.421	13.445	1.107	43.634	30.493	3	197,682
Virginia	Roanoke, VA	5.170	76.917	8.971	0.603	46.377	9.797	0	0
Virginia	Winchester, VA	0.000	0.000	0.000	0.000	0.000	0.000	0	0
Washington	Bellingham, WA	5.857	91.645	37.464	2.394	219.415	60.578	4	263,576
Washington	Bremerton, WA	5.074	99.469	20.290	1.035	102.949	17.887	4	263,576
Washington	Kennewick--Richland, WA	7.618	194.439	64.697	2.535	492.833	32.986	6	395,363
Washington	Longview, WA--OR	4.591	50.413	6.668	0.607	30.616	7.478	0	0
Washington	Marysville, WA	5.469	91.383	9.564	0.572	52.310	6.730	0	0
Washington	Mount Vernon, WA	4.843	90.067	30.204	1.624	146.271	12.856	3	197,682
Washington	Olympia--Lacey, WA	5.911	92.441	28.455	1.819	168.191	28.654	4	263,576
Washington	Wenatchee, WA	7.512	100.635	13.350	0.997	100.288	10.653	4	263,576
Washington	Yakima, WA	5.305	85.959	15.399	0.957	81.694	13.308	2	131,788
West Virginia	Charleston, WV	5.343	89.440	15.198	0.908	81.201	13.228	2	131,788
West Virginia	Huntington, WV--KY--OH	2.657	40.774	7.014	0.457	18.635	4.599	0	0
West Virginia	Morgantown, WV	0.958	16.367	16.210	0.949	15.537	13.634	2	131,788
West Virginia	Parkersburg, WV--OH	2.137	26.943	5.022	0.398	10.732	3.810	0	0
West Virginia	Wheeling, WV--OH	1.567	19.637	8.259	0.659	12.940	4.643	0	0
Wisconsin	Appleton, WI	2.287	38.549	10.548	0.626	24.121	6.178	0	0
Wisconsin	Beloit, WI--IL	2.784	43.357	6.956	0.447	19.370	4.596	0	0
Wisconsin	Eau Claire, WI	2.830	40.481	12.329	0.862	34.893	10.831	1	65,894
Wisconsin	Fond du Lac, WI	1.009	13.594	8.083	0.600	8.158	3.892	0	0
Wisconsin	Green Bay, WI	3.090	44.011	8.353	0.586	25.811	7.678	0	0
Wisconsin	Janesville, WI	3.436	52.893	7.567	0.492	26.001	6.647	0	0
Wisconsin	Kenosha, WI	4.204	60.268	10.846	0.757	45.602	15.012	0	0
Wisconsin	La Crosse, WI--MN	3.172	42.051	14.220	1.072	45.099	14.584	2	131,788
Wisconsin	Oshkosh, WI	3.017	42.402	14.230	1.013	42.932	14.116	2	131,788
Wisconsin	Racine, WI	4.029	51.914	9.924	0.770	39.987	11.232	0	0
Wisconsin	Sheboygan, WI	1.686	22.944	11.711	0.860	19.742	7.363	1	65,894
Wisconsin	Wausau, WI	3.478	54.901	12.751	0.808	44.352	11.768	1	65,894
Wyoming	Casper, WY	1.607	19.259	7.788	0.648	12.483	3.113	0	0
Wyoming	Cheyenne, WY	2.746	40.530	6.766	0.459	18.583	3.925	0	0
				Total				317	$20,888,361

FEDERAL TRANSIT ADMINISTRATION

TABLE 7

PRIOR YEAR UNOBLIGATED SECTION 5308 CLEAN FUELS GRANT PROGRAM ALLOCATIONS AS OF SEPTEMBER 30, 2011[1]

State	Earmark ID	Project Location and Description	Allocation
GA	D2010-CLNF-002	Metropolitan Atlanta Rapid Transit Authority, retrofit of buses, GA	$840,000
KY	D2010-CLNF-005	Transit Authority of River City, hybrid bus program, KY	3,975,740
NY	D2010-CLNF-009	New York Metropolitan Transportation Authority, CNG fueling facility, NY	5,810,000
PA	D2010-CLNF-013	County of Lackawanna Transit System, hybrid buses, PA	2,500,000
TN	D2010-CLNF-014	First TN Human Resource Agency, biofuel vehicles for paratransit, TN	635,967
		Total Prior Year Unobligated Allocations	**$13,761,707**

[1] FTA allocated FY 2010 Clean Fuels Program funds on January 31, 2011. Funds are available for obligation until September 30, 2013

FEDERAL TRANSIT ADMINISTRATION

TABLE 8

FY 2012 SECTION 5309 FIXED GUIDEWAY MODERNIZATION APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/St. Extension Enacted - P.L. 112-55/112-30)

STATE	AREA	APPORTIONMENT
Alaska	Anchorage, AK	$910,277
Arizona	Phoenix--Mesa, AZ	931,983
California	Antioch, CA	187,582
California	Concord, CA	959,088
California	Lancaster--Palmdale, CA	154,648
California	Los Angeles--Long Beach--Santa Ana, CA	13,576,063
California	Mission Viejo, CA	111,033
California	Oxnard, CA	97,574
California	Riverside--San Bernardino, CA	292,574
California	Sacramento, CA	1,290,524
California	San Diego, CA	3,952,560
California	San Francisco--Oakland, CA	53,468,833
California	San Jose, CA	5,235,366
California	Stockton, CA	109,795
California	Thousand Oaks, CA	45,370
Colorado	Denver--Aurora, CO	1,147,587
Connecticut	Hartford, CT	611,211
Connecticut	Southwestern Connecticut	33,241,588
District of Columbia	Washington, DC--VA--MD	23,708,796
Florida	Jacksonville, FL	57,414
Florida	Miami, FL	6,758,368
Florida	Orlando, FL	13,207
Florida	Tampa--St. Petersburg, FL	55,699
Georgia	Atlanta, GA	9,479,281
Hawaii	Honolulu, HI	367,827
Illinois	Chicago, IL--IN	110,689,716
Illinois	Round Lake Beach--McHenry--Grayslake, IL--WI	170,298
Indiana	South Bend, IN--MI	59,370
Louisiana	New Orleans, LA	2,585,882
Massachusetts	Boston, MA	56,652,842
Massachusetts	Worcester, MA--CT	83,316
Maryland	Baltimore Commuter Rail	13,908,743
Maryland	Baltimore, MD	3,545,033
Michigan	Detroit, MI	177,231
Minnesota	Minneapolis--St. Paul, MN	2,712,064
Missouri	Kansas City, MO--KS	2,248
Missouri	St. Louis, MO--IL	1,767,333
New Jersey	Atlantic City, NJ	96,640
New Jersey	Northeastern New Jersey	70,281,078
New Jersey	Trenton, NJ	890,214
New York	Buffalo, NY	508,257
New York	New York	280,360,767
New York	Poughkeepsie--Newburgh, NY	163,894
North Carilina	Charlotte, NC--SC	11,910
Ohio	Cleveland, OH	11,520,690
Ohio	Dayton, OH	1,942,866
Oregon	Portland, OR--WA	1,808,388
Pennsylvania	Harrisburg, PA	69,702
Pennsylvania	Lancaster, PA	202,575
Pennsylvania	Philadelphia/Southern New Jersey	78,252,145
Pennsylvania	Pittsburgh, PA	19,016,280
Puerto Rico	San Juan, PR	812,559
Rhode Island	Providence, RI--MA	1,084,347
Tennessee	Chattanooga, TN--GA	34,159
Tennessee	Memphis, TN--MS--AR	35,206
Texas	Dallas--Fort Worth--Arlington, TX	1,159,438
Texas	Houston, TX	3,072,804
Utah	Salt Lake City, UT	273,447
Virginia	Virginia Beach, VA	580,555
Washington	Seattle, WA	9,259,811
West Virginia	Morgantown, WV	387,072
Wisconsin	Madison, WI	294,263
Wisconsin	Milwaukee, WI	19,754
	TOTAL	**$831,257,145**

FEDERAL TRANSIT ADMINISTRATION
TABLE 9

FY 2012 FIXED GUIDEWAY MODERNIZATION PROGRAM APPORTIONMENT FORMULA

Tier 1 First $497,700,000 to the following areas:

Baltimore	$	8,372,000
Boston	$	38,948,000
Chicago/N.W. Indiana	$	78,169,000
Cleveland	$	9,509,500
New Orleans	$	1,730,588
New York	$	176,034,461
N. E. New Jersey	$	50,604,653
Philadelphia/So. New Jersey	$	58,924,764
Pittsburgh	$	13,662,463
San Francisco	$	33,989,571
SW Connecticut	$	27,755,000

Tier 2 Next $70,000,000 as follows: Tier 2(A): 50 percent is allocated to areas identified in Tier 1; Tier 2(B): 50 percent is allocated to other urbanized areas with fixed guideway tiers in operation at least seven years. Funds are allocated by the Urbanized Area Formula Program fixed guideway tier formula factors that were used to apportion funds for the fixed guideway modernization program in FY 1997.

Tier 3 Next $5,700,000 as follows: Pittsburgh 61.76%; Cleveland 10.73%; New Orleans 5.79%; and 21.72% is allocated to all other areas in Tier 2(B) by the same fixed guideway tier formula factors used in fiscal year 1997.

Tier 4 Next $186,600,000 as follows: All eligible areas using the same year fixed guideway tier formula factors used in fiscal year 1997.

Tier 5 Next $70,000,000 as follows: 65% to the 11 areas identified in Tier 1, and 35% to all other areas using the most current Urbanized Area Formula Program fixed guideway tier formula factors. Any segment that is less than 7 years old in the year of the apportionment will be deleted from the database.

Tier 6 Next $50,000,000 as follows: 60% to the 11 areas identified in Tier 1, and 40% to all other areas using the most current Urbanized Area Formula Program fixed guideway tier formula factors. Any segment less than 7 years old in the year of the apportionment will be deleted from the database.

Tier 7 Remaining amounts as follows: 50% to the 11 areas identified in Tier 1, and 50% to all other areas using the most current Urbanized Area Formula Program fixed guideway formula factors. Any segment that is less than 7 years old in the year of the apportionment will be deleted from the database.

FEDERAL TRANSIT ADMINISTRATION
TABLE 10
SECTION 5309 BUS AND BUS RELATED EQUIPMENT AND FACILITIES AND FERRYBOAT ALLOCATIONS[1]

FY 2012 SECTION 5309 Bus and Bus Facilities Allocations - New and Small Starts BRT Projects[2]

State	Earmark ID	Project Location and Description	Allocation
CA	E-2012-BUSP-001	Fresno, Fresno Area Express	$17,800,000
CA	E-2012-BUSP-002	Oakland, East Bay BRT	25,000,000
CA	E-2012-BUSP-003	San Francisco, Van Ness BRT	30,000,000
FL	E-2012-BUSP-004	Jacksonville, JTA BRT	6,443,200
MI	E-2012-BUSP-005	Grand Rapids, Silver Line BRT	12,887,943
TX	E-2012-BUSP-006	El Paso, Mesa Corridor BRT	13,540,000
WA	E-2012-BUSP-007	King County, RapidRide E BRT	21,629,000
WA	E-2012-BUSP-008	King County, RapidRide F BRT	15,880,000
CT	E-2012-BUSP-009	Hartford-New Britain Busway	45,000,000
		Total FY 2012 New and Small Starts BRT Project Allocations.....	**$188,180,143**

FY 2012 SECTION 5309 Bus and Bus Facilities Allocations - Ferry Boat Systems Projects

State	Earmark ID	Project Location and Description	Allocation
CA	E-2012-BUSP-010	San Francisco, Water Transit Authority	$2,500,000
MA	E-2012-BUSP-011	Massachusetts Bay Transportation Authority Ferry System	2,500,000
ME	E-2012-BUSP-012	Main State Ferry Service, Rockland	650,000
ME	E-2012-BUSP-013	Swans Island, Maine Ferry Service	350,000
NJ	E-2012-BUSP-014	Camden, New Jersey Ferry System	1,000,000
NY	E-2012-BUSP-015	Governor's Island, New York Ferry System	1,000,000
NY	E-2012-BUSP-016	Staten Island Ferry	1,000,000
PA	E-2012-BUSP-017	Philadelphia Penn's Landing Ferry Terminal	1,000,000
		Total FY 2012 Ferry Boat Systems Project Allocations.....	**$10,000,000**

FY 2012 SECTION 5309 Bus and Bus Facilities Allocations - Unallocated

Total Unallocated FY 2012 Section 5309 Bus and Bus Related Facilities...	**$290,926,579**

FY 2011 SECTION 5309 Bus and Bus Facilities Allocations - Ferry Boat Systems Projects[3]

State	Earmark ID	Project Location and Description	Allocation
CA	E2011-BUSP-002	San Francisco Water Transit Authority	$2,500,000
MA	E2011-BUSP-003	Massachusetts Bay Transportation Authority Ferry System	2,500,000
ME	E2011-BUSP-004	Maine State Ferry Service, Rockland	650,000
ME	E2011-BUSP-005	Swans Island, Maine Ferry Service	350,000
NJ	E2011-BUSP-006	Camden, New Jersey Ferry System	1,000,000
NY	E2011-BUSP-007	Governors Island, New York Ferry System	1,000,000
NY	E2011-BUSP-008	Staten Island Ferry	1,000,000
PA	E2011-BUSP-009	Philadelphia Penns Landing Ferry Terminal	1,000,000
		Total FY 2011 Ferry Boat Systems Project Allocations.....	**$10,000,000**

Correction to FY 2010 SECTION 5309 Bus and Bus Facilities Allocations - Ferry Boat Systems Projects[4]

State	Earmark ID	Project Location and Description	Allocation
CA	E2010-BUSP-228	San Francisco Water Transit Authority	$2,500,000
MA	E2010-BUSP-229	Massachusetts Bay Transportation Authority Ferry System	2,500,000
ME	E2010-BUSP-230	Maine State Ferry Service, Rockland	650,000
ME	E2010-BUSP-231	Swans Island, Maine Ferry Service	350,000
NJ	E2010-BUSP-232	Camden, New Jersey Ferry System	1,000,000
NY	E2010-BUSP-233	Governors Island, New York Ferry System	1,000,000
NY	E2010-BUSP-234	Staten Island Ferry	1,000,000
	E2010-BUSP-235 ($298,722)		
PA	E2011-BUSP-001 ($701,278)	Philadelphia Penns Landing Ferry Terminal	1,000,000
		Total FY 2010 Ferry Boat Systems Project Allocations.....	**$10,000,000**

[1] All funds listed in Table 10 are available for obligation until September 30, 2014.

[2] The Appropriations Act, 2012 directed that all New and Small Starts BRT projects be funded with Section 5309 Bus and Bus Facilities funds.

[3] With this notice, FTA is publishing the availability of the FY 2011 Ferry Boat Systems Projects. These projects were not published in the FY 2011 Notice of Apportionment and Allocations (76 FR 6958) and are available for obligation.

[4] FY 2010 Ferry Boat Systems Projects listed above replace the list of projects that FTA published on February 16, 2010 (75 FR 7049). Projects listed in that notice will be managed by the Federal Highway Administration unless the funds are transferred to FTA. The projects above are available for obligation.

FEDERAL TRANSIT ADMINISTRATION

TABLE 11

PRIOR YEAR UNOBLIGATED SECTION 5309 BUS AND BUS RELATED EQUIPMENT AND FACILITIES ALLOCATIONS AS OF SEPTEMBER 30, 2011

Section 5309 Prior Year Unobligated Bus and Bus Related Equipment and Facilities Allocations [1]

State	Earmark ID	Project Location and Description	Allocation
AK	E2010-BUSP-001	Anchorage People Mover, AK	$750,000
AL	E2010-BUSP-003	Buses and Bus Facility Improvement, Baldwin County, AL	275,000
AL	E2010-BUSP-004	Morgan County System of Services, transit vans for HANDS Home Shelter for Girls, AL	50,000
AL	E2010-BUSP-005	Senior Transportation Program, AL	2,000,000
AL	E2010-BUSP-006	U.S. Space and Rocket Center Transportation Request, Huntsville, AL	1,600,000
CA	E2010-BUSP-012	Alternative Fuel SolanoExpress Bus Replacement, Solano, CA	500,000
CA	E2010-BUSP-014	Bob Hope Airport Regional Transportation Center, Burbank, CA	550,000
CA	E2010-BUSP-015	Brawley Transfer Terminal Transit Station, Brawley, CA	300,000
CA	E2010-BUSP-016	City of Bellflower bus shelters, CA	500,000
CA	E2010-BUSP-017	City of Corona Dial-A-Ride Bus Replacement, CA	208,000
CA	E2010-BUSP-019	City of Hawaiian Gardens bus shelters, CA	200,000
CA	E2010-BUSP-020	City of Imperial Downtown Transportation Park, CA	974,000
CA	E2010-BUSP-021	City of Whittier bus shelters, CA	450,000
CA	E2010-BUSP-023	Los Angeles Central Avenue Streetscape bus shelters and lighting, CA	700,000
CA	E2010-BUSP-024	McBean Regional Transit Center Park & Ride Facility, CA	300,000
CA	E2010-BUSP-025	Monrovia Station Square Transit Village, CA	750,000
CA	E2010-BUSP-026	Municipal Transit Operators Coalition (MTOC) Bus/Bus Facility Improvement Project, CA	550,000
CA	E2010-BUSP-027	Norwalk/Santa Fe Springs Transportation Center Improvements, Santa Fe Springs, CA	500,000
CA	E2010-BUSP-028	Palmdale Transportation Center Train Platform Extension, Palmdale, CA	370,000
CA	E2010-BUSP-032	San Jose High Volume Bus Stop Upgrades, Santa Clara County, CA	600,000
CA	E2010-BUSP-033	South Bay Regional Intermodal Transit Centers, CA	800,000
CA	E2010-BUSP-034	SunLine Transit Agency paratransit buses and commuter coaches, CA	750,000
CA	E2010-BUSP-035	Union City Intermodal Station, Phases 1C and 2, CA	500,000
CA	E2010-BUSP-037	VTA Renewable Energy Conversion Project, San Jose, CA	750,000
CO	E2010-BUSP-038	Colorado Transit Coalition Statewide Bus & Bus Facilities, CO	431,195
CT	E2010-BUSP-039	Bridgeport Intermodal Transportation Center, CT	2,435,000
CT	E2010-BUSP-040	Harbor Point Bus Expansion, CT	487,000
CT	E2010-BUSP-041	Thompsonville Intermodal Transportation Center, CT	974,000
CT	E2010-BUSP-042	Waterbury Intermodal Transportation Center, CT	500,000
DC	E2010-BUSP-043	Union Station Intermodal Transit Center, Washington, DC	500,000
DE	E2010-BUSP-044	40 Fixed Route Transit Buses, DE	974,000
FL	E2010-BUSP-046	Broward County Transit Infrastructure Improvements, FL	500,000
FL	E2010-BUSP-047	Bus Shelter Replacement, Bal Harbour, FL	250,000
FL	E2010-BUSP-048	City of Doral Transit Circulator Program, FL	350,000
FL	E2010-BUSP-050	Clearwater Downtown Intermodal Terminal, St. Petersburg, FL	1,250,000
FL	E2010-BUSP-052	Lakeland Area Mass Transit District Bus Replacement and Facility Maintenance, FL	200,000
FL	E2010-BUSP-053	LYNX Buses, Orlando, FL	1,500,000
FL	E2010-BUSP-054	Lynx's Central Station improvements, Orlando, FL	550,000
FL	E2010-BUSP-055	Palm Tran Park and Ride Facilities, FL	800,000
FL	E2010-BUSP-056	Regional Intermodal Terminal Center, JTA, Jacksonville, FL	400,000
FL	E2010-BUSP-059	St. Petersburg Central Avenue Bus Rapid Transit, FL	500,000
FL	E2010-BUSP-060	Transit Facility and Bus Apron Access Construction along US 1, Key West, FL	1,000,000
FL	E2010-BUSP-061	Winter Haven/Polk County Buses, FL	200,000
GA	E2010-BUSP-062	Albany Heavy-Duty Buses, GA	500,000
GA	E2010-BUSP-063	Albany Transit Multimodal Transportation Center, GA	1,500,000
GA	E2010-BUSP-064	Chatham Area Transit Bus and Bus Facilities, Savannah, GA	2,525,000
GA	E2010-BUSP-065	MARTA Acquisition of Clean Fuel Buses, GA	4,000,000
IA	E2010-BUSP-069	Coralville Intermodal Facility, Coralville, IA	750,000
IA	E2010-BUSP-072	Transit Maintenance Garage Initiative, IA	681,800
ID	E2010-BUSP-073	Idaho Transit Coalition Bus & Bus Facilities, ID	362,598
IL	E2010-BUSP-074	Illinois Downstate Bus & Bus Facilities, IL	3,896,000
IL	E2010-BUSP-078	Pace Milwaukee Avenue Transit Infrastructure Enhancements, IL	400,000
IN	E2010-BUSP-085	IndyGo Bus Replacement, IN	300,000
KS	E2010-BUSP-087	Bus and bus facilities, Kansas City, KS	600,000
KS	E2010-BUSP-088	Statewide (Rural and Urban) Bus & Bus Facilities, KS	2,000,000
KY	E2010-BUSP-089	Audubon Area Community Services, bus facility, Owensboro, KY	1,350,000
KY	E2010-BUSP-090	Frankfort Transit Bus Facilities, KY	275,000
KY	E2010-BUSP-091	Lake Cumberland Community Action Agency, bus equipment, KY	70,000
KY	E2010-BUSP-092	Pennyrile Allied Community Services, bus facilities, KY	500,000
KY	E2010-BUSP-094	Transit Facility for LKLP Community Action Council in West Liberty, KY	1,000,000
KY	E2010-BUSP-095	Western Kentucky University Shuttle Bus Improvement Project, KY	1,200,000
MI	E2010-BUSP-107	Big Rapids Dial-A-Ride--Replacement buses, MI	55,571
MI	E2010-BUSP-113	Eaton County Transportation Authority Bus and Bus Facilities, Eaton Cty, MI	740,277
MI	E2010-BUSP-114	Midland County Connection--Bus Replacement, MI	114,721
MI	E2010-BUSP-115	Roscommon County Transportation Authority--Replacement buses, MI	383,669

FEDERAL TRANSIT ADMINISTRATION

TABLE 11

PRIOR YEAR UNOBLIGATED SECTION 5309 BUS AND BUS RELATED EQUIPMENT AND FACILITIES ALLOCATIONS AS OF SEPTEMBER 30, 2011

MI	E2010-BUSP-119	Troy/Birmingham Multi-Modal Transit Center, MI	1,300,000
MN	E2010-BUSP-120	Cedar Avenue Bus Rapid Transit, Phase I, Dakota County, MN	681,800
MO	E2010-BUSP-124	Metro St. Louis--Downtown Transfer Center, MO	1,150,000
MS	E2010-BUSP-127	Harrison County Multimodal, MS	1,156,900
MS	E2010-BUSP-128	JATRAN Fleet Replacement, MS	500,000
ND	E2010-BUSP-132	North Dakota Statewide Transit, ND	677,277
NJ	E2010-BUSP-133	Newark Penn Station Intermodal Improvements, NJ	1,948,000
NJ	E2010-BUSP-134	Northern New Jersey Intermodal Improvements	2,550,000
NJ	E2010-BUSP-135	Passaic/Bergen County Intermodal Facilities, NJ	800,000
NM	E2010-BUSP-138	Statewide Bus & Bus Facilities for Commuter Choice, NM	1,224,127
NY	E2010-BUSP-141	Arverne East Transit Plaza, Queens, NY	500,000
NY	E2010-BUSP-145	Green Vehicle Depot, North Hempstead, NY	600,000
NY	E2010-BUSP-146	Jamaica Intermodal Station Plaza, NY	584,400
NY	E2010-BUSP-148	Mt. Hope Station Transit Center, NY	800,000
NY	E2010-BUSP-149	Multi-Modal Parking Hub, Glen Cove, NY	500,000
NY	E2010-BUSP-150	Ramapo Friends Helping Friends Medical Vans, NY	135,000
NY	E2010-BUSP-151	Suffolk County bus and bus facilities, NY	600,000
OH	E2010-BUSP-153	Multimodal University Hub, Cincinnati, OH	1,000,000
OR	E2010-BUSP-163	Silverton Senior and Disabled Transportation Service, OR	38,404
PA	E2010-BUSP-167	Centre Area Transportation Authority CNG Articulated Transit Buses, PA	300,000
PA	E2010-BUSP-168	Erie Mass Transit Authority consolidation and transit facility, PA	1,400,000
PA	E2010-BUSP-169	Harrisburg Transportation Cent. train shed rehab phase II improvements, PA	400,000
PA	E2010-BUSP-170	Intermodal Transit Facility/East Chestnut Street Garage, Washington Cty, PA	625,000
PA	E2010-BUSP-172	Rabbittransit Bus Facility, PA	250,000
PA	E2010-BUSP-174	Wilkes-Barre Intermodal Transportation Center, PA	600,000
SC	E2010-BUSP-178	Commuter Bus Replacement, Charleston, SC	1,000,000
TN	E2010-BUSP-181	Tennessee Public Transit Administration Rural Transportation Project	800,000
TN	E2010-BUSP-182	Tennessee Statewide Bus Program, TN	4,000,954
TX	E2010-BUSP-183	Abilene Paratransit buses, TX	200,000
TX	E2010-BUSP-187	Capital Metro--Bus & Bus Facilities, Austin, TX	2,000,000
TX	E2010-BUSP-189	City of Roma Bus Terminal, TX	300,000
TX	E2010-BUSP-190	Clean Fuel Downtown Transit Circulator, Houston, TX	800,000
TX	E2010-BUSP-192	Concho Valley Multi-modal Terminal, TX	250,000
TX	E2010-BUSP-193	Corpus Christi Regional Intermodal Transit Facility, Robstown, TX	500,000
VA	E2010-BUSP-202	GRTC Down Multimodal Center, Richmond, VA	450,000
VA	E2010-BUSP-204	Potomac and Rappahannock Transportation Commission Western Maintenance Facility, VA	1,000,000
VI	E2010-BUSP-206	Virgin Islands, Bus and Bus Facilities, VI	200,000
VT	E2010-BUSP-207	Chittenden County Transportation Authority Buses, Equipment, and Facilities, Including Downtown	1,948,000
VT	E2010-BUSP-209	Marble Valley Regional Transit District Buses, Facilities, and Equipment, VT	1,461,000
WA	E2010-BUSP-211	C-Tran Transit Vehicle Replacement, WA	1,850,600
WA	E2010-BUSP-215	Pierce Transit Diesel-Electric Bus Acquisition, WA	1,272,700
WA	E2010-BUSP-219	West Seattle RapidRide and Hybrid Bus Program, Seattle, WA	600,000
WA	E2010-BUSP-220	Whatcom Transportation Authority Fleet Replacement Project, WA	974,000
WI	E2010-BUSP-226	Wisconsin Bus Capital on Behalf of Transit Agencies Statewide, WI	736,000
WV	E2010-BUSP-227	Colonial Intermodal Facility, Bluefield, WV	600,000
		Total Prior Year Unobligated Bus and Bus Related Equipment and Facilities Project Allocations:	**$93,196,993**

Section 5309 Prior Year Unobligated Other Project Allocations

State	Earmark ID	Project Location and Description	Allocation
----	E2010-BUSP-237	Fuel Cell Bus Program	$2,970,001
		Total Prior Year Unobligated Other Project Allocations:	**2,970,001**

Section 5309 Prior Year Unobligated Bus Livability Program Allocations[2]

State	Earmark ID	Project Location and Description	Allocation
CA	D2010-BLIV-06001	Orange County Trans Auth - Anaheim Regional Transportation Intermodal Center	$5,000,000
CA	D2010-BLIV-09002	San Francisco MTA - Phelan Loop Bus Facility Project	6,822,106
CA	D2010-BLIV-09003	San Joaquin RTD - Metro Express: Hammer Lane Corridor Bus Rapid Transit (BRT) project	5,227,161
CO	D2010-BLIV-05003	Colorado DOT - South Central COG Transit Center	152,500
CO	D2010-BLIV-09005	Colorado DOT - Montrose Livability	160,000
CT	D2010-BLIV-06002	Stamford, CT - Stamford Urban Transitway Project	16,000,000
FL	D2010-BLIV-06003	Broward County Trans Dept - Boulevard Livable Mobility Plan	8,034,017
FL	D2010-BLIV-09008	LYNX-Orlando - Urban Trail Project	1,233,132
ID	D2010-BLIV-09010	Shoshone-Bannock Tribes DOT - Bus Garage	125,000
KY	D2010-BLIV-09011	KY Transportation Cabinet - Transit Hub Downtown Revitalization Project	5,043,760
NC	D2010-BLIV-06004	City of Asheville Fleet Replacement	428,000
NY	D2010-BLIV-04001	NYC DOT - Bus Rapid Transit Facility Project - 34th Street, Manhattan	18,379,510
OH	D2010-BLIV-09020	Stark Area RTA - Mahoning Transit Corridor	2,774,400
OR	D2010-BLIV-09022	Lane Transit District - Gateway Park and Ride Project	2,000,000
RI	D2010-BLIV-03001	Rhode Island Public Transit Auth. - Customer Service Enhancements	700,000
SC	D2010-BLIV-05002	SC DOT - Multi-use trail, pedestrian connectors, buses, shelters, signage	3,100,000
		Total Prior Year Unobligated Bus Livability Program Discretionary Allocations: $	**75,179,586**

Section 5309 Prior Year Unobligated State of Good Repair Program Allocations[3]

State	Earmark ID	Project Location and Description	Allocation
AK	D2010-BUSP-001	Alaska DOT (Capital Transit) - Maintenance Facility and Equipment (Replacement of Mobile Vehicle Hoist and Stationary Vehicle Wash Facility Equipment	$400,000
AL	D2010-BUSP-002	City of Huntsville - Rehabilitate and Renovate Bus Shelters, Maintenance facility, and Sidewalk	620,000

FEDERAL TRANSIT ADMINISTRATION

TABLE 11

PRIOR YEAR UNOBLIGATED SECTION 5309 BUS AND BUS RELATED EQUIPMENT AND FACILITIES ALLOCATIONS AS OF SEPTEMBER 30, 2011

CA	D2010-BUSP-012	City of Phoenix - Repower Transit Buses	1,204,456
CO	D2010-BUSP-024	Colorado DOT - Facilities and Equipment	260,920
DE	D2010-BUSP-028	Delaware Transit Corp. - Five Points Maintenance/Park and Ride Facility	5,000,000
FL	D2010-BUSP-029	Broward County - Transit Asset Management	1,000,000
FL	D2010-BUSP-032	Manatee County - Transit Administration/Fleet Maintenance Facility	15,948,237
GA	D2010-BUSP-034	Metropolitan Atlanta Rapid Transit Authority - Facilities ($18.32 million) and Asset Management	19,680,000
HI	D2010-BUSP-035	Hawaii Department of Transportation - Rehabilitation of public transportation facility and Vehicle Replacement	4,000,000
KY	D2010-BUSP-049	Kentucky Transportation Cabinet - Multiple Projects	4,036,720
KY	D2010-BUSP-050	Transit Auth of Lexington Fayette Urban County - Construction and Rehabilitation of Administrative/Maintenance Facility	8,780,000
KY	D2010-BUSP-051	Transit Authority of River City - Fare Collection System Replacement	2,543,892
MN	D2010-BUSP-064	Duluth Transit Auth. - Twin Ports Multimodal Transportation Terminal	16,000,000
NC	D2010-BUSP-071	Cape Fear Public Transportation Auth. - Wave Transit Operations & Maintenance Facility	6,000,000
NC	D2010-BUSP-073	City of Ashville - Vehicle Replacement	1,388,500
NC	D2010-BUSP-074	City of Charlotte - Phase I Facility Upgrade for the Tryon and North Davidson Bus Garages	1,549,600
NJ	D2010-BUSP-077	County of Cape May - Vehicle Wash Facility	995,200
NM	D2010-BUSP-079	City of Albuquerque - Vehicle Replacement	3,000,000
NV	D2010-BUSP-082	RTC of Southern Nevada - Vehicle Replacement (Diesel)	8,000,000
NY	D2010-BUSP-085	Dutchess County - Albany Facility Roof Replacement/Solar Panel Installation	3,600,000
NY	D2010-BUSP-086	Metropolitan Transportation Authority - Bus Radios and Control Center Project	27,793,222
NY	D2010-BUSP-087	Niagra Frontier Transporation Auth. - Vehicle Replacement (Hybrid)	7,000,000
NY	D2010-BUSP-088	Rochester Genesee RTA - Transit Campus and Facility Improvements	10,520,037
OH	D2010-BUSP-091	Ohio DOT - Facility Rehabilitation for 20 Different Transit Agencies and Various Equipment ($3,454,771) and Vehicle Replacement ($10 million)	3,873,110
OK	D2010-BUSP-092	Oklahoma Department of Transportation - Purchase Equipment and Facility Renovation	1,397,734
OR	D2010-BUSP-095	Oregon DOT - Vehicle Replacement for Rural Areas	3,000,000
PA	D2010-BUSP-097	Cambria County Transit Auth. - Construction of Administration/Operations/Maintenance Facility	10,000,000
PA	D2010-BUSP-099	PA DOT - Statewide Facilities and Equipment ($5,104,512) and Statewide Bus Purchases ($429,272)	5,533,784
SC	D2010-BUSP-104	Waccamaw RTA - Electronic Farebox Equipment	144,000
TN	D2010-BUSP-106	Chattanooga Area RTA - Transit Asset Management	250,000
TX	D2010-BUSP-109	Capital MTA - Vehicle Replacement	2,000,000
TX	D2010-BUSP-114	VIA Metropolitan Transit - Rehabilitation of Facilities	3,117,087
UT	D2010-BUSP-116	UTA - Central Operations and Maintenance Facility ($4.448 million) and Vehicle Replacement ($4 million)	4,448,000
WA	D2010-BUSP-121	Clark County Public Transportation Benefit Area - Maintenance Efficiency Project	1,399,200
WA	D2010-BUSP-123	Kalispel Tribe of Indians - Transit Asset Management	15,876
WA	D2010-BUSP-127	Snohomish County Transportation Benefit Area - Community Transit Radio Tower Site Expansion Project ($2.784 million) and Vehicle Community Transit Replacement ($4 million)	6,784,000
		Total Prior Year Unobligated State of Good Repair Program Discretionary Allocations:	**$191,283,575**

Section 5309 Prior Year Clean Fuels Program Allocations[4]

State	Earmark ID	Project Location and Description	Allocation
SC	D2010-BUSP-08044	Pee Dee Regional Transportation Authority Hybrid Buses	5,000,000
		Total Prior Year Unobligated Clean Fuels Program Discretionary Allocations:	**5,000,000**

Prior Year Unobligated Bus and Bus Facilities Project Allocations:	**$ 96,166,994**
Prior Year Unobligated Bus and Bus Facilities Discretionary Program Allocations:	**$ 271,463,161**
Total Prior Year Unobligated Bus and Bus Facilities Allocations:	**$ 367,630,155**

[1] Funds listed in this section of Table 11 are available for obligation until September 30, 2012.

[2] FTA allocated FY 2010 Bus and Bus Facilities funds for the Bus Livability Program on August 24, 2010. Funds listed in this section of Table 11 are available for obligation until September 30, 2012.

[3] FTA allocated FY 2010 Bus and Bus Facilities funds for the State of Good Repair Program on November 30, 2010. Funds listed in this section of Table 11 are available for obligation until September 30, 2013.

[4] FTA allocated FY 2010 Bus and Bus Facilities funds for the Clean Fuels program on January 31, 2011. Funds listed in this section of Table 11 are available for obligation until September 30, 2013.

FEDERAL TRANSIT ADMINISTRATION

TABLE 12

FY 2012 SECTION 5309 NEW STARTS ALLOCATIONS

FY 2012 SECTION 5309 NEW STARTS ALLOCATIONS

State	Earmark ID	Project Location and Description	Full Year Allocation
AK	E2012-NWST-001	Denali Commission	$5,000,000
AK/HI	E2012-NWST-002	Alaska and Hawaii	$15,000,000
CO	E2012-NWST-003	Denver, Eagle Commuter Rail	$140,920,000
FL	E2012-NWST-004	Orlando, Central Florida Commuter Rail Transit	$47,308,000
MN	E2012-NWST-005	St. Paul - Minneapolis, Central Corridor LRT	$93,144,000
NY	E2012-NWST-006	New York, Long Island Rail Road East Side Access	$203,424,000
NY	E2012-NWST-007	New York, Second Avenue Subway Phase I	$186,566,000
TX	E2012-NWST-008	Dallas, Northwest/Southeast LRT MOS	$81,606,000
TX	E2012-NWST-009	Houston, North Corridor LRT	$94,616,000
TX	E2012-NWST-010	Houston, Southeast Corridor LRT	$94,616,000
UT	E2012-NWST-011	Salt Lake City, Draper Transit Corridor	$100,468,000
UT	E2012-NWST-012	Salt Lake City, Mid Jordan LRT	$78,889,510
UT	E2012-NWST-013	Salt Lake City, Weber County to Salt lake City Commuter Rail	$52,047,490
VA	E2012-NWST-014	Northern Virginia, Dulles Corridor Metrorail Extension to Wiehle	$90,832,000
WA	E2012-NWST-015	Seattle, University Link LRT Extension	$104,078,000
		Discretionary Award[1]	$35,481,000
		Unallocated	$511,454,000
		Total 2012 Allocations	**$1,935,450,000**

FY 2012 SECTION 5309 NEW STARTS DISCRETIONARY ALLOCATIONS[1]

State	Earmark ID	Project Location and Description	Full Year Allocation
AZ	D2012-NWST-001	Mesa, Central Mesa LRT Extension	$35,481,000
		Total 2012 Discretionary Allocations	**$35,481,000**

[1] The Appropriations Act, 2012 directed that all New and Small Starts BRT projects be funded through the Section 5309 Bus and Bus Facilities Program, as shown in Table 10. As a result, the entire amount of funds appropriated for Small Starts are allocated to this remaining Small Starts Light Rail transit project.

FEDERAL TRANSIT ADMINISTRATION
TABLE 13
PRIOR YEAR UNOBLIGATED NEW STARTS ALLOCATIONS
AS OF SEPTEMBER 30, 2011

FY 2010 Unobligated Allocations[1]

State	Earmark ID	Project Location and Description	Allocation
AK/HI	E2010-NWST-002	Alaska/Hawaii	$5,827,603
CA	E2010-NWST-007	Livermore-Amador Route 10 BRT	79,900
CA	E2010-NWST-008	Los Angles-Wilshire Blvd Bus-Only Lane	13,558,474
CA	E2010-NWST-013	Perris Valley Line	5,000,000
CA	E2010-NWST-014	Sacramento South Corridor Phase II	38,000,000
CA	E2010-NWST-017	Sonoma-Marin Area Rail Transit (SMART)	2,500,000
CO	E2010-NWST-019	Mason Corridor BRT, Fort Collins	49,055,155
CT	E2010-NWST-025	Stamford Urban Transitway	2,000,000
DE	E2010-NWST-028	Wilmington to Newark Commuter Rail Improvement Program	3,000,000
FL	E2010-NWST-030	Fort Lauderdale-The Downtown, Transit Corridor Program, Downtown Transit Circulator	500,000
FL	E2010-NWST-031	HART Light Rail Preliminary Engineering	1,650,000
FL	E2010-NWST-032	Miami-Dade County Metrorail Orange Line Expansior	4,000,000
IL	E2010-NWST-034	Chicago Transit Hub (Circle Line-Ogden Streetcar)	1,500,000
IL	E2010-NWST-035	CTA Red Line North Station, Track, Viaduct and Station Rehabilitation	7,500,000
IL	E2010-NWST-036	Metra Commuter Rail (Union Pacific Northwest, STAR and UP-West)	8,000,000
MA	E2010-NWST-039	Assembly Square Orange Line Station	1,000,000
MD	E2010-NWST-042	Purple Line	3,000,000
MI	E2010-NWST-043	Ann Arbor-Detroit Regional Rail Project	3,500,000
MN	E2010-NWST-046	Northstar Phase II-Extension of Northstar Commuter Rail to the St. Cloud Area	3,000,000
NC	E2010-NWST-048	Charlotte Streetcar Project	500,000
NJ	E2010-NWST-050	Hudson-Bergen MOS-2, Northern NJ	11,039
PA	E2010-NWST-055	Lackawanna Cut-Off Restoration Project, PA/NJ	1,000,000
TX	E2010-NWST-057	Fort Worth Transportation Authority Southwest-to-Northeast Rail Corridor	4,000,000
TX	E2010-NWST-058	Galveston-Houston Commuter Rail	2,000,000
TX	E2010-NWST-059	Houston North Corridor LRT	50,000,000
TX	E2010-NWST-060	Houston Southeast Corridor LRT	50,000,000
TX	E2010-NWST-061	Metro Rapid BRT, Austin	13,370,204
VA	E2010-NWST-066	Improvements to the Rosslyn Metro Station	1,000,000
VA	E2010-NWST-067	Route 1 Bus Rapid Transit, Potomac Yard High Capacity Transit	1,000,000
VA	E2010-NWST-068	Virginia Railway Express Rolling Stock	3,000,000
	Total FY 2010 Unobligated Allocations		**$278,552,375**

FY 2010 Unobligated Urban Circulator Allocations[2]

State	Earmark ID	Project Location and Description	Allocation
IL	D2010-URBC-06001	Chicago Urban Circulator	$24,650,000
MO	D2010-URBC-07001	St. Louis Urban Circulator	22,110,000
	Total FY 2010 Unobligated Urban Circulator Allocations		**$46,760,000**

FY 2010 Unobligated Discretionary Allocations[3]

State	Earmark ID	Project Location and Description	Allocation
VA	D2010-NWST-005	Northern Virginia- Wiehle Ave.	$11,581,001
VA	D2010-NWST-06001	Northern Virginia- Wiehle Ave.	1,063,999
VA	D2010-NWST-08001	Northern Virginia- Wiehle Ave.	7,154,000
	Total FY 2010 Unobligated Discretionary Allocations		**$19,799,000**

FEDERAL TRANSIT ADMINISTRATION
TABLE 13
PRIOR YEAR UNOBLIGATED NEW STARTS ALLOCATIONS
AS OF SEPTEMBER 30, 2011

FY 2011 Unobligated Discretionary Allocations[4]			
State	Earmark ID	Project Location and Description	Allocation
AK/HI	D2011-NWST-002	Alaska/Hawaii	$7,485,000
CA	D2011-NWST-004	San Francisco, Van Ness Avenue BRT	15,000,000
CA	D2011-NWST-006	San Bernardino, E Street Corridor sbX BRT	42,630,000
CA	D2011-NWST-007	Riverside, Perris Valley Line	23,490,000
CO	D2011-NWST-008	Denver, East Corridor	40,000,000
CO	D2011-NWST-009	Denver, Gold Line	40,000,000
CO	D2011-NWST-012	Fort Collins, Mason Corridor BRT	5,450,573
CT	D2011-NWST-013	Hartford, New Britain - Hartford Busway	45,000,000
FL	D2011-NWST-014	Orlando, Central Florida Commuter Rail Transit – Initial Operating Segment	40,000,000
HI	D2011-NWST-015	Honolulu, High Capacity Transit Corridor Project	55,000,000
NY	D2011-NWST-017	New York, Long Island Rail Road East Side Access	215,000,000
NY	D2011-NWST-018	New York, Second Avenue Subway Phase I	197,182,000
NY	D2011-NWST-019	New York City, Nostrand Ave BRT	28,398,554
TX	D2011-NWST-021	Houston, North Corridor LRT	75,000,000
TX	D2011-NWST-022	Houston, Southeast Corridor LRT	75,000,000
TX	D2011-NWST-023	Austin, MetroRapid BRT	24,229,796
VA	D2011-NWST-026	Northern Virginia, Dulles Corridor Metrorail Project Extension to Wiehle Ave.	96,000,000
	Total FY 2011 Unobligated Allocations		**$1,024,865,923**
	Grand Total FY 2010 and FY 2011 Unobligated Allocations		**$1,369,977,298**

[1] FY 2010 funds listed in this section of Table 13 are available for obligation until September 30, 2012.

[2] FTA published FY 2010 NWST discretionary allocations for Urban Circular Projects on March 4, 2011. Funds listed in this section of Table 13 are available for obligation until September 30, 2012 as stated in the March 4, 2011 Federal Register

[3] FTA published FY 2010 NWST discretionary allocations on March 30, 2011. Funds listed in this section of Table 13 are available for obligation until September 30, 2013.

[4] FTA published FY 2011 NWST discretionary allocations on June 24, 2011. Funds listed in this section of Table 13 are available for obligation until September 30, 2013.

FEDERAL TRANSIT ADMINISTRATION

TABLE 14

FY 2012 SECTION 5310 SPECIAL NEEDS FOR ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

STATE	APPORTIONMENT
Alabama	$1,172,407
Alaska	207,836
American Samoa	57,248
Arizona	1,222,641
Arkansas	775,081
California	6,852,257
Colorado	868,575
Connecticut	846,042
Delaware	288,796
District of Columbia	257,220
Florida	4,392,350
Georgia	1,684,436
Guam	148,153
Hawaii	377,272
Idaho	362,632
Illinois	2,568,542
Indiana	1,379,739
Iowa	739,872
Kansas	669,315
Kentucky	1,085,416
Louisiana	1,080,901
Maine	418,177
Maryland	1,145,505
Massachusetts	1,501,796
Michigan	2,146,534
Minnesota	1,016,568
Mississippi	777,127
Missouri	1,320,319
Montana	311,420
N. Mariana Islands	57,901
Nebraska	463,743
Nevada	553,856
New Hampshire	364,129
New Jersey	1,894,313
New Mexico	505,913
New York	4,411,200
North Carolina	1,877,035
North Dakota	258,429
Ohio	2,500,247
Oklahoma	903,339
Oregon	841,636
Pennsylvania	2,940,812
Puerto Rico	1,040,780
Rhode Island	367,830
South Carolina	1,028,964
South Dakota	278,962
Tennessee	1,410,856
Texas	4,090,372
Utah	460,734
Vermont	246,720
Virgin Islands	143,515
Virginia	1,484,759
Washington	1,271,553
West Virginia	598,678
Wisconsin	1,166,286
Wyoming	219,153
TOTAL	$67,055,892

FEDERAL TRANSIT ADMINISTRATION

TABLE 15

FY 2012 SECTION 5311 AND SECTION 5340 NONURBANIZED APPORTIONMENTS AND SECTION 5311(b)(3) RURAL TRANSIT ASSISTANCE PROGRAM (RTAP) APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

(Note: In accordance with language in the SAFETEA-LU conference report apportionments for Section 5311 and Section 5340 were combined to show a single amount. The State's apportionment under the column heading "Section 5311 and 5340 Apportionment" includes Section 5311 and Growing States funds.)

STATE	SECTIONS 5311 AND 5340 APPORTIONMENT	SECTION 5311(b)(3) APPORTIONMENT
Alabama	$6,700,850	$86,298
Alaska	3,050,391	67,968
American Samoa	114,207	10,487
Arizona	4,715,636	75,390
Arkansas	5,101,522	80,406
California	11,418,271	97,739
Colorado	4,192,803	74,250
Connecticut	1,364,314	69,735
Delaware	636,226	67,147
Florida	6,841,002	86,353
Georgia	8,566,965	91,997
Guam	308,697	11,316
Hawaii	996,779	68,193
Idaho	2,935,580	70,866
Illinois	7,107,097	87,794
Indiana	6,847,364	87,689
Iowa	5,107,412	80,397
Kansas	4,734,565	77,584
Kentucky	6,469,058	86,036
Louisiana	5,171,759	81,432
Maine	2,727,977	73,168
Maryland	2,506,772	73,491
Massachusetts	1,758,007	71,068
Michigan	8,649,594	93,557
Minnesota	6,405,241	83,764
Mississippi	5,807,904	83,399
Missouri	6,965,434	86,287
Montana	3,788,723	70,678
N. Mariana Islands	17,582	10,064
Nebraska	3,305,222	72,702
Nevada	2,463,154	67,736
New Hampshire	1,750,517	70,813
New Jersey	1,630,791	70,614
New Mexico	4,128,610	73,131
New York	8,811,257	94,508
North Carolina	11,147,706	101,449
North Dakota	2,010,842	68,497
Ohio	10,043,937	99,353
Oklahoma	5,714,929	81,718
Oregon	4,908,805	77,284
Pennsylvania	10,205,187	99,593
Puerto Rico	706,666	67,821
Rhode Island	291,179	66,022
South Carolina	5,607,268	83,173
South Dakota	2,476,239	69,762
Tennessee	7,129,587	88,157
Texas	17,044,586	116,470
Utah	2,426,933	69,123
Vermont	1,321,918	69,279
Virginia	6,261,899	85,103
Washington	4,815,204	78,516
West Virginia	3,396,017	75,992
Wisconsin	6,772,892	86,428
Wyoming	2,350,913	68,126
TOTAL	**$257,729,990**	**$4,105,923**

FEDERAL TRANSIT ADMINISTRATION

TABLE 16

PRIOR YEAR UNOBLIGATED TRIBAL TRANSIT FUNDS AS OF SEPTEMBER 30, 2011[1]

State	Earmark ID	Project Location and Description	Allocation
AK	D2010-TRTR-001	Native Village of Unalakleet	$25,000
AK	D2010-TRTR-002	Crooked Creek	65,427
AK	D2010-TRTR-004	Sitka Tribe of Alaska	270,000
AZ	D2010-TRTR-005	Tohono O'Odham Nation	389,693
AZ	D2010-TRTR-006	San Carlos Apache Tribe	214,739
AZ	D2010-TRTR-007	White Mountain Apache Tribe	362,500
AZ	D2010-TRTR-008	Navajo Transit System	500,000
AZ	D2010-TRTR-010	Yavapai Apache Nation	325,500
AZ	D2010-TRTR-011	Kaibab Paiute Tribal Transportation	103,500
CA	D2010-TRTR-013	Reservation Transportation Authority	400,000
CA	D2010-TRTR-014	Susanville Indian tribe	200,000
CA	D2010-TRTR-015	Blue Lake Rancheria	230,000
CO	D2010-TRTR-016	Southern Ute Indian Tribe	238,986
MN	D2010-TRTR-018	Red Lake Public Transit System	439,284
NE	D2010-TRTR-030	Santee Sioux Nation	221,934
NM	D2010-TRTR-034	Pueblo of Tesuque	110,000
NV	D2010-TRTR-035	Fallon Paiute Shoshone Tribe	270,000
OK	D2010-TRTR-036	Citizen Potawatomi Nation	373,131
OK	D2010-TRTR-039	Ponca tribe of OK	174,367
OK	D2010-TRTR-040	Cheyenne & Arapaho Tribes	400,000
OR	D2010-TRTR-044	Confederated Tribes of Warm Springs	25,000
OR	D2010-TRTR-047	Confederated Tribes of Siletz Indian	164,000
SC	D2010-TRTR-048	Catawba Indian Nation	55,000
SD	D2010-TRTR-051	Oglala Sioux Tribe	250,000
WA	D2010-TRTR-052	Snoqualmie Indian Tribe	329,013
WA	D2010-TRTR-058	Tulalip Tribes	236,702
	Total FY 2010 Tribal Transit Allocations.....		**$6,373,776**

[1] FTA allocated FY 2010 TTP Program funds on March 2, 2011. Funds in this table are available for obligation until September 30, 2013.

FEDERAL TRANSIT ADMINISTRATION

TABLE 17

FY 2012 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

URBANIZED AREA/STATE	APPORTIONMENT
200,000 or more in Population	$57,028,235
50,000-199,999 in Population	19,009,412
Nonurbanized	19,009,412
National Total	**595,047,060**
Amounts Apportioned to Urbanized Areas 200,000 or more in Population:	
Aguadilla--Isabela--San Sebastian, PR	$369,342
Akron, OH	173,132
Albany, NY	160,584
Albuquerque, NM	237,013
Allentown--Bethlehem, PA--NJ	150,563
Anchorage, AK	56,415
Ann Arbor, MI	84,354
Antioch, CA	58,953
Asheville, NC	79,348
Atlanta, GA	934,419
Atlantic City, NJ	67,567
Augusta-Richmond County, GA--SC	133,214
Austin, TX	282,538
Bakersfield, CA	221,437
Baltimore, MD	606,018
Barnstable Town, MA	52,262
Baton Rouge, LA	205,029
Birmingham, AL	247,766
Boise City, ID	67,666
Bonita Springs--Naples, FL	51,010
Boston, MA--NH--RI	955,908
Bridgeport--Stamford, CT--NY	181,250
Buffalo, NY	337,177
Canton, OH	78,545
Cape Coral, FL	102,534
Charleston--North Charleston, SC	152,866
Charlotte, NC--SC	193,391
Chattanooga, TN--GA	117,502
Chicago, IL--IN	2,461,567
Cincinnati, OH--KY--IN	402,972
Cleveland, OH	540,896
Colorado Springs, CO	117,901
Columbia, SC	133,358
Columbus, GA--AL	103,786
Columbus, OH	339,432
Concord, CA	70,011
Corpus Christi, TX	139,508
Dallas--Fort Worth--Arlington, TX	1,382,812
Davenport, IA--IL	87,597
Dayton, OH	211,179
Daytona Beach--Port Orange, FL	94,998
Denton--Lewisville, TX	57,958
Denver--Aurora, CO	485,973
Des Moines, IA	88,654
Detroit, MI	1,172,286
Durham, NC	108,071
El Paso, TX--NM	445,808
Eugene, OR	92,539
Evansville, IN--KY	69,116
Fayetteville, NC	105,811
Flint, MI	144,163
Fort Collins, CO	59,673
Fort Wayne, IN	83,633
Fresno, CA	333,804
Grand Rapids, MI	144,204
Greensboro, NC	80,520
Greenville, SC	107,706
Gulfport--Biloxi, MS	81,208
Harrisburg, PA	82,345
Hartford, CT	218,922
Honolulu, HI	205,984
Houston, TX	1,548,706
Huntsville, AL	63,386

FEDERAL TRANSIT ADMINISTRATION

TABLE 17

FY 2012 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

URBANIZED AREA/STATE	APPORTIONMENT
Indianapolis, IN	322,080
Indio--Cathedral City--Palm Springs, CA	116,659
Jackson, MS	130,929
Jacksonville, FL	275,266
Kansas City, MO--KS	362,168
Knoxville, TN	146,423
Lancaster, PA	75,958
Lancaster--Palmdale, CA	113,930
Lansing, MI	104,878
Las Vegas, NV	425,154
Lexington-Fayette, KY	87,026
Lincoln, NE	65,360
Little Rock, AR	134,692
Los Angeles--Long Beach--Santa Ana, CA	5,572,262
Louisville, KY--IN	280,363
Lubbock, TX	99,593
Madison, WI	93,366
McAllen, TX	464,393
Memphis, TN--MS--AR	405,241
Miami, FL	1,947,200
Milwaukee, WI	407,962
Minneapolis--St. Paul, MN	496,659
Mission Viejo, CA	77,063
Mobile, AL	160,294
Modesto, CA	143,650
Nashville-Davidson, TN	231,984
New Haven, CT	139,354
New Orleans, LA	519,800
New York--Newark, NY--NJ--CT	6,298,451
Ogden--Layton, UT	97,864
Oklahoma City, OK	285,722
Omaha, NE--IA	179,524
Orlando, FL	382,229
Oxnard, CA	129,469
Palm Bay--Melbourne, FL	113,125
Pensacola, FL--AL	123,900
Peoria, IL	82,554
Philadelphia, PA--NJ--DE--MD	1,514,872
Phoenix--Mesa, AZ	1,000,050
Pittsburgh, PA	525,380
Port St. Lucie, FL	93,303
Portland, OR--WA	453,551
Poughkeepsie--Newburgh, NY	96,184
Providence, RI--MA	392,909
Provo--Orem, UT	115,274
Raleigh, NC	116,676
Reading, PA	75,504
Reno, NV	94,204
Richmond, VA	226,166
Riverside--San Bernardino, CA	713,525
Rochester, NY	210,359
Rockford, IL	77,525
Round Lake Beach--McHenry--Grayslake, IL--WI	32,119
Sacramento, CA	511,843
Salem, OR	142,446
Salt Lake City, UT	225,139
San Antonio, TX	598,915
San Diego, CA	974,799
San Francisco--Oakland, CA	870,055
San Jose, CA	321,188
San Juan, PR	2,209,539
Santa Rosa, CA	73,188
Sarasota--Bradenton, FL	155,983
Savannah, GA	93,613
Scranton, PA	134,157
Seattle, WA	669,147
Shreveport, LA	139,055
South Bend, IN--MI	84,884
Spokane, WA--ID	124,335
Springfield, MA--CT	192,093

FEDERAL TRANSIT ADMINISTRATION

TABLE 17

FY 2012 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

URBANIZED AREA/STATE	APPORTIONMENT
Springfield, MO	82,540
St. Louis, MO--IL	593,775
Stockton, CA	183,122
Syracuse, NY	142,172
Tallahassee, FL	92,247
Tampa--St. Petersburg, FL	680,475
Temecula--Murrieta, CA	60,619
Thousand Oaks, CA	32,766
Toledo, OH--MI	175,465
Trenton, NJ	68,906
Tucson, AZ	307,115
Tulsa, OK	196,488
Victorville--Hesperia--Apple Valley, CA	90,994
Virginia Beach, VA	429,599
Washington, DC--VA--MD	829,373
Wichita, KS	126,563
Winston-Salem, NC	92,002
Worcester, MA--CT	124,762
Youngstown, OH--PA	152,335
TOTAL	$57,028,236
Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 199,999 in Population	
ALABAMA	$531,936
ALASKA	23,970
ARIZONA	191,740
ARKANSAS	341,915
CALIFORNIA	1,960,204
COLORADO	318,824
CONNECTICUT	194,401
DELAWARE	32,718
FLORIDA	1,108,142
GEORGIA	607,073

FEDERAL TRANSIT ADMINISTRATION

TABLE 17

FY 2012 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

URBANIZED AREA/STATE	APPORTIONMENT
HAWAII	35,935
IDAHO	205,744
ILLINOIS	437,116
INDIANA	467,852
IOWA	281,261
KANSAS	128,656
KENTUCKY	174,901
LOUISIANA	552,210
MAINE	167,935
MARYLAND	208,843
MASSACHUSETTS	178,493
MICHIGAN	592,283
MINNESOTA	160,719
MISSISSIPPI	99,090
MISSOURI	198,142
MONTANA	151,846
N. MARIANA ISLANDS	55,099
NEBRASKA	10,131
NEVADA	26,234
NEW HAMPSHIRE	152,246
NEW JERSEY	97,490
NEW MEXICO	188,235
NEW YORK	357,135
NORTH CAROLINA	608,599
NORTH DAKOTA	115,176
OHIO	445,809
OKLAHOMA	120,731
OREGON	154,246
PENNSYLVANIA	584,081
PUERTO RICO	1,789,006
SOUTH CAROLINA	341,147
SOUTH DAKOTA	86,227
TENNESSEE	396,476
TEXAS	2,132,576
UTAH	87,770
VERMONT	45,518
VIRGINIA	405,306
WASHINGTON	527,469
WEST VIRGINIA	361,262
WISCONSIN	483,632
WYOMING	67,842
TOTAL	$19,009,412
Amounts Apportioned to State Governors for Nonurbanized Areas Less than 50,000 in Population	
ALABAMA	$536,255
ALASKA	61,971
AMERICAN SAMOA	57,177
ARIZONA	342,078
ARKANSAS	479,745
CALIFORNIA	968,313
COLORADO	179,930
CONNECTICUT	46,364
DELAWARE	42,251
FLORIDA	549,195
GEORGIA	753,548

FEDERAL TRANSIT ADMINISTRATION

TABLE 17

FY 2012 SECTION 5316 JOB ACCESS AND REVERSE COMMUTE APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension Enacted - P.L. 112-55/112-30)

URBANIZED AREA/STATE	APPORTIONMENT
GUAM	57,254
HAWAII	75,635
IDAHO	164,213
ILLINOIS	428,470
INDIANA	383,402
IOWA	273,531
KANSAS	272,468
KENTUCKY	693,355
LOUISIANA	593,573
MAINE	183,372
MARYLAND	118,309
MASSACHUSETTS	73,917
MICHIGAN	510,159
MINNESOTA	326,516
MISSISSIPPI	687,726
MISSOURI	559,457
MONTANA	165,572
N. MARIANA ISLANDS	32,529
NEBRASKA	169,883
NEVADA	50,965
NEW HAMPSHIRE	79,421
NEW JERSEY	63,127
NEW MEXICO	320,413
NEW YORK	609,637
NORTH CAROLINA	958,425
NORTH DAKOTA	87,542
OHIO	652,397
OKLAHOMA	516,230
OREGON	261,365
PENNISYLVANIA	692,873
PUERTO RICO	246,429
RHODE ISLAND	10,846
SOUTH CAROLINA	531,248
SOUTH DAKOTA	131,333
TENNESSEE	619,311
TEXAS	1,516,647
UTAH	93,427
VERMONT	84,486
VIRGIN ISLANDS	57,483
VIRGINIA	445,723
WASHINGTON	321,291
WEST VIRGINIA	375,502
WISCONSIN	324,196
WYOMING	72,930
TOTAL	$19,009,412

FEDERAL TRANSIT ADMINISTRATION
TABLE 18
FY 2012 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension

URBANIZED AREA/STATE	APPORTIONMENT
UZAs 200,000 or more in Population	$32,643,308
UZAs 50,000-199,999 in Population	10,881,103
Nonurbanized	10,881,103
National Total	**$54,405,514**
Amounts Apportioned to Urbanized Areas 200,000 or more in Population:	
Aguadilla--Isabela--San Sebastian, PR	$84,698
Akron, OH	109,264
Albany, NY	105,025
Albuquerque, NM	122,735
Allentown--Bethlehem, PA--NJ	104,792
Anchorage, AK	35,017
Ann Arbor, MI	41,241
Antioch, CA	40,704
Asheville, NC	52,066
Atlanta, GA	597,098
Atlantic City, NJ	49,589
Augusta-Richmond County, GA--SC	72,648
Austin, TX	133,553
Bakersfield, CA	88,042
Baltimore, MD	426,807
Barnstable Town, MA	53,014
Baton Rouge, LA	94,247
Birmingham, AL	145,710
Boise City, ID	42,952
Bonita Springs--Naples, FL	49,159
Boston, MA--NH--RI	754,723
Bridgeport--Stamford, CT--NY	159,632
Buffalo, NY	202,877
Canton, OH	49,964
Cape Coral, FL	78,792
Charleston--North Charleston, SC	87,199
Charlotte, NC--SC	129,690
Chattanooga, TN--GA	76,881
Chicago, IL--IN	1,532,527
Cincinnati, OH--KY--IN	270,447
Cleveland, OH	346,889
Colorado Springs, CO	73,017
Columbia, SC	77,860
Columbus, GA--AL	53,553
Columbus, OH	193,049
Concord, CA	81,795
Corpus Christi, TX	62,382
Dallas--Fort Worth--Arlington, TX	761,589
Davenport, IA--IL	49,512
Dayton, OH	135,761
Daytona Beach--Port Orange, FL	64,912
Denton--Lewisville, TX	35,042
Denver--Aurora, CO	341,337
Des Moines, IA	62,209
Detroit, MI	800,629
Durham, NC	48,233

FEDERAL TRANSIT ADMINISTRATION
TABLE 18
FY 2012 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension

URBANIZED AREA/STATE	APPORTIONMENT
El Paso, TX--NM	136,066
Eugene, OR	42,443
Evansville, IN--KY	46,054
Fayetteville, NC	52,451
Flint, MI	81,462
Fort Collins, CO	28,945
Fort Wayne, IN	50,931
Fresno, CA	122,742
Grand Rapids, MI	90,113
Greensboro, NC	50,683
Greenville, SC	66,006
Gulfport--Biloxi, MS	49,144
Harrisburg, PA	61,941
Hartford, CT	165,870
Honolulu, HI	133,875
Houston, TX	710,951
Huntsville, AL	37,602
Indianapolis, IN	231,613
Indio--Cathedral City--Palm Springs, CA	60,033
Jackson, MS	59,285
Jacksonville, FL	183,430
Kansas City, MO--KS	250,456
Knoxville, TN	89,500
Lancaster, PA	56,893
Lancaster--Palmdale, CA	50,616
Lansing, MI	52,603
Las Vegas, NV	286,835
Lexington-Fayette, KY	46,548
Lincoln, NE	34,573
Little Rock, AR	77,933
Los Angeles--Long Beach--Santa Ana, CA	2,430,781
Louisville, KY--IN	181,678
Lubbock, TX	39,975
Madison, WI	45,976
McAllen, TX	109,974
Memphis, TN--MS--AR	205,604
Miami, FL	1,126,844
Milwaukee, WI	237,897
Minneapolis--St. Paul, MN	352,238
Mission Viejo, CA	72,722
Mobile, AL	78,275
Modesto, CA	70,620
Nashville-Davidson, TN	145,388
New Haven, CT	101,090
New Orleans, LA	232,431
New York--Newark, NY--NJ--CT	3,839,068
Ogden--Layton, UT	61,864
Oklahoma City, OK	158,500
Omaha, NE--IA	101,574
Orlando, FL	235,963
Oxnard, CA	68,778
Palm Bay--Melbourne, FL	89,991
Pensacola, FL--AL	69,897
Peoria, IL	46,562
Philadelphia, PA--NJ--DE--MD	1,008,381
Phoenix--Mesa, AZ	548,963
Pittsburgh, PA	334,362

FEDERAL TRANSIT ADMINISTRATION
TABLE 18
FY 2012 SECTION 5317 NEW FREEDOM APPORTIONMENTS

(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension

URBANIZED AREA/STATE	APPORTIONMENT
Port St. Lucie, FL	68,802
Portland, OR--WA	283,484
Poughkeepsie--Newburgh, NY	61,233
Providence, RI--MA	256,025
Provo--Orem, UT	34,839
Raleigh, NC	73,218
Reading, PA	47,118
Reno, NV	61,379
Richmond, VA	153,365
Riverside--San Bernardino, CA	303,593
Rochester, NY	129,086
Rockford, IL	52,171
Round Lake Beach--McHenry--Grayslake, IL--WI	31,121
Sacramento, CA	284,120
Salem, OR	41,236
Salt Lake City, UT	147,421
San Antonio, TX	281,592
San Diego, CA	486,505
San Francisco--Oakland, CA	638,229
San Jose, CA	268,293
San Juan, PR	609,350
Santa Rosa, CA	53,794
Sarasota--Bradenton, FL	135,317
Savannah, GA	47,476
Scranton, PA	91,995
Seattle, WA	482,945
Shreveport, LA	59,917
South Bend, IN--MI	54,540
Spokane, WA--ID	68,606
Springfield, MA--CT	128,029
Springfield, MO	41,488
St. Louis, MO--IL	382,676
Stockton, CA	72,995
Syracuse, NY	77,221
Tallahassee, FL	28,722
Tampa--St. Petersburg, FL	504,104
Temecula--Murrieta, CA	39,773
Thousand Oaks, CA	30,876
Toledo, OH--MI	103,012
Trenton, NJ	53,589
Tucson, AZ	150,011
Tulsa, OK	113,746
Victorville--Hesperia--Apple Valley, CA	42,520
Virginia Beach, VA	251,712
Washington, DC--VA--MD	618,770
Wichita, KS	79,449
Winston-Salem, NC	56,263
Worcester, MA--CT	90,031
Youngstown, OH--PA	89,696
TOTAL	**$32,643,308**
Amounts Apportioned to State Governors for Urbanized Areas 50,000 to 199,999 in Population	
Alabama	$286,829
Alaska	13,427
Arizona	92,943
Arkansas	191,572

FEDERAL TRANSIT ADMINISTRATION
TABLE 18
FY 2012 SECTION 5317 NEW FREEDOM APPORTIONMENTS
(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension

URBANIZED AREA/STATE	APPORTIONMENT
California	1,113,894
Colorado	184,730
Connecticut	176,879
Delaware	21,975
Florida	835,395
Georgia	302,488
Hawaii	31,318
Idaho	108,847
Illinois	246,403
Indiana	279,676
Iowa	162,940
Kansas	76,792
Kentucky	104,920
Louisiana	295,056
Maine	119,930
Maryland	190,492
Massachusetts	129,615
Michigan	403,566
Minnesota	95,756
Mississippi	46,490
Missouri	113,769
Montana	79,171
N. Mariana Islands	17,056
Nebraska	4,748
Nevada	21,642
New Hampshire	148,679
New Jersey	79,224
New Mexico	84,666
New York	221,349
North Carolina	448,701
North Dakota	68,060
Ohio	307,444
Oklahoma	52,509
Oregon	80,411
Pennsylvania	361,724
Puerto Rico	487,360
South Carolina	248,424
South Dakota	59,923
Tennessee	253,543
Texas	956,864
Utah	34,059
Vermont	28,502
Virginia	249,130
Washington	344,980
West Virginia	217,389
Wisconsin	356,415
Wyoming	43,428
TOTAL	**$10,881,103**
Amounts Apportioned to State Governors for Nonurbanized Areas Less than 50,000 in Population	
Alabama	$368,830
Alaska	29,927
American Samoa	5,249
Arizona	157,156
Arkansas	265,903
California	457,484

FEDERAL TRANSIT ADMINISTRATION
TABLE 18
FY 2012 SECTION 5317 NEW FREEDOM APPORTIONMENTS
(Apportionment amount is based on funding made available under THUD Appropriations/SL Extension

URBANIZED AREA/STATE	APPORTIONMENT
Colorado	103,112
Connecticut	49,284
Delaware	31,714
Florida	355,345
Georgia	420,177
Guam	15,316
Hawaii	43,454
Idaho	71,656
Illinois	280,490
Indiana	307,487
Iowa	182,577
Kansas	159,004
Kentucky	385,786
Louisiana	258,462
Maine	117,343
Maryland	103,612
Massachusetts	65,233
Michigan	368,149
Minnesota	210,379
Mississippi	313,319
Missouri	304,813
Montana	70,065
N. Mariana Islands	504
Nebraska	91,846
Nevada	38,055
New Hampshire	79,449
New Jersey	49,634
New Mexico	119,785
New York	383,306
North Carolina	599,719
North Dakota	42,288
Ohio	441,708
Oklahoma	268,171
Oregon	180,807
Pennsylvania	444,492
Puerto Rico	55,861
Rhode Island	11,615
South Carolina	304,725
South Dakota	55,852
Tennessee	392,588
Texas	746,603
Utah	43,643
Vermont	54,432
Virgin Islands	10,583
Virginia	306,894
Washington	183,203
West Virginia	199,330
Wisconsin	238,077
Wyoming	36,607
TOTAL	**$10,881,103**

FEDERAL TRANSIT ADMINISTRATION

TABLE 19

PRIOR YEAR UNOBLIGATED SECTION 5339 ALTERNATIVES ANALYSIS ALLOCATIONS AS OF SEPTEMBER 30, 2011

FY 2010 Unobligated Allocations[1]

State	Earmark ID	Project Location and Description	Allocation
CT	E2010-ALTA-004	New Haven-Hartford-Springfield Rail Line Improvements	$3,896,000
CT	E2010-ALTA-005	Route 8 Corridor Transit Oriented Development & Alternate Modes Study	300,000
IL	E2010-ALTA-007	Pace J-Route Bus Rapid Transit	360,000
KY	E2010-ALTA-008	Central Kentucky Mass Transit Alternatives Analysis	300,000
MA	E2010-ALTA-009	Green Line Extension	300,000
NJ	E2010-ALTA-013	Hudson-Bergen MOS-2, Northern NJ	400,000
NJ/PA	E2010-ALTA-014	Northwest New Jersey - Northeast Pennsylvania Passenger Rail Project	974,000
TX	E2010-ALTA-016	Transportation Study for the Texas Medical Center, Houston	1,000,000
UT	E2010-ALTA-017	South Davis Streetcar, Salt Lake City	360,000
VA	E2010-ALTA-018	Enhanced Transit Service - Route 7 Corridor	350,000
WA	E2010-ALTA-021	Puyallup Bus Rapid Transit Project - Alternatives Analysis	1,461,000
WA	E2010-ALTA-022	SE King County Commuter Rail and Transit Centers Feasibility Study	360,000
		Total FY 2010 Unobligated Allocations	**$10,061,000**

FY 2010 Unobligated Discretionary Allocations[2]

State	Earmark ID	Project Location and Description	Allocation
DC	D2010-ALTA-07003	DC Streetcar Alignment and Vehicle Propulsion Technology	$1,000,000
FL	D2010-ALTA-07004	Osceola County Corridor	800,000
NE	D2010-ALTA-09007	Omaha Downtown / Midtown	700,000
OR	D2010-ALTA-001	Southwest Corridor	2,000,000
UT	D2010-ALTA-007	Downtown Salt Lake City Streetcar	470,000
		Total FY 2010 Discretionary Unobligated Allocations	**$4,970,000**
	Grand Total FY 2010 Unobligated Allocations		**$15,031,000**

[1] The funds listed in this section of Table 19 are available for obligation until September 30, 2012.

[2] FTA published these allocations in the Federal Register on March 1, 2011. Funds are available for obligation until September 30, 2013.

[FR Doc. 2012–249 Filed 1–10–12; 8:45 am]

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Vol. 77, No. 7

Wednesday, January 11, 2012

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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–212 3
213–418 4
419–728 5
729–1008 6
1009–1386 9
1387–1590 10
1591–1856 11

CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8768 209
8769 211
8770 407
8771 413
8772 1007

6 CFR

5 1387

7 CFR

Proposed Rules:
253 1642

8 CFR

Proposed Rules:
212 1040

9 CFR

92 1388
93 1388
94 1388
96 1388
98 1388

10 CFR

431 1591
Proposed Rules:
50 441
52 441
100 441
430 1649

12 CFR

Proposed Rules:
44 23
248 23
252 594
351 23

14 CFR

25 ..... 1614, 1618
39 ... 1, 3, 729, 731, 1009, 1622, 1624, 1626
71 ..... 5, 6, 1012
97 ..... 1013, 1015
117 330
119 330
121 330
135 1629
Proposed Rules:
39 ..... 1043, 1654
71 ..... 770, 771, 1428, 1429, 1656
1260 1657

15 CFR

740 1017
742 1017
774 1017
Proposed Rules:
801 772
806 772
807 772

16 CFR

Proposed Rules:
303 234
305 234

17 CFR

43 1182
Proposed Rules:
230 24
255 23

21 CFR

530 735
606 7
610 7
640 7
Proposed Rules:
10 25

22 CFR

228 1396

29 CFR

1915 18

30 CFR

585 1019
Proposed Rules:
920 1430

31 CFR

1 1632
351 213
359 213
363 213
Proposed Rules:
150 35

32 CFR

222 745

33 CFR

117 ... 419, 420, 421, 423, 1405, 1406, 1407
165 ..... 1020, 1023, 1025, 1407
Proposed Rules:
165 1431

37 CFR

Proposed Rules:
1 ..... 442, 448, 982
3 982
11 457

40 CFR

52 ..... 745, 1027, 1411, 1414, 1417

80....462, 1320
180....745, 1633
Proposed Rules:
9....960
51....1130
60....1130
61....1130
63....960, 1130, 1268
65....960
80....700
98....1434

42 CFR

63....556
410....217, 227
411....217
414....227
415....227
416....217
419....217
489....217
495....217, 227
Proposed Rules:
37....1360

44 CFR

65....423, 425

45 CFR

160....1556
162....1556
1355....896
1356....896
Proposed Rules:
1355....467

46 CFR

1....232
10....232
11....232
12....232
13....232
14....232
15....232
Proposed Rules:
515....1658

47 CFR

20....1637
54....1637
64....1039
Proposed Rules:
76....468
90....1661

48 CFR

Ch. 1....182, 205
1....197, 1640
2....183, 187
4....183, 187, 204
5....189
6....189
7....183, 187
8....183, 189, 194, 204
9....183, 187, 197, 1640
11....189
12....194, 197, 1640
13....187, 189
15....204
16....189, 194
17....183
18....183, 187, 189
19....204
22....204
23....204
25....187
26....187
28....204
31....202
35....183
36....189
41....183
42....197, 204, 1640
52....187, 197, 202, 204, 1640
501....749
539....749
552....749
1552....427

49 CFR

173....429
571....751
Proposed Rules:
238....154
239....154

50 CFR

17....431
679....438
Proposed Rules:
17....45, 666
218....842
622....1045
648....52
665....66

LIST OF PUBLIC LAWS

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H.R. 1540/P.L. 112–81

National Defense Authorization Act for Fiscal Year 2012 (Dec. 31, 2011; 125 Stat. 1298)

H.R. 515/P.L. 112–82

Belarus Democracy and Human Rights Act of 2011 (Jan. 3, 2012; 125 Stat. 1863)

H.R. 789/P.L. 112–83

To designate the facility of the United States Postal Service located at 20 Main Street in Little Ferry, New Jersey, as the "Sergeant Matthew J. Fenton Post Office". (Jan. 3, 2012; 125 Stat. 1869)

H.R. 1059/P.L. 112–84

To protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes. (Jan. 3, 2012; 125 Stat. 1870)

H.R. 1264/P.L. 112–85

To designate the property between the United States Federal Courthouse and the Ed Jones Building located at 109 South Highland Avenue in Jackson, Tennessee, as the "M.D. Anderson Plaza" and to authorize the placement of a historical/identification marker on the grounds recognizing the achievements and philanthropy of M.S. Anderson. (Jan. 3, 2012; 125 Stat. 1871)

H.R. 1801/P.L. 112–86

Risk-Based Security Screening for Members of the Armed Forces Act (Jan. 3, 2012; 125 Stat. 1874)

H.R. 1892/P.L. 112–87

Intelligence Authorization Act for Fiscal Year 2012 (Jan. 3, 2012; 125 Stat. 1876)

H.R. 2056/P.L. 112–88

To instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes. (Jan. 3, 2012; 125 Stat. 1899)

H.R. 2422/P.L. 112–89

To designate the facility of the United States Postal Service located at 45 Bay Street, Suite 2, in Staten Island, New York, as the "Sergeant Angel Mendez Post Office". (Jan. 3, 2012; 125 Stat. 1903)

H.R. 2845/P.L. 112–90

Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Jan. 3, 2012; 125 Stat. 1904)

Last List December 30, 2011

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