



# FEDERAL REGISTER

---

Vol. 77

Friday,

No. 13

January 20, 2012

Pages 2905–3068

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see [www.ofr.gov](http://www.ofr.gov).

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at [www.fdsys.gov](http://www.fdsys.gov), a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, [gpo@custhelp.com](mailto:gpo@custhelp.com).

The annual subscription price for the **Federal Register** paper edition is \$749 plus postage, or \$808, plus postage, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see [bookstore.gpo.gov](http://bookstore.gpo.gov).

There are no restrictions on the republication of material appearing in the **Federal Register**.

**How To Cite This Publication:** Use the volume number and the page number. Example: 77 FR 12345.

**Postmaster:** Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

## SUBSCRIPTIONS AND COPIES

### PUBLIC

#### Subscriptions:

Paper or fiche 202-512-1800  
Assistance with public subscriptions 202-512-1806

**General online information** 202-512-1530; 1-888-293-6498

#### Single copies/back copies:

Paper or fiche 202-512-1800  
Assistance with public single copies 1-866-512-1800  
(Toll-Free)

### FEDERAL AGENCIES

#### Subscriptions:

Paper or fiche 202-741-6005  
Assistance with Federal agency subscriptions 202-741-6005

### FEDERAL REGISTER WORKSHOP

#### THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

**FOR:** Any person who uses the Federal Register and Code of Federal Regulations.

**WHO:** Sponsored by the Office of the Federal Register.

**WHAT:** Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

**WHEN:** Tuesday, February 7, 2012  
9 a.m.-12:30 p.m.

**WHERE:** Office of the Federal Register  
Conference Room, Suite 700  
800 North Capitol Street, NW.  
Washington, DC 20002

**RESERVATIONS:** (202) 741-6008



# Contents

Federal Register

Vol. 77, No. 13

Friday, January 20, 2012

## Agency for Healthcare Research and Quality

### NOTICES

Meetings:

Scientific Peer Review Groups, 2982

Request for Measures and Domains for Development of Standardized Instrument for Public Reporting, etc., 2982–2983

## Agricultural Research Service

### NOTICES

Intent to Grant Exclusive Licenses, 2947–2948

## Agriculture Department

See Agricultural Research Service

See Forest Service

See Rural Business-Cooperative Service

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 2947

## Alcohol, Tobacco, Firearms, and Explosives Bureau

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Firearms Disabilities for Nonimmigrant Aliens, 3006

Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data, 3006–3007

Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition, etc., 3005–3006

## Antitrust Division

### NOTICES

National Cooperative Research and Production Act of 1993:

Advanced Media Workflow Association, Inc., 3007–3008

National Shipbuilding Research Program, 3007

## Arts and Humanities, National Foundation

See National Foundation on the Arts and the Humanities

## Blind or Severely Disabled, Committee for Purchase From People Who Are

See Committee for Purchase From People Who Are Blind or Severely Disabled

## Bureau of Ocean Energy Management

### NOTICES

Environmental Impact Statements; Availability, etc.:

Gulf of Mexico, Outer Continental Shelf, Central Planning Area; Oil and Gas Lease Sale, etc., 2991–2992

## Centers for Medicare & Medicaid Services

### NOTICES

Meetings:

Advisory Panel on Outreach and Education, 2983–2985

## Coast Guard

### PROPOSED RULES

Chemical Testing Regulations for Mariners and Marine Employers, 2935–2937

### NOTICES

Mechanisms of Compliance with U.S. Citizenship

Requirements:

Ownership of Vessels Eligible to Engage in Restricted Trades by Publicly Traded Companies, 2988–2989

## Commerce Department

See Foreign-Trade Zones Board

See International Trade Administration

See National Oceanic and Atmospheric Administration

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 2956–2957

## Committee for Purchase From People Who Are Blind or Severely Disabled

### NOTICES

Procurement List; Additions, 2962

## Commodity Futures Trading Commission

### RULES

Real-Time Public Reporting of Swap Transaction Data; Correction, 2909

## Comptroller of the Currency

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3032–3035

## Corporation for National and Community Service

### NOTICES

Meetings; Sunshine Act, 2962

## Defense Department

### NOTICES

Meetings:

Department of Defense Wage Committee, 2962–2963

## Employee Benefits Security Administration

### NOTICES

Proposed Exemptions from Certain Prohibited Transaction Restrictions, 3038–3064

## Energy Department

See Federal Energy Regulatory Commission

## Environmental Protection Agency

### RULES

Exemptions from Requirements of Tolerances:

Bacillus amyloliquefaciens strain D747; Technical Correction, 2910–2911

National Oil and Hazardous Substances Pollution Contingency Plan:

National Priorities List; Deletion of the Martin-Marietta/Sodyeco Superfund Site, 2911–2912

### PROPOSED RULES

Approvals and Promulgations of Air Quality

Implementation Plans:

Pennsylvania; Determinations of Clean Data for the 2006 24-Hour Fine Particulate Standard, etc., 2941–2943

Pennsylvania; Nonattainment New Source Review Rules, 2937–2941

Approvals and Promulgations of Implementation Plans;  
Designation of Areas for Air Quality Planning  
Purposes:  
Illinois; Redesignation of the Illinois Portion of the St.  
Louis, MO–IL Area to Attainment, etc., 2943

**NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Identification, Listing and Rulemaking Petitions  
(Renewal), 2977–2979  
NESHAP for Metal Coil Surface Coating Plants (Renewal),  
2976–2977

Environmental Impact Statements; Availability, etc.:  
Weekly Receipt, 2979

Regulation of Fuel and Fuel Additives:  
Modification to Octamix Waiver, 2979–2981

**Settlements:**

Constitution Road Drum Superfund Site, Atlanta, GA,  
2981

**Executive Office of the President**

See Presidential Documents

**Federal Aviation Administration****PROPOSED RULES****Airworthiness Directives:**

Agusta S.p.A. Helicopters, 2926–2928  
Airbus Airplanes, 2928–2930  
Rolls-Royce plc (RR) Turbofan Engines, 2932–2935  
Turbomeca S.A. Turboshift Engines, 2930–2932

**NOTICES****Meetings:**

RTCA Special Committee 203; Unmanned Aircraft  
Systems, 3029–3030  
RTCA Special Committee 206; Aeronautical Information  
and Meteorological Data Link Services, 3030

Membership in the National Parks Overflights Advisory  
Group Aviation Rulemaking Committee, 3030–3031

**Release of Airport Properties:**

Tampa International Airport, Tampa, FL, 3031

**Federal Communications Commission****RULES**

Policies to Promote Rural Radio Service and to Streamline  
Allotment and Assignment Procedures, 2916–2923

**NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 2981–2982

**Federal Emergency Management Agency****RULES**

Suspension of Community Eligibility, 2912–2916

**NOTICES****Major Disaster and Related Determinations:**

Massachusetts, 2989

**Major Disaster Declarations:**

Texas; Amendment 12, 2990

**Federal Energy Regulatory Commission****NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 2963–2964

**Applications:**

Liberty Energy (Midstates) Corp., 2964–2965  
Portland, OR, 2965–2966  
Rock River Beach, Inc., 2966–2967

Combined Filings, 2967–2968

**Deadlines:**

Pomperaug Hydro Project, Andrew Peklo III, 2968

**Environmental Assessments; Availability, etc.:**

Caledonia Energy Partners, LLC, Caledonia Delta  
Pressure, DP33 Project, 2968–2970  
City and Borough of Sitka, AK, 2972  
Gibson Dam Hydroelectric Co. LLC, Montana, 2970  
Southern LNG Co. LLC, Elba BOG Compressor Project,  
2970–2972

**License Transfer Applications:**

Thunder Bay Power Co., et al., 2972–2973

**Petitions for Declaratory Orders:**

PPL Electric Utilities Corp., 2973–2974

**Preliminary Permit Applications:**

Longview Energy Exchange, LLC, 2974

**Proposed Restricted Service Lists:**

Yuba County Water Agency, 2974–2975

**Staff Attendances, 2975****Terminations of Exemptions by Implied Surrenders:**

Roosevelt Water Conservation District, 2975–2976

**Federal Reserve System****NOTICES****Changes in Bank Control:**

Acquisitions of Shares of a Bank or Bank Holding  
Company, 2982

**Fish and Wildlife Service****PROPOSED RULES****Endangered and Threatened Wildlife and Plants:**

Endangered Status for the Chupadera Springsnail and  
Designation of Critical Habitat, 2943–2946

**NOTICES****Environmental Assessments; Availability, etc.:**

Columbia National Wildlife Refuge, Adams and Grant  
Counties, WA, 2992–2993

**Environmental Impact Statements; Availability, etc.:**

Oncor Electric Delivery Co. Habitat Conservation Plan for  
100 Texas Counties, 2993–2996

National Fish, Wildlife, and Plants Climate Adaptation  
Strategy, 2996–2998

**Food and Drug Administration****PROPOSED RULES****Filing of Color Additive Petitions:**

Mars, Inc., 2935

**Foreign-Trade Zones Board****NOTICES****Applications for Manufacturing Authority:**

Liberty Pumps, Inc., Bergen, NY, 2957

**Applications for Reorganization and Expansion under**

Alternative Site Framework:

Foreign-Trade Zone 219, Yuma, AZ, 2957–2958

**Forest Service****NOTICES****Meetings:**

Lake Tahoe Basin Federal Advisory Committee, 2948

**Health and Human Services Department**

See Agency for Healthcare Research and Quality

See Centers for Medicare & Medicaid Services

See Food and Drug Administration

See National Institutes of Health

**Homeland Security Department**

See Coast Guard

See Federal Emergency Management Agency

See U.S. Citizenship and Immigration Services

**Housing and Urban Development Department****NOTICES**

Federal Property Suitable as Facilities to Assist the Homeless, 2990–2991

**Interior Department**

See Bureau of Ocean Energy Management

See Fish and Wildlife Service

See Land Management Bureau

**International Trade Administration****NOTICES**

Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc.:  
 Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam, 2958–2959  
 Polyethylene Retail Carrier Bags from the People's Republic of China, 2959  
 Prestressed Concrete Steel Wire Strand from Thailand; Correction, 2958

**International Trade Commission****NOTICES**

Complaints:

Certain Video Displays and Products Using and Containing Same, 3000–3001

Investigations; Terminations, Modifications and Rulings:  
 Certain Agricultural Vehicles and Components Thereof, 3001–3002

Certain Motion-Sensitive Sound Effects Devices and Image Display Devices and Components and Products Containing Same, 3002–3003

**Justice Department**

See Alcohol, Tobacco, Firearms, and Explosives Bureau

See Antitrust Division

**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
 Appeal from a Decision of an Immigration Judge, 3003  
 Application for Cancellation of Removal for Certain Permanent Residents, etc., 3004–3005  
 Inspection of Records Relating to Visual Depictions of Simulated Sexually Explicit Performances, 3003–3004

**Labor Department**

See Employee Benefits Security Administration

**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
 Evaluation of the Reintegration of Ex-Offenders—Adult Program, 3008

**Land Management Bureau****NOTICES**

Alaska Native Claims Selection, 2998  
 Environmental Impact Statements; Availability, etc.:  
 Segregation for the Searchlight Wind Energy Project, Clark County, Nevada, 2999–3000  
 Meetings:  
 Resource Advisory Council to the Boise District, 3000

**National Foundation on the Arts and the Humanities****NOTICES**

Meetings:

Arts and Artifacts Indemnity Panel Advisory Committee, 3009

**National Highway Traffic Safety Administration****NOTICES**

Petitions for Decision of Inconsequential Noncompliance:  
 Goodyear Tire & Rubber Co., 3031–3032

**National Institutes of Health****NOTICES**

Meetings:

Center for Scientific Review, 2986  
 National Institute of Allergy and Infectious Diseases, 2985–2987  
 National Institute of Biomedical Imaging and Bioengineering, 2987  
 National Institute of Dental and Craniofacial Research, 2987  
 National Institute of Diabetes and Digestive and Kidney Diseases, 2985, 2987–2988  
 National Institute on Aging, 2985

**National Oceanic and Atmospheric Administration****NOTICES**

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:  
 Reef Fish Fishery of the Gulf of Mexico; Exempted Fishing Permit, 2960  
 Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review:  
 Pre-workshop Webinar for HMS Blacktip Sharks, 2960–2961  
 Meetings:  
 Mid-Atlantic Fishery Management Council, 2961  
 North Pacific Fishery Management Council, 2961

**National Science Foundation****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3009

**Nuclear Regulatory Commission****PROPOSED RULES**

Meetings:

Branch Technical Position on the Import of Non-U.S. Origin Radioactive Sources, 2924–2926

**NOTICES**

Knowledge and Abilities Catalog for Nuclear Power Plant Operators:  
 Advanced Boiling Water Reactors, 3009–3010  
 Order Prohibiting Involvement in NRC-Licensed Activities:  
 Francis Guilbeau, 3010–3013

**Peace Corps****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3013–3017

**Presidential Documents****PROCLAMATIONS**

Special Observances:

Martin Luther King, Jr., Federal Holiday (Proc. 8773), 2905–2906  
 Religious Freedom Day (Proc. 8774), 2907–2908

**ADMINISTRATIVE ORDERS**

Middle East Peace Process:

Continuation of National Emergency With Respect to Terrorists Who Threaten To Disrupt (Notice of January 19, 2012), 3065–3067

**Rural Business-Cooperative Service****NOTICES**

Funding Availabilities:

Rural Energy for America Program, 2948–2954

Meetings:

Stakeholders in Rural Energy for America Program, 2954–2956

**Securities and Exchange Commission****NOTICES**

Self-Regulatory Organizations; Proposed Rule Changes:

C2 Options Exchange, Inc., 3017–3018

Financial Industry Regulatory Authority, Inc., 3019, 3027–3029

NASDAQ OMX PHLX LLC, 3026–3027

NASDAQ Stock Market LLC, 3019–3021, 3024–3026

NYSE Arca, Inc., 3026

The NASDAQ Stock Market LLC, 3021–3024

**Transportation Department***See* Federal Aviation Administration*See* National Highway Traffic Safety Administration**Treasury Department***See* Comptroller of the Currency*See* United States Mint**U.S. Citizenship and Immigration Services****NOTICES**

Designations for Temporary Protected Status and Automatic

Extensions of Employment Authorization

Documentation:

El Salvador; Salvadoran TPS Beneficiaries; Correction, 2990

**United States Mint****NOTICES**

Pricing for 2012 Annual Sets and America the Beautiful Quarters Bags and Rolls, 3035

**Veterans Affairs Department****RULES**Schedule for Rating Disabilities; Evaluation of Scars; Correction, 2909–2910

---

**Separate Parts In This Issue****Part II**

Labor Department, Employee Benefits Security Administration, 3038–3064

**Part III**Presidential Documents, 3065–3067

---

**Reader Aids**

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

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

**CFR PARTS AFFECTED IN THIS ISSUE**

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

**3 CFR****Proclamations:**

8773.....2905

8774.....2907

**Administrative Orders:**Notice of January 19,  
2012 .....3067**10 CFR****Proposed Rules:**

110.....2924

**14 CFR****Proposed Rules:**39 (4 documents) ...2926, 2928,  
2930, 2932**17 CFR**

43.....2909

**21 CFR****Proposed Rules:**

73.....2935

**33 CFR****Proposed Rules:**

95.....2935

**38 CFR**

4 (2 documents) .....2909, 2910

**40 CFR**

180.....2910

300.....2911

**Proposed Rules:**52 (3 documents) ...2937, 2941,  
2943

81.....2943

**44 CFR**

64.....2912

**46 CFR****Proposed Rules:**

16.....2935

**47 CFR**

73.....2916

**50 CFR****Proposed Rules:**

17.....2943

---

# Presidential Documents

---

Title 3—

Proclamation 8773 of January 13, 2012

The President

Martin Luther King, Jr., Federal Holiday, 2012

By the President of the United States of America

## A Proclamation

On a hot summer day nearly half a century ago, an African American preacher with no official title or rank gave voice to our Nation's deepest aspirations, sharing his dream of an America that ensured the true equality of all our people. From the steps of the Lincoln Memorial, the Reverend Dr. Martin Luther King, Jr. inspired a movement that would push our country toward a more perfect Union.

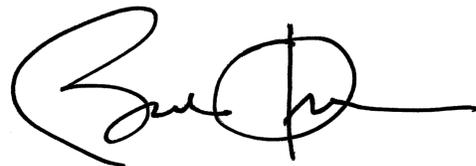
At a time when our Nation was sharply divided, Dr. King called on a generation of Americans to be “voices of reason, sanity, and understanding amid the voices of violence, hatred, and emotion.” His example stirred men and women of all backgrounds to become foot soldiers for justice, and his leadership gave them the courage to refuse the limitations of the day and fight for the prospect of tomorrow. Because these individuals showed the resilience to stand firm in the face of the fiercest resistance, we are the benefactors of an extraordinary legacy of progress.

Today, Dr. King is memorialized on the National Mall where he once spoke, a symbol of how far our Nation has come and a testament to the quiet heroes whose names may never appear in history books, but whose selflessness brought about change few thought possible. Dr. King's memorial reminds us that while the work of realizing his remarkable dream is unending, with persistence, progress is within our reach.

On the Martin Luther King, Jr., Federal Holiday, we celebrate the man who fought for the America he knew was possible. Dr. King's faith in a God who loves all His children and a Nation grounded in the promise of equality would not let him rest until victory was won. As we work to meet the challenges of our time—from fixing our schools so every child gets a world-class education to ensuring all Americans have access to strong and secure economic opportunity—let us draw strength from Dr. King's stirring affirmation that “Everybody can be great because everybody can serve.” In his memory, let us continue climbing toward that Promised Land, one more fair and more just for all people.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim January 16, 2012, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate civic, community, and service projects in honor of Dr. King, and to visit [www.MLKDay.gov](http://www.MLKDay.gov) to find Martin Luther King, Jr., Day of Service projects across our country.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of January, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.

A handwritten signature in black ink, appearing to be Barack Obama's signature, consisting of a large 'B' followed by a circle and a vertical line through it, and a horizontal line extending to the right.

---

## Presidential Documents

**Proclamation 8774 of January 13, 2012**

**Religious Freedom Day, 2012**

**By the President of the United States of America**

### **A Proclamation**

For nearly four centuries, men and women have immigrated to America's shores in pursuit of religious freedom. Hailing from diverse backgrounds and faiths, countless settlers have shared a simple aspiration—to practice their beliefs free from prejudice and persecution. In 1786, the Virginia General Assembly took a bold step toward preserving this fundamental liberty by passing the Virginia Statute for Religious Freedom, which brought to life the ideal of religious tolerance from the texts of the Enlightenment in the laws of state. On Religious Freedom Day, we celebrate this historic milestone, reflect upon the Statute's declaration that "Almighty God hath created the mind free," and reaffirm that the American people will remain forever unshackled in matters of faith.

Drafted by Thomas Jefferson, the Virginia Statute formed the basis for the First Amendment, which has preserved religious freedom for both believers and non-believers for over 220 years. As our Nation has grown, so too has its diversity of faiths, cultures, and traditions; today, individuals of rich and varied beliefs call America home and seek to follow their consciences in peace. Our long history of religious tolerance and pluralism has strengthened our country, helped create a vibrant civil society, and remained true to the principles enshrined in our founding documents.

Our Nation is committed to religious liberty not only for all Americans, but also for individuals around the world. Internationally, we bear witness to those who live in fear of violence and discrimination because of their beliefs. My Administration continues to stand with all who are denied the ability to choose, express, or live their faith freely, and we remain dedicated to protecting this universal human right and the vital role it plays in ensuring peace and stability for all nations.

Today, as we reflect on the many ways religious freedom enriches our country and our lives, let us lend our voice to all people striving to exercise their innate right to a free mind.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim January 16, 2012, as Religious Freedom Day. I call on all Americans to commemorate this day with events and activities that teach us about this critical foundation of our Nation's liberty, and show us how we can protect it for future generations at home and around the world.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of January, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.

A handwritten signature in black ink, appearing to be Barack Obama's signature, consisting of a large 'B' followed by a circle and a vertical line through it, and a horizontal line extending to the right.

# Rules and Regulations

Federal Register

Vol. 77, No. 13

Friday, January 20, 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.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 43

RIN 3038-AD08

#### Real-Time Public Reporting of Swap Transaction Data

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects language in the final rule published in the **Federal Register** of Monday, January 9, 2012, regarding the Real-Time Public Reporting of Swap Transaction Data. The Commission adopted rules to implement a framework for the real-time public reporting of swap transaction and pricing data for all swap transactions.

**DATES:** Effective March 9, 2012.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey L. Steiner, Special Counsel, Division of Market Oversight (“DMO”), at (202) 418-5482 or [jsteiner@cftc.gov](mailto:jsteiner@cftc.gov); or Susan Nathan, Senior Special Counsel, DMO, at (202) 418-5133 or [snathan@cftc.gov](mailto:snathan@cftc.gov).

#### Correction

In the final rule, FR Doc. 2011-33173, on page 1228 in the issue of Monday, January 9, 2012, the following correction is made:

On page 1228 in the middle column, beginning on the twelfth line from the top, the text “(1) July 16, 2012 of this Adopting Release in the **Federal Register**,” is corrected to read “(1) July 16, 2012,”.

Dated: January 13, 2012.

**David A. Stawick,**  
Secretary of the Commission.

[FR Doc. 2012-1031 Filed 1-19-12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 4

RIN 2900-AM55

#### Schedule for Rating Disabilities; Evaluation of Scars; Correction

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Correcting amendment.

**SUMMARY:** The Department of Veterans Affairs (VA) published in the **Federal Register** of September 23, 2008, a document amending its Schedule for Rating Disabilities by revising that portion of the Schedule that addresses the Skin, so that it more clearly reflected VA’s policies concerning the evaluation of scars. In the preamble of that document, VA incorrectly stated the applicability date. VA made a similar error in the first sentence of the introductory paragraph of 38 CFR 4.118. This document corrects the error in the introductory paragraph of § 4.118.

**DATES:** This correction is effective January 20, 2012.

**FOR FURTHER INFORMATION CONTACT:** William F. Russo, Deputy Director, Office of Regulation Policy & Management (O2REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or call (202) 461-4902 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On September 23, 2008, VA published in the **Federal Register** (73 FR 54708), an amendment to that portion of the Schedule for Rating Disabilities that addresses the Skin, 38 CFR 4.118, by revising the criteria for the evaluation of scars. In the **DATES** section of the rule document, we incorrectly stated the applicability date. As published, the relevant portion of the applicability date paragraph read, “This amendment shall apply to all applications for benefits received by VA on or after October 23, 2008. A veteran whom VA rated before such date under diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805 of 38 CFR 4.118 may request review under these clarified criteria \* \* \*.” We made a similar error by amending 38 CFR 4.118 to state, “A veteran who VA rated under diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805 before October 23, 2008 can request review under diagnostic codes 7800, 7801, 7802, 7804, and 7805 \* \* \*.”

As a result of the errors in the applicability date and in amended § 4.118, the rule document and the regulation are unclear about whether veterans whose claims were filed before October 23, 2008, but were not rated before that date may request review under the new criteria. A strict, literal reading of the applicability-date language and § 4.118 might suggest that veterans with such unrated claims would be rated under the old criteria with no opportunity to request review under the new criteria. We intended such claims to be rated under the old criteria subject to the right of the claimant to request review under the revised criteria. Neither the applicability-date language nor § 4.118 addressed whether veterans with such claims may request review. We did not intend the strict reading because it would be irrational to deny the opportunity for review under the new criteria to persons whose pending claims had not yet been rated before October 23, 2008, while providing the opportunity to persons whose claims had been rated, even though all of the claims had been filed before that date.

This correction document revises the introductory sentence of § 4.118 to state, in pertinent part, “A veteran whose scars were rated by VA under a prior version of diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805, as in effect before October 23, 2008, may request review under diagnostic codes 7800, 7801, 7802, 7804, and 7805 \* \* \*.” Note that the “rated by VA under a prior version” language would encompass claims that have received an initial rating but are still pending in the appeals process.

#### List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Approved:

**William F. Russo,**

Deputy Director, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.

For the reason set out in the preamble, VA is correcting 38 CFR Part 4 as follows:

#### PART 4—SCHEDULE FOR RATING DISABILITIES

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

**Authority:** 38 U.S.C. 1155, unless otherwise noted.

### Subpart B—Disability Ratings

■ 2. In the introductory paragraph of § 4.118, revise the first sentence to read as follows:

#### § 4.118 Schedule of ratings—skin.

A veteran whose scars were rated by VA under a prior version of diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805, as in effect before October 23, 2008, may request review under diagnostic codes 7800, 7801, 7802, 7804, and 7805, irrespective of whether his or her disability has worsened since the last review. \* \* \*

\* \* \* \* \*

[FR Doc. 2012–1001 Filed 1–19–12; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 4

RIN 2900–AM55

#### Schedule for Rating Disabilities; Evaluation of Scars; Correction

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published in the **Federal Register** of September 23, 2008, a document amending its Schedule for Rating Disabilities by revising that portion of the Schedule that addresses the Skin, so that it more clearly reflected VA's policies concerning the evaluation of scars. In the preamble of that document, VA incorrectly stated the applicability date. VA made a similar error in the first sentence of the introductory paragraph of 38 CFR 4.118. This document corrects the error in the applicability date.

**DATES:** This correction is effective January 20, 2012. The applicability date of rule document E8–21980 on page 54708 in the issue of Tuesday, September 23, 2008, is corrected as of October 23, 2008.

**FOR FURTHER INFORMATION CONTACT:** William F. Russo, Deputy Director, Office of Regulation Policy & Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, or call (202) 461–4902 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On September 23, 2008, VA published in the **Federal Register** (73 FR 54708), an amendment to that portion of the Schedule for Rating Disabilities that

addresses the Skin, 38 CFR 4.118, by revising the criteria for the evaluation of scars. In the **DATES** section of the rule document, we incorrectly stated the applicability date. As published, the relevant portion of the applicability date paragraph read, “This amendment shall apply to all applications for benefits received by VA on or after October 23, 2008. A veteran whom VA rated before such date under diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805 of 38 CFR 4.118 may request review under these clarified criteria \* \* \*.” We made a similar error by amending 38 CFR 4.118 to state, “A veteran who VA rated under diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805 before October 23, 2008 can request review under diagnostic codes 7800, 7801, 7802, 7804, and 7805 \* \* \*.”

As a result of the errors in the applicability date and in amended § 4.118, the rule document and the regulation are unclear about whether veterans whose claims were filed before October 23, 2008, but were not rated before that date may request review under the new criteria. A strict, literal reading of the applicability-date language and § 4.118 might suggest that veterans with such unrated claims would be rated under the old criteria with no opportunity to request review under the new criteria. We intended such claims to be rated under the old criteria subject to the right of the claimant to request review under the revised criteria. Neither the applicability-date language nor § 4.118 addressed whether veterans with such claims may request review. We did not intend the strict reading because it would be irrational to deny the opportunity for review under the new criteria to persons whose pending claims had not yet been rated before October 23, 2008, while providing the opportunity to persons whose claims had been rated, even though all of the claims had been filed before that date.

This correction document adds a new second sentence to the applicability date paragraph, “The old criteria will apply to applications received by VA before that date.” To be consistent with the new second sentence, this correction document also revises the third sentence (the original second sentence) to state, ““However, a veteran whose scars were rated by VA under a prior version of diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805 of 38 CFR 4.118, as in effect prior to the effective date of this rule, may request review under these clarified criteria, irrespective of whether his or her disability has worsened since the last review.” Note that the “rated by VA

under a prior version” language would encompass claims that have received an initial rating but are still pending in the appeals process.

#### List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

**William F. Russo,**

*Deputy Director, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reason set out in the preamble, in rule document E8–21980 on page 54708 in the issue of Tuesday, September 23, 2008, make the following corrections:

1. In the second column of page 54708, under the **DATES** section, in the *Applicability Date* paragraph, revise the second sentence to read, “However, a veteran whose scars were rated by VA under a prior version of diagnostic codes 7800, 7801, 7802, 7803, 7804, or 7805 of 38 CFR 4.118, as in effect prior to the effective date of this rule, may request review under these clarified criteria, irrespective of whether his or her disability has worsened since the last review.”

2. In the second column of page 54708, under the **DATES** section, in the *Applicability Date* paragraph, add as a new second sentence, “The old criteria will apply to applications received by VA before that date.”

[FR Doc. 2012–1002 Filed 1–19–12; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA–HQ–OPP–2010–0944; FRL–9334–3]

#### Bacillus Amyloliquefaciens Strain D747; Exemption From the Requirement of a Tolerance; Technical Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of January 6, 2012, concerning the establishment of an exemption from the requirement of a tolerance for residues of *Bacillus amyloliquefaciens strain D747* (formerly known as *Bacillus subtilis variant amyloliquefaciens strain D747*). This document is being issued to correct the typographical error in the codified section number.

**DATES:** This final rule is effective January 20, 2012.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2010-0944. All documents in the docket are listed in the docket index available in <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Susanne Cerrelli, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington DC 20460-0001; telephone number: (703) 308-8077; email address: [cerrelli.susanne@epa.gov](mailto:cerrelli.susanne@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Does this action apply to me?**

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

**II. What does this technical correction do?**

EPA is correcting the section designation for § 180.308, which was added to 40 CFR in the **Federal Register** of January 6, 2012, (77 FR 745). This section was inadvertently designated as § 180.308. EPA is correcting the section number by redesignating § 180.308 as § 180.1308.

**III. Why is this correction issued as a final rule?**

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an

opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment, because EPA is merely making a technical change to the section number which is not a substantive change. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

**IV. Do any of the statutory and executive order reviews apply to this action?**

All applicable statutory requirements were discussed in the final rule that was printed on January 6, 2012. The only other statutory requirement deemed necessary is discussed above.

**V. 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: January 9, 2012.

**Steven Bradbury,**

*Director, Office of Pesticide Programs.*

■ Therefore, 40 CFR part 180 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.

**§ 180.308 [Redesignated as § 180.1308]**

■ 2. Redesignate § 180.308 as § 180.1308.

[FR Doc. 2012-994 Filed 1-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA-R04-SFUND-2011-0749; FRI-9620-1]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Martin-Marietta/Sodyeco Superfund Site**

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 4 announces the deletion of the Martin-Marietta/Sodyeco Superfund Site (Site) located at 11701 Mount Holly Road in Charlotte, North Carolina, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of North Carolina, through the Department of Environment and Natural Resources (DENR), have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** *Effective Date:* This action is effective January 20, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-SFUND-2011-0749. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories. Locations, contacts, phone numbers and viewing hours are:

Regional Site Information Repository:  
U.S. EPA Record Center, Attn:  
Ms. Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street SW.,  
Atlanta, Georgia 30303-8960. Hours of Operation (by appointment only):

8 a.m. to 4 p.m., Monday through Friday.

Local Site Information Repository: Mount Holly Public Library, 235 West Catawba Avenue, Mount Holly, North Carolina 28120–1603. Hours of operation: 10 a.m.–6 p.m., Monday, Tuesday, Thursday and Friday. 10 a.m.–2 p.m., Wednesday and Saturday.

**FOR FURTHER INFORMATION CONTACT:**

Michael Townsend, Remedial Project Manager, Superfund Remedial Section, Superfund Remedial Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960, (404) 562–8813, Electronic mail at: [townsend.michael@epa.gov](mailto:townsend.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:** The site to be deleted from the NPL is: Martin-Marietta/Sodyeco Superfund Site (Site) located at 11701 Mount Holly Road in Charlotte, North Carolina. A Notice of Intent to Delete for this Site was published in the **Federal Register** on November 18, 2011.

The closing date for comments on the Notice of Intent to Delete was December 17, 2011. No public comments were received during the comment period. Therefore a responsiveness summary was not prepared and placed in the docket, EPA–R04–SFUND–2011–0749, on [www.regulations.gov](http://www.regulations.gov), or in the local repositories listed above.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 22, 2011.

**Gwendolyn Keyes Fleming**,  
Regional Administrator, Region 4.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

**PART 300—[AMENDED]**

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to Part 300 is amended by removing “Martin-Marietta, Sodyeco, Inc.,” “Charlotte” under NC.

[FR Doc. 2012–1100 Filed 1–19–12; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 64**

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–8215]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

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

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

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

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase Federal flood insurance that is not

otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59.

Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

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

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension

date. Since these notifications were made, this final rule may take effect within less than 30 days.

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

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

requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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

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

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

*Paperwork Reduction Act.* This rule does not involve any collection of information for purposes of the

Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.  
Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

■ 1. The authority citation for part 64 continues to read as follows:

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

**§ 64.6 [Amended]**

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
<b>Region III</b>				
Maryland: Baltimore, City of, Independent City.	240087	December 3, 1971, Emerg; March 15, 1978, Reg; February 2, 2012, Susp.	Feb. 2, 2012 .....	Feb. 2, 2012.
West Virginia:				
Auburn, Town of, Ritchie County .....	540262	April 7, 1975, Emerg; September 24, 1984, Reg; February 2, 2012, Susp.	.....do* .....	Do.
Bancroft, Town of, Putnam County .....	540165	July 1, 1975, Emerg; December 18, 1985, Reg; February 2, 2012, Susp.	.....do .....	Do.
Buffalo, Town of, Putnam County .....	540166	July 16, 1975, Emerg; December 18, 1985, Reg; February 2, 2012, Susp.	.....do .....	Do.
Cairo, Town of, Ritchie County .....	540179	August 27, 1975, Emerg; March 18, 1991, Reg; February 2, 2012, Susp.	.....do .....	Do.
Eleanor, Town of, Putnam County .....	540222	June 23, 1975, Emerg; February 6, 1984, Reg; February 2, 2012, Susp.	.....do .....	Do.
Ellenboro, Town of, Ritchie County .....	540180	August 21, 1975, Emerg; August 24, 1984, Reg; February 2, 2012, Susp.	.....do .....	Do.
Harrisville, Town of, Ritchie County .....	540132	N/A, Emerg; February 7, 2006, Reg; February 2, 2012, Susp.	.....do .....	Do.
Hurricane, City of, Putnam County .....	540167	July 11, 1975, Emerg; March 4, 1986, Reg; February 2, 2012, Susp.	.....do .....	Do.
Pennsboro, City of, Ritchie County .....	540182	July 2, 1975, Emerg; September 16, 1988, Reg; February 2, 2012, Susp.	.....do .....	Do.
Poca, Town of, Putnam County .....	540168	April 17, 1975, Emerg; December 18, 1985, Reg; February 2, 2012, Susp.	.....do .....	Do.
Pullman, Town of, Ritchie County .....	540263	September 22, 1977, Emerg; September 10, 1984, Reg; February 2, 2012, Susp.	.....do .....	Do.
Putnam County, Unincorporated Areas	540164	May 11, 1976, Emerg; June 18, 1987, Reg; February 2, 2012, Susp.	.....do .....	Do.
Ritchie County, Unincorporated Areas ..	540224	September 1, 1976, Emerg; January 1, 1991, Reg; February 2, 2012, Susp.	.....do .....	Do.
Winfield, Town of, Putnam County .....	540271	June 10, 1975, Emerg; December 18, 1985, Reg; February 2, 2012, Susp.	.....do .....	Do.
<b>Region IV</b>				
Florida:				
Brooksville, City of, Hernando County ..	120333	October 30, 1974, Emerg; June 1, 1982, Reg; February 2, 2012, Susp.	.....do .....	Do.
Crescent City, City of, Putnam County	120408	November 28, 1975, Emerg; December 18, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.
Hernando County, Unincorporated Areas.	120110	August 27, 1974, Emerg; April 17, 1984, Reg; February 2, 2012, Susp.	.....do .....	Do.
Interlachen, Town of, Putnam County ...	120391	July 24, 1975, Emerg; December 4, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.
Palatka, City of, Putnam County .....	120273	January 20, 1975, Emerg; June 4, 1980, Reg; February 2, 2012, Susp.	.....do .....	Do.
Pomona Park, Town of, Putnam County	120418	July 9, 1976, Emerg; December 4, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Putnam County, Unincorporated Areas	120272	November 15, 1973, Emerg; September 16, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Weeki Wachee, City of, Hernando County.	120413	June 30, 1998, Emerg; N/A, Reg; February 2, 2012, Susp.	.....do .....	Do.
<b>Mississippi:</b>				
Coahoma County, Unincorporated Areas.	280038	August 9, 1974, Emerg; February 1, 1980, Reg; February 2, 2012, Susp.	.....do .....	Do.
Clarksdale, City of, Coahoma County ...	280039	April 2, 1974, Emerg; March 4, 1980, Reg; February 2, 2012, Susp.	.....do .....	Do.
Coahoma, Town of, Coahoma County ..	285264	February 26, 2009, Emerg; N/A, Reg; February 2, 2012, Susp.	.....do .....	Do.
Friar's Point, Town of, Coahoma County.	280040	August 26, 1975, Emerg; August 19, 1987, Reg; February 2, 2012, Susp.	.....do .....	Do.
Jonestown, Town of, Coahoma County	280041	July 28, 1975, Emerg; September 28, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.
Lula, Town of, Coahoma County .....	280042	May 22, 1975, Emerg; August 1, 1986, Reg; February 2, 2012, Susp.	.....do .....	Do.
<b>Region V</b>				
<b>Indiana:</b>				
Crawfordsville, City of, Montgomery County.	180171	March 24, 1975, Emerg; February 1, 1994, Reg; February 2, 2012, Susp.	.....do .....	Do.
Darlington, Town of, Montgomery County.	180321	May 1, 1975, Emerg; May 25, 1978, Reg; February 2, 2012, Susp.	.....do .....	Do.
Montgomery County, Unincorporated Areas.	180445	June 11, 1997, Emerg; June 1, 1998, Reg; February 2, 2012, Susp.	.....do .....	Do.
Waynetown, Town of, Montgomery County.	180175	February 9, 2000, Emerg; N/A, Reg; February 2, 2012, Susp.	.....do .....	Do.
<b>Michigan:</b>				
Allen Park, City of, Wayne County .....	260217	March 23, 1973, Emerg; February 17, 1982, Reg; February 2, 2012, Susp.	.....do .....	Do.
Brownstown, Charter Township of, Wayne County.	260218	August 23, 1974, Emerg; August 16, 1982, Reg; February 2, 2012, Susp.	.....do .....	Do.
Canton, Township of, Wayne County ...	260219	April 14, 1975, Emerg; September 2, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Dearborn, City of, Wayne County .....	260220	March 9, 1973, Emerg; April 20, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.
Dearborn Heights, City of, Wayne County.	260221	January 12, 1973, Emerg; May 2, 1983, Reg; February 2, 2012, Susp.	.....do .....	Do.
Detroit, City of, Wayne County .....	260222	February 2, 1973, Emerg; July 2, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Ecorse, City of, Wayne County .....	260223	August 1, 1973, Emerg; May 1, 1978, Reg; February 2, 2012, Susp.	.....do .....	Do.
Flat Rock, City of, Wayne County .....	260224	August 15, 1975, Emerg; December 1, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Gibraltar, City of, Wayne County .....	260226	February 9, 1973, Emerg; June 15, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.
Grosse Ile, Township of, Wayne County	260227	February 23, 1973, Emerg; August 1, 1980, Reg; February 2, 2012, Susp.	.....do .....	Do.
Grosse Pointe, City of, Wayne County	260228	February 16, 1973, Emerg; September 1, 1988, Reg; February 2, 2012, Susp.	.....do .....	Do.
Grosse Pointe Farms, City of, Wayne County.	260229	February 9, 1973, Emerg; December 10, 1982, Reg; February 2, 2012, Susp.	.....do .....	Do.
Grosse Pointe Park, City of, Wayne County.	260230	December 8, 1972, Emerg; January 3, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.
Grosse Pointe Shores, Village of, Wayne County.	260250	December 22, 1972, Emerg; January 3, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.
Huron, Township of, Wayne County .....	260545	May 28, 1982, Emerg; October 17, 1986, Reg; February 2, 2012, Susp.	.....do .....	Do.
Inkster, City of, Wayne County .....	260232	February 23, 1973, Emerg; March 2, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.
Lincoln Park, City of, Wayne County ....	260234	May 16, 1974, Emerg; November 17, 1982, Reg; February 2, 2012, Susp.	.....do .....	Do.
Livonia, City of, Wayne County .....	260233	February 16, 1973, Emerg; November 4, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Northville, City of, Wayne County .....	260235	March 29, 1976, Emerg; September 16, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Northville, Township of, Wayne County	260669	December 23, 1977, Emerg; September 16, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Plymouth, Charter Township of, Wayne County.	260237	August 6, 1975, Emerg; March 2, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Plymouth, City of, Wayne County .....	260236	August 6, 1975, Emerg; February 18, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Redford, Township of, Wayne County ..	260238	November 26, 1971, Emerg; March 16, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
River Rouge, City of, Wayne County ....	260239	May 12, 1973, Emerg; January 5, 1978, Reg; February 2, 2012, Susp.	.....do .....	Do.
Riverview, City of, Wayne County .....	260240	October 8, 1976, Emerg; September 16, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Rockwood, City of, Wayne County .....	260241	April 24, 1973, Emerg; June 15, 1979, Reg; February 2, 2012, Susp.	.....do .....	Do.
Southgate, City of, Wayne County .....	260242	May 14, 1973, Emerg; September 15, 1978, Reg; February 2, 2012, Susp.	.....do .....	Do.
Sumpter, Township of, Wayne County	260243	September 3, 1976, Emerg; May 5, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Taylor, City of, Wayne County .....	260728	November 25, 1986, Emerg; November 25, 1986, Reg; February 2, 2012, Susp.	.....do .....	Do.
Trenton, City of, Wayne County .....	260244	March 30, 1973, Emerg; August 17, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Wayne, City of, Wayne County .....	260245	April 3, 1975, Emerg; August 15, 1980, Reg; February 2, 2012, Susp.	.....do .....	Do.
Westland, City of, Wayne County .....	260739	January 22, 1985, Emerg; January 22, 1985, Reg; February 2, 2012, Susp.	.....do .....	Do.
Woodhaven, City of, Wayne County .....	260730	April 24, 1989, Emerg; April 24, 1989, Reg; February 2, 2012, Susp.	.....do .....	Do.
<b>Wisconsin:</b>				
Douglas County, Unincorporated Areas	550538	April 26, 1974, Emerg; February 4, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Lake Nebagamon, Village of, Douglas County.	550112	June 5, 1975, Emerg; August 15, 1978, Reg; February 2, 2012, Susp.	.....do .....	Do.
Oliver, Village of, Douglas County .....	550113	April 17, 1984, Emerg; N/A, Reg; February 2, 2012, Susp.	.....do .....	Do.
Poplar, Village of, Douglas County .....	550114	September 1, 1976, Emerg; September 1, 1986, Reg; February 2, 2012, Susp.	.....do .....	Do.
Solon Springs, Village of, Douglas County.	550115	July 24, 1975, Emerg; August 15, 1978, Reg; February 2, 2012, Susp.	.....do .....	Do.
Superior, City of, Douglas County .....	550116	November 21, 1973, Emerg; April 3, 1978, Reg; February 2, 2012, Susp.	.....do .....	Do.
<b>Region VI</b>				
<b>Arkansas:</b>				
Amity, City of, Clark County .....	050303	July 27, 2011, Emerg; N/A, Reg; February 2, 2012, Susp.	.....do .....	Do.
Arkadelphia, City of, Clark County .....	050029	August 16, 1974, Emerg; April 15, 1981, Reg; February 2, 2012, Susp.	.....do .....	Do.
Caddo Valley, Town of, Clark County ...	050567	December 10, 1982, Emerg; May 1, 1985, Reg; February 2, 2012, Susp.	.....do .....	Do.
Gurdon, City of, Clark County .....	050239	September 8, 1975, Emerg; September 4, 1985, Reg; February 2, 2012, Susp.	.....do .....	Do.
Kingsland, City of, Cleveland County ....	050039	April 11, 1975, Emerg; October 12, 1982, Reg; February 2, 2012, Susp.	.....do .....	Do.
<b>Region X</b>				
<b>Oregon:</b>				
Crook County, Unincorporated Areas ...	410050	February 14, 1975, Emerg; July 17, 1989, Reg; February 2, 2012, Susp.	.....do .....	Do.
Prineville, City of, Crook County .....	410051	January 30, 1975, Emerg; July 17, 1989, Reg; February 2, 2012, Susp.	.....do .....	Do.

\*do = Ditto.

Code for reading third column: Emerg. —Emergency; Reg. —Regular; Susp. —Suspension.

Dated: January 12, 2012.

**David L. Miller,**

*Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2012-1103 Filed 1-19-12; 8:45 am]

**BILLING CODE 9110-12-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 09-52; FCC 11-190]

#### Policies To Promote Rural Radio Service and To Streamline Allotment and Assignment Procedures

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopted procedures designed to promote the initiation of commercial FM radio service by and to Native American tribes, by providing a procedure for such tribes to establish threshold qualifications when applying for commercial FM allotments added to the Table of Allotments using the Commission's Tribal Priority.

**DATES:** The rules and policies established in this order contain information collection requirements that have not been approved by OMB. The Commission will publish a document in the **Federal Register** announcing the effective date.

**ADDRESSES:** Peter Doyle or Thomas Nessinger, Federal Communications Commission, Media Bureau, Audio Division, 445 12th Street SW., Room 2-B450, Washington, DC 20445.

**FOR FURTHER INFORMATION CONTACT:** Peter Doyle, Chief, Media Bureau, Audio Division, (202) 418-2700 or *Peter.Doyle@fcc.gov*; Thomas Nessinger, Attorney-Advisor, Media Bureau, Audio Division, (202) 418-2700 or *Thomas.Nessinger@fcc.gov*.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at (202) 418-2918, or via the Internet at *Cathy.Williams@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Third Report and Order (Third R&O), FCC 11-190, adopted December 28, 2011, and released December 29, 2011. The full text of the Third R&O is available for inspection and copying during regular business hours in the FCC

Reference Center, 445 Twelfth Street SW., Room CY-A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 Twelfth Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, <http://www.bcp.com>, or call 1-(800) 378-3160. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: (202) 418-0530 or TTY: (202) 418-0432.

#### Paperwork Reduction Act of 1995 Analysis

This Third R&O adopts new or revised information collection requirements, subject to the Paperwork Reduction Act of 1995 (PRA) (Pub. L. 104-13, 109 Stat 163 (1995) (codified in 44 U.S.C. 3501-3520)). These information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. The Commission will publish a separate notice in the **Federal Register** inviting comment on the new or revised information collection requirements adopted in this document. The requirements will not go into effect until OMB has approved them and the Commission has published a notice announcing the effective date of the information collection requirements. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), it previously sought specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

#### Synopsis of Order

1. In the Third R&O, the Commission addressed the proposals set forth in the Second Further Notice of Proposed Rule Making (Second FNPRM) that accompanied the Second Report and Order in this proceeding (76 FR 9797, March 4, 2010, FCC 11-28, rel. Mar. 3, 2011) (Second R&O). The Tribal Priority gives qualified Native American Tribes and Alaska Native Villages (Tribes) a priority under section 307(b) of the Communications Act when seeking to establish new radio stations that primarily cover tribal lands. Because applicants for new AM broadcast and FM noncommercial educational (NCE) broadcast stations submit showings under section 307(b) at the time of filing

an application for construction permit, the Tribal Priority gives Tribes an advantage over applicants filing mutually exclusive proposals. However, in the case of commercial FM broadcast stations, there is a two-step application process: first, the FM channel is allotted at a selected community, and the section 307(b) evaluation is made at this stage of the process. Second, the FM allotment is auctioned, with any party desiring to do so participating in the auction. An application for an FM commercial construction permit is only filed after the auction is held, and only by the winning bidder.

2. Recognizing "the risks inherent in applying a section 307(b) preference at the allotment stage for auctionable non-reserved band spectrum," (First Report and Order, 75 FR 9797, Mar. 4, 2010, FCC 10-24, rel. Feb. 23, 2010), the Commission sought comment in the Further Notice of Proposed Rule Making, 75 FR 9856, March 4, 2010, FCC 10-24, rel. Feb. 23, 2010 (FNPRM) in this proceeding on whether to establish an auction bidding credit for Tribes seeking to provide commercial FM radio service to their Tribal Lands and members. The Tribal bidding credit was originally proposed to mitigate concerns that, due to the two-step nature of the commercial FM licensing process, Tribes or Tribal entities that employ the Tribal Priority to obtain FM allotments might be outbid by competing, non-Tribal applicants. The only commenters to address this issue proposed a 35 percent bidding credit that would be available to Tribes or Tribal entities that participated in the allotment proceeding for the FM channel being auctioned, regardless of new entrant status, along with an additional 25 percent new entrant bidding credit to Tribes with no interests in media of mass communications, for a total maximum bidding credit of 60 percent.

3. The Commission found the record inconclusive as to the effectiveness of tribal bidding credits. The Commission was unclear as to whether and how it could craft such credits so as to meaningfully advance its goals consistent with the competitive bidding mandate of 47 U.S.C. 309(j). On further consideration, the Commission believed an alternative approach might be more effective to achieve its policy goals and would be more consistent with its statutory mandate to license spectrum in the public interest. The Commission thus sought comment, in the Second FNPRM, on whether to require, as a threshold qualification to apply for a commercial FM channel allotted pursuant to the Tribal Priority, that

applicants qualify for a Tribal Priority for the channel. Under this approach, a Tribe or Tribal entity applying for an FM channel allotted based on the Tribal Priority would be required to establish at the application stage its qualifications to provide the service for which the channel was specifically allotted.

4. The Commission stated that the proposed threshold qualifications would be more effective than tribal bidding credits in advancing the Tribal Priority's goals. As set forth in the First R&O, the Priority is premised on the unique ability of Tribes and Tribal entities to serve their Tribal communities "[b]ecause of their status as sovereign nations responsible for, among other things, 'maintaining and sustaining their sacred histories, languages, and traditions.'" (First R&O, 25 FCC Rcd at 1587-88). As the Commission previously noted, the identity of the service provider to Tribal areas is critical to Tribal Priority-based allocations. Whereas in AM and NCE radio services the Tribal Priority generally operates as a dispositive preference in the application process, guaranteeing that a qualified applicant will obtain the license, commercial FM licensing is a two-step process in which a dispositive preference at the initial, allotment stage does not guarantee the grant of a license in the second, application step. An unavoidable consequence of the auctions process is that Tribes and Tribal entities uniquely qualified to serve their communities may be outbid in the commercial FM application process by non-Tribal applicants that file mutually exclusive applications. At best, Tribal bidding credits could only enhance the competitive position of Tribal applicants. They could not, however, completely eliminate the risk of qualified Tribal applicants being outbid, thereby frustrating the Commission's goals in allocating the channel pursuant to the Tribal Priority. In contrast, the proposed threshold qualification requirement would ensure that only a Tribe or Tribal entity qualified to provide the unique service contemplated by the allocation is eligible for the license to provide that service. Such an approach would set the commercial FM service on the same footing as other radio services with regard to the Tribal Priority, and avoid undermining the Commission's policy goals in establishing the Tribal Priority.

5. The Commission further stated that the proposed threshold qualifications would be consistent with its statutory mandate under 47 U.S.C. 309(j)(6)(E), which provides, in pertinent part, that "[n]othing in this subsection, or in the

use of competitive bidding, shall \* \* \* be construed to relieve the Commission of the obligation in the public interest to continue to use \* \* \* threshold qualifications \* \* \* in order to avoid mutual exclusivity in application and licensing proceedings." The use of threshold qualifications would serve the public interest because the premise of the Tribal Priority is a Tribe's or Tribal entity's unique ability to serve the needs and interests of its local community. Unlike a prohibited "pioneer's preference," which would favor the application of the party that petitioned to add an allotment using the Tribal Priority, the threshold qualification would be based on the Tribe's or Tribal entity's ability to fulfill the purpose for which the channel was allotted under the Tribal Priority, rather than on its participation in the allotment proceeding. Thus, eligible Tribes or Tribal entities may be eligible to apply for a channel allotted pursuant to the Tribal Priority even if they did not petition for the allotment. To the extent that mutually exclusive applications may still be filed under the proposed threshold qualifications approach, thus requiring competitive bidding, the bidders would initially be limited to qualified Tribes and Tribal entities, so the Commission's policy goals would not be frustrated. In the Second FNPRM, the Commission also asked whether to adopt an exception to the general prohibition of collusion set forth in 47 CFR 1.2105(c), applicable to mutually exclusive applications in the commercial FM broadcast service, so that Tribes or Tribal entities that file mutually exclusive applications for a channel allotted pursuant to the Tribal Priority could have an opportunity to resolve any mutual exclusivities through engineering solutions or settlement.

6. The Commission received two comments and one reply comment on these issues: NPM and NCAI again filed joint comments, and Gila River Telecommunications, Inc. (GRTI) filed comments and reply comments. All commenters supported the threshold qualifications approach as proposed in the Second FNPRM, and supported the proposal to allow settlements among qualifying mutually exclusive Tribal applicants. All commenters also concurred an FM allotment added by a qualified Tribe or Tribal-owned entity using the Tribal Priority (Tribal Allotment) should be initially awarded only to a Tribe or Tribal entity, and should remain reserved for such an entity even if no Tribal applicants meeting such threshold qualifications

express interest in a Tribal Allotment when initially offered. NPM/NCAI in particular believed that it would frustrate the purpose of the Tribal Priority to open, then abruptly close, a Tribal filing window, only to offer the Tribal Allotment to non-Tribal applicants, given that many financial, technical, and geographic obstacles exist to the rapid deployment of broadcast radio service to tribal lands. NPM/NCAI thus argued that any threshold qualifications plan should account for such obstacles, and should allow sufficient time for Tribes to finance and construct facilities. GRTI, while agreeing with NPM/NCAI on this point, added that some Tribes are prepared and eager to begin station construction quickly, but that such desires can be thwarted by what it perceives as Commission delays. GRTI thus suggested that the Commission implement an "expedited processing" system for Tribes meeting threshold qualifications and proposing new AM, full-power FM, and low-power FM facilities.

7. Based on the Commission's examination of the record in this proceeding, it adopted the proposed threshold qualifications approach to commercial FM application processing as set forth below, including measures to address situations in which Tribes and Tribal entities require additional time to apply for a license. While committed to assisting Tribes in establishing radio service meeting the needs of their communities and citizens, the Commission was also mindful of its fundamental interest in expediting new radio service to communities and preventing the so-called "warehousing" of scarce spectrum. The latter concern militates against procedures that would unreasonably delay authorizing new stations, or tie up spectrum for indefinite periods of time. To some extent, a Tribe may time the award of a new FM commercial facility by petitioning for a new Tribal Allotment only when it is ready to commence construction (although, in certain areas where spectrum is more scarce, Tribes could also reasonably conclude that the risks of deferring application filing are too great). Moreover, while there do exist financial obstacles to initiating new broadcast service, the procedures proposed in the Second FNPRM apply only to commercial FM facilities, which by their nature are intended to be financially self-sustaining. Finally, as GRTI pointed out in its comments, some Tribes are ready, willing, and able to commence construction immediately, and would be disserved by any process

that includes built-in delays. The adopted procedures are intended to balance these concerns by accommodating both those Tribes and Tribal entities that wish to initiate commercial FM service quickly and those that might need additional time to muster the resources needed to apply for a new station and complete construction.

8. Under the threshold qualifications procedure adopted herein, once a Tribal Allotment is allocated, as set forth in the First R&O, within a reasonable period of time after publication of the new allotment in the **Federal Register**, the Commission will announce by Public Notice a Threshold Qualifications Window (TQ Window). During the TQ Window, any Tribe or Tribal entity that could qualify to add that particular Tribal Allotment, including the original proponent of the allotment, may file FCC Form 301 for the Tribal Allotment (the original Tribal Allotment proponent will already have filed FCC Form 301 simultaneously with its Petition for Rule Making proposing the new allotment, under established Commission procedures; thus, the original Tribal Allotment proponent need only submit a notice stating that it wishes its pending Form 301 application to be processed immediately, or it may file an amendment to its pending Form 301 application during the TQ Window, as appropriate). Such an applicant must demonstrate that it meets all of the following eligibility criteria for grant of a Tribal Priority at the allotment stage:

(A) The applicant is either a federally recognized Tribe or Tribal consortium, or an entity 51 percent or more of which is owned or controlled by a Tribe or Tribes. Qualifying Tribes or Tribal entities must be those at least a portion of whose Tribal Lands lie within the principal community contour of the proposed facility. Although the 51 or greater percent Tribal control threshold need not consist of a single Tribe, the qualifying entity must be 51 percent or more owned or controlled by Tribes at least a portion of whose Tribal Lands lie within the proposed facility's principal community contour;

(B)(1) At least 50 percent of the area within the proposed principal community contour is over that Tribe's Tribal Lands, or (2) the proposed principal community contour (a) encompasses 50 percent or more of that Tribe's Tribal Lands, (b) serves at least 2,000 people living on Tribal Lands, and (c) the total population on Tribal Lands residing within the proposed station's service contour (the class reference contour as set forth in 47 CFR 73.211(b), which is the 1mV/m [60 dBμ] contour)

constitutes at least 50 percent of the total covered population (and, in the case of either (B)(1) or (B)(2), the proposed station's principal community contour does not cover more than 50 percent of the Tribal Lands of a Tribe that is not a party to the application). To the extent that a Tribe lacks Tribal Lands, the applicant may demonstrate eligibility for waiver of the above-listed tribal land coverage provisions, by demonstrating a geographic area identified with the Tribe. See Second R&O, 26 FCC Rcd at 2561–63. Likewise, the Commission will consider requests for waiver of the other requirements where appropriate;

(C) The proposed community of license must be located on Tribal Lands; and

(D) The proposed service must constitute first or second aural (reception) service, or first local Tribal-owned commercial transmission service at the proposed community of license (see First R&O, 25 FCC Rcd 1583, 1596–97 (2010); Second R&O, 26 FCC Rcd at 2561–63, 2586–87).

9. If only one acceptable application is filed during the TQ Window, whether by the original Tribal Allotment proponent submitting notification to process its application immediately or by another qualified applicant, that application will be processed promptly, and the Tribal Allotment will not be auctioned. Absent an affirmative submission by the original Tribal Allotment proponent during the TQ Window notifying the Commission that it wishes its Form 301 application to be processed immediately, the allotment proponent's already-filed Form 301 application will not be considered an "acceptable application" at this stage of the threshold qualifications proceeding. In the event that two or more acceptable applications are filed during the TQ Window, the Commission will announce a limited period, after the close of the TQ Window but before the next FM auction, in which the parties may negotiate a settlement (including a time-sharing agreement) or bona fide merger, as a way of resolving the mutual exclusivity between their applications. Any such settlement or merger will be subject to the same limits and conditions as other agreements for resolving application conflicts (see 47 CFR 73.3525). Technical solutions will not be allowed as settlements. Unlike the case of competing new commercial AM applications (some groups of which are allowed to resolve their mutual exclusivity by means of engineering solutions), in which each mutually exclusive applicant has submitted a discrete engineering proposal in its

application which may be amended, a Tribal Allotment will have been added to the Table of Allotments (47 CFR 73.202) only after it has undergone the allocations rulemaking process. That process involves not only a complete engineering review of the proposed allotment, but also consideration of comments and, often, competing allotment proposals. Allowing a post-allocation technical solution that would result in grant of more than one FM allotment would effectively circumvent the FM allocations rulemaking process, and the right of parties to file comments and counter-proposals that is inherent in that process. If there are other fully spaced channels that could accommodate another Tribal Allotment, one of the competing applicants could simply petition to add such an allotment through the normal allocations rulemaking process. If, however, there are no channels available, the Commission declined GRTT's suggestion that it relax its spacing or other rules designed to prevent interference among stations. A settlement that establishes technically deficient Tribal stations is not an effective means to establish viable and needed radio service to Tribal Lands.

10. If a settlement or merger is reached, the parties shall so notify the Commission as set forth in the Public Notice announcing the TQ Window. The Commission's staff will promptly begin processing the surviving application pursuant to the settlement or merger. If a settlement or merger cannot be reached among the mutually exclusive applicants, the Tribal Allotment will be auctioned during the next scheduled FM auction. However, at that time only the applicants whose applications were accepted for filing during the TQ Window, as well as the original Tribal Allotment proponent, will be permitted to bid on that particular Tribal Allotment, *i.e.*, bidding on that allotment will be closed to all other potential applicants. The closed group of mutually exclusive TQ Window applicants must comply with generally applicable auction procedures (*e.g.*, by correctly completing Form 175 and timely making an upfront payment; see 47 CFR 1.2105–1.2106, 73.5002). In the event that only one Tribal applicant qualifies to bid in the first auction of a Tribal Allotment, it must submit an upfront payment and enter a bid during the auction in order to obtain the construction permit. The winning bidder for the Tribal Allotment must comply with all auction rules for winning bidders in order to be awarded the construction permit; that is, it must

timely make any required down and final payments, and must timely file FCC Form 301 (or, in the case of the original proponent of the Tribal Allotment, amend its pending Form 301 or advise the staff that its pending Form 301 application may be processed). See 47 CFR 1.2107, 1.2109, 1.2112, 73.5003, 73.5005.

11. In the NCE FM context, the Commission's rules impose a holding period on authorizations granted pursuant to a Tribal Priority, for a period beginning from the award of a construction permit through four years of on-air operations, prohibiting community of license changes and/or technical changes that would result in the modified facility no longer qualifying for a Tribal Priority. See First R&O, 25 FCC Rcd at 1586, 1593, 1596–97. This is to discourage trafficking in authorizations granted pursuant to the Tribal Priority, which could frustrate the goals of the priority and potentially harm the communities that the Tribal Priority is intended to benefit. The same rationale applies in the commercial FM context with regard to authorizations awarded (1) to a singleton TQ Window applicant, (2) after a settlement among TQ Window applicants, and (3) after an auction among a closed group of bidders composed only of threshold qualified tribal applicants. Accordingly, the permittee or licensee of an authorization awarded to a TQ Window singleton, after a post-TQ window settlement, or after an auction to a closed group of threshold qualified tribal applicants, is prohibited from assigning or transferring the authorization, except to another party that qualifies for the Tribal Priority under which the Tribal Allotment was awarded in all respects, for a period beginning from the award of a construction permit through four years of on-air operations.

12. In the event that no qualifying party applies during the TQ Window, and the Tribal Allotment proponent requests that its pending FCC Form 301 application not be immediately processed (by sending a letter to the Audio Division, Media Bureau, staff during the TQ Window), the Tribal Allotment will be placed in a queue to be auctioned in the normal course for vacant FM allotments. When the Tribal Allotment is offered at auction for the first time, only applicants meeting the threshold qualifications (those who would have qualified to add the Tribal Allotment, including the original proponent of the allotment, as detailed above) may specify that particular Tribal Allotment on FCC Form 175, Application to Participate in an FCC Auction. Any applicant not meeting

threshold qualifications that selects the Tribal Allotment in its Form 175 application will be prohibited from entering a bid for the Tribal Allotment. Qualifying Tribal applicants must, as noted above, otherwise qualify to bid at auction, and must comply with all Commission rules relating to the conduct of auctions and award of construction permits to winning bidders, as discussed above.

13. Should no qualifying party apply to bid on a Tribal Allotment in the first auction in which it is offered, or should no such party qualify to bid in the first auction in which a Tribal Allotment is offered, then the Tribal Allotment will be offered in a subsequent auction or auctions, and any applicant, whether or not a Tribe or Tribal entity, may apply for the Tribal Allotment. The Commission declined to adopt the commenters' suggestion that a Tribal Allotment only be offered for initial licensing to a qualifying Tribe or Tribal entity in perpetuity. Such a prohibition would frustrate the policies favoring expeditious initiation of radio service, and disfavoring the practice of allowing spectrum to lie fallow for indefinite periods.

14. Due to the Commission's adoption of the threshold qualifications approach, it did not adopt its original proposal of a Tribal bidding credit. The Commission continues to believe that a bidding credit, of whatever magnitude, is insufficient to ensure that Tribal Allotments will end up in the hands of qualifying Tribal applicants. See Second R&O, 26 FCC Rcd at 2588–89. It is expected that, under the procedures adopted, the majority of FM commercial Tribal Allotments will be awarded through the TQ Window approach. Moreover, to the extent that multiple qualifying Tribes or Tribal entities would bid on a Tribal Allotment at auction, all would likely qualify for the same Tribal or new entrant bidding credits. Adding a bidding credit to the procedures adopted here would therefore serve no purpose.

15. The procedures adopted here are designed to accommodate both those Tribes and Tribal entities seeking to establish new commercial FM services quickly, and those Tribes needing more time to marshal their resources. These procedures also align with Congress's direction that the Commission use threshold qualifications to avoid mutual exclusivity in application and licensing proceedings when it is in the public interest to do so. 47 U.S.C. 309(j)(6)(E). Most importantly, these procedures provide the best means of assuring that FM commercial allotments pursuant to the Tribal Priority will be awarded to

qualifying Tribes or Tribal entities, thus achieving the goals of the Tribal Priority.

16. The Commission realizes that any process leading to deployment of communications services on Tribal lands and removing barriers to entry must recognize Tribal sovereignty and self-determination, the unique needs and priorities of Native Nations and Tribal communities, and the importance of consultation and coordination with Tribal government and Native community leaders. It has historically acknowledged “the rights of Indian Tribal governments to set their own communications priorities and goals for the welfare of their membership.” See Establishing a Government-to-Government Relationship with Indian Tribes, Policy Statement, 16 FCC Rcd 4078, 4080–81 (2000). To that end, the Commission directed the Office of Native Affairs and Policy (ONAP) and the Audio Division of the Media Bureau (AD) to coordinate in establishing informational materials and training opportunities for Tribes and Tribal entities, in order to help them better understand the complexities of the threshold qualification and licensing processes established herein. Additionally, ONAP and AD were directed, as appropriate, to remain available to consult with Tribal applicants on any questions that they may have at any stage of the radio application and licensing processes, especially as they relate to Tribal licensing priorities. *Id.* at 4082.

#### **Final Regulatory Flexibility Analysis**

17. As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Second FNPRM to this proceeding. The Commission sought written public comment on the proposals in the Second FNPRM, including comment on the IRFA. The Commission received no comments on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. See 5 U.S.C. 604.

#### **Need for, and Objectives of, the Report and Order**

18. In the Third R&O, the Commission adopted new procedures under which commercial FM allotments added using the Commission's Tribal Priority may be awarded to tribal applicants meeting the threshold qualifications for adding such an allotment. The new procedures were adopted in order to provide a significant opportunity for the award of such tribal allotments to tribal applicants, in

keeping with the goals underlying the Commission's Tribal Priority.

19. The further rulemaking proceeding leading to the Third R&O was initiated to obtain further comments concerning an alternative proposal to assist Native American Tribes and Alaska Native Villages (Tribes) seeking to establish new commercial FM service to Tribal communities. In the Further Notice of Proposed Rulemaking, the Commission proposed an auction bidding credit to Tribes and entities owned by Tribes. The Commission received only one proposal for a potential tribal bidding credit: To grant Tribes a 35 percent Tribal Bidding Credit (TBC), to be added to any new entrant bidding credit for which they may qualify, to a maximum of 60 percent. The Commission believed this record was inconclusive to adopt a TBC, and further believed it was unclear whether and how a TBC could be crafted to advance the dual goals of increasing Tribal ownership of radio facilities and maximizing the value of spectrum through competitive bidding, as mandated by 47 U.S.C. 309(j). On further consideration, the Commission determined that an alternative approach would more effectively achieve the policy goals underlying the Tribal Priority adopted in the First R&O in this proceeding, 25 FCC Rcd at 15896–97, and be more consistent with its statutory mandate. See 47 U.S.C. 309(j)(6)(E).

20. Specifically, in the Second FNPRM the Commission sought comment on whether to require, as a threshold qualification to apply for a commercial FM channel allotted pursuant to the Tribal Priority, that applicants qualify for a Tribal Priority for that channel. Such an approach is consistent with other procedures used by the Commission, such as those used to reserve vacant FM allotments for noncommercial educational (NCE) use. Additionally, while the Tribal Priority operates as a dispositive preference in the AM commercial and FM NCE application contexts, as currently formulated the priority is not dispositive for FM commercial stations, because a Tribe that adds an FM allotment using the Tribal Priority may still be outbid at auction by a non-Tribal applicant. The alternative approach proposed by the Commission would correct this asymmetry, and would also more effectively ensure that FM allotments added using the Tribal Priority are ultimately licensed to Tribes, who would use such FM channels for their intended purposes of promoting Tribal language, culture, and self-government. The Commission

therefore sought comment on this alternative approach and its potential ramifications, including whether non-Tribal applicants should be allowed to apply for FM allotments added using the Tribal Priority, but for which no Tribe expresses interest. The Commission also sought additional input from commenters on the TBC, and on other ways in which the Commission could promote commercial Tribal radio service, including comment on potential barriers that may discourage Tribal participation in the broadcast auction and licensing processes.

21. Commenters on these issues favored the adoption of the threshold qualifications procedure, as the best means of ensuring that Tribal-added FM allotments would ultimately be licensed to those whom the Tribal Priority was meant to benefit. Native Public Media and the National Congress of American Indians (NPM/NCIAI), filing joint comments, expressed concern that expedited procedures would force Tribes to receive construction permits before they were financially and technically able to construct facilities. Another commenter, Gila River Telecommunications, Inc. (GRTI), agreed, but at the same time argued that there should be expedited threshold qualifications procedures for those Tribal applicants who are ready and able to begin station construction. All commenters agreed that Tribal allotments should not be made available to non-Tribal applicants at any time. Commenters also agreed that, if the threshold qualifications procedure were not adopted, a TBC of up to 60 percent should be afforded to Tribal applicants for FM allotments added using the Tribal Priority.

22. In the Third R&O in this proceeding, the Commission adopted the threshold qualifications procedure proposed in the Second FNPRM. Under the threshold qualifications procedure, once a commercial FM allotment is allocated using the Tribal Priority (Tribal Allotment), within a reasonable time thereafter the Commission staff will announce by Public Notice a Threshold Qualifications Window (TQ Window). During the TQ Window, any Tribe or Tribal entity that could qualify to add that particular Tribal Allotment may file FCC Form 301 for the Tribal Allotment. The original Tribal Allotment proponent, which will already have filed Form 301 at the time it proposed the allotment, must submit to the staff a notice stating that it wishes its already-filed Form 301 application to be processed immediately, or make that statement in an amendment to its Form 301. An applicant in the TQ Window

must demonstrate that it meets all of the eligibility criteria for grant of a Tribal Priority at the allotment stage. See paragraph <8>, above.

23. If only one acceptable application is filed during the TQ Window, whether by the original Tribal Allotment proponent submitting notification to process its application immediately or by another qualified applicant, that application will be processed promptly, and the Tribal Allotment will not be auctioned. In the event that two or more acceptable applications are filed during the TQ Window, the Commission will announce a limited period, after the close of the TQ Window but before the next FM auction, in which the parties may negotiate a settlement (including a time-sharing agreement) or bona fide merger, as a way of resolving the mutual exclusivity between their applications. There is precedent for such settlements or mergers in the AM auction context, involving certain mutually exclusive applicants for new and modified AM stations. See Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, First Report and Order, 13 FCC Rcd 15920, 15927 (1998), (subsequent history omitted). If a settlement or merger is reached, the parties shall so notify the Commission as set forth in the Public Notice announcing the TQ Window. The staff will promptly begin processing the surviving application pursuant to the settlement or merger. If a settlement or merger cannot be reached among the mutually exclusive applicants, the Tribal Allotment will be auctioned during the next scheduled FM auction. However, at that time only the applicants whose applications were accepted for filing during the TQ Window, as well as the original Tribal Allotment proponent, will be permitted to bid on that particular Tribal Allotment, *i.e.*, bidding on that allotment will be closed to all other potential applicants. The closed group of mutually exclusive TQ Window applicants must comply with generally applicable auction procedures. The winning bidder for the Tribal Allotment must comply with all auction rules for winning bidders in order to be awarded the construction permit; that is, it must timely make any required down and final payments, and must timely file FCC Form 301 (or, in the case of the original proponent of the Tribal Allotment, amend its pending Form 301 or advise the staff that its pending Form 301 application may be processed).

24. In the event that no qualifying party applies during the TQ Window,

and the original Tribal Allotment proponent requests that its pending FCC Form 301 application not be immediately processed, the Tribal Allotment will be placed in a queue to be auctioned in the normal course for vacant FM allotments. When the Tribal Allotment is offered at auction for the first time, only applicants meeting the threshold qualifications (those who would have qualified to add the Tribal Allotment, including the original proponent of the allotment) may specify that particular Tribal Allotment on FCC Form 175, Application to Participate in an FCC Auction. Any applicant not meeting threshold qualifications that selects the Tribal Allotment in its Form 175 application will be prohibited from entering a bid for the Tribal Allotment. Qualifying Tribal applicants must, as noted above, otherwise qualify to bid at auction, and must comply with all Commission rules relating to the conduct of auctions and award of construction permits to winning bidders. Should no qualifying party apply to bid on a Tribal Allotment in the first auction in which it is offered, or should no such party qualify to bid in the first auction in which a Tribal Allotment is offered, then the Tribal Allotment will be offered in a subsequent auction or auctions, and any applicant, whether or not a Tribe or Tribal entity, may apply for the Tribal Allotment. A Tribal Allotment won in an open auction (that is, one open to non-threshold qualified applicants) will not be subject to the four-year prohibition on assignment or transfer (but will still be subject to a four-year prohibition on community of license or technical changes). Because of the similarity of the new threshold qualifications procedures to the procedures for awarding NCE construction permits based on the Tribal Priority (namely, to discourage trafficking in such permits so that they will be used to further the goals of the Tribal Priority by enabling Tribes or tribal entities to broadcast to Tribal Lands), the Commission will impose the same holding period prohibition on commercial FM permits awarded using the threshold qualifications procedures. The Commission will therefore prohibit the permittee or licensee of an authorization awarded to a TQ Window singleton, after a post-TQ window settlement, or after an auction to a closed group of threshold qualified tribal applicants, from assigning or transferring the authorization, except to another party that qualifies for the Tribal Priority under which the Tribal Allotment was awarded in all respects,

for a period beginning from the award of a construction permit through four years of on-air operations.

#### **Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

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

#### **Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply**

26. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein. 5 U.S.C. 603(b)(3). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small government jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 5 U.S.C. 601(3). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). 15 U.S.C. 632.

27. The rules and policies adopted in the Third R&O will primarily apply to Tribes, consortia of Tribes, and entities 51 or more percent owned by Tribes or consortia, that apply for commercial FM radio stations, but potentially will apply to all AM and FM radio broadcasting licensees and potential licensees, to the extent that they may ultimately be allowed to apply for Tribal Allotments in the event that qualified Tribal applicants do not do so. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. 15 U.S.C. 632. Included in this industry are commercial, religious, educational, and other radio stations. *Id.* Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. *Id.* However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS number. *Id.* The SBA has established a small business size standard for this category, which is: firms having \$7 million or less in annual receipts. 13 CFR 121.201, NAICS code 515112 (updated for inflation in 2008). According to BIA/Kelsey, MEDIA Access Pro Database on November 1,

2011, 10,785 (97%) of 11,127 commercial radio stations have revenue of \$7 million or less. Therefore, the majority of such entities are small entities. Please note, however, that many radio stations are affiliated with much larger corporations having much higher revenue. This estimate, therefore, likely overstates the number of small entities that might be affected by any ultimate changes to the rules and forms.

#### **Description of Projected Reporting, Recordkeeping and Other Compliance Requirements**

28. As described, certain rules and procedures will change, although the changes will not result in substantial increases in burdens on most applicants. The new procedures will only apply to Tribes and entities majority owned by Tribes, which do not constitute the majority of commercial FM applicants. Moreover, because of the geographic limits of commercial FM allotments, and the qualifying criteria for the Tribal Priority, the number of threshold qualified applicants for a given allotment will likely be small. Questions will be modified in FCC Form 301 to indicate whether the applicant is applying for a Tribal Allotment, and certifying that it qualifies for the Tribal Priority for that particular Tribal Allotment. These are largely self-identification questions reflecting the applicant's status, although in the case of eligibility for the Tribal Priority some geographic analysis may be required, and/or a showing may be needed to establish eligibility for the Tribal Priority in the absence of tribal lands as defined in the First R&O. Additionally, questions will have to be added to FCC Form 175, in the case of Tribal Allotments that proceed to competitive bidding, in order to establish the applicant's eligibility to apply for a Tribal Allotment in the first instance. However, these burdens should be moderate to minimal, as it is anticipated that a substantial number of commercial tribal FM allotments will be awarded before the auction stage, and many threshold qualified tribal applicants will have established their qualifications before auction, either at the allocations stage or during a TQ window. In any event, such burdens are needed in order to achieve the Commission's statutory mandate of fair, efficient, and equitable distribution of radio service (and, in the case of Tribal Priority claimants, are necessary in order to open up the Tribal Priority to greater numbers of Tribes seeking to establish new radio service). Certain notifications may also be required of some applicants, for example, notification that a Tribal

Allotment proponent wishes its already-filed FCC Form 301 application to be considered in the TQ Window, or a request for approval of a merger or settlement agreement among TQ Window applicants. The remaining procedural changes in the Third R&O are changes in Commission procedures, requiring no input from applicants. For example, under the new threshold qualifications procedure, the Commission will have to generate Public Notices setting forth procedures for TQ Windows, or modify auction Public Notices to set forth special procedures for Tribal Allotments being auctioned.

#### Steps Taken To Minimize Significant Impact of Small Entities, and Significant Alternatives Considered

29. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c)(1)–(c)(4).

30. With regard to the proposals in the Second FNPRM, NPM/NCAI expressed concern about the ability of some Tribes to act quickly to construct and license new commercial FM stations. There is, according to NPM/NCAI, a significant and adverse economic impact that some Tribes face when seeking to initiate new radio service. Factors causing such an adverse economic impact include lack of capital or federal program support; short construction seasons in many Tribal areas; complications with regard to tower siting, due to factors such as preservation of sacred sites and Bureau of Indian Affairs land use policies; and lack of easy access to materials and engineering expertise. While not disagreeing with NPM/NCAI on this issue, GRTI pointed to what it perceives as Commission delays in allocating new FM allotments and making them available for auction, delaying the initiation of new service by Tribes ready and able to begin construction immediately. In order to accommodate these dual concerns, the Commission adopted a threshold qualifications approach to Tribal commercial FM allotments that provides an early

opportunity for application for Tribes that are ready to commence construction, as well as a later opportunity (up to, but likely no more than, two years) for those Tribes that may lack the resources to commence construction soon after a channel is allotted using the Tribal Priority. In this way, the Commission's adopted procedure is designed to reduce the burdens on these groups of potential applicants, based on the concerns expressed in their comments. Although the Commission could have adopted strictly an expedited threshold qualifications procedure—awarding a construction permit for a Tribal Allotment through a TQ Window opened shortly after allocation of the Tribal Allotment—this would have forced those Tribes lacking the resources to commence construction immediately either to delay proposing an allotment or to risk expiration of the construction permit before construction could be completed. Accordingly, by adopting the TQ Window process over the proposed alternative of an expedited threshold qualifications procedure, the Commission has chosen the alternative that imposes a substantially less significant economic impact.

#### Report to Congress

31. The Commission will send a copy of the Third R&O, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801(a)(1)(A)). In addition, the Commission will send a copy of the Third R&O, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Third R&O and FRFA (or summaries thereof) will also be published in the **Federal Register** (See 5 U.S.C. 604(b)).

#### Ordering Clauses

32. Accordingly, *it is ordered*, pursuant to the authority contained in Sections 1, 2, 4(i), 303, 307, and 309(j) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, 307, and 309(j), that this Third Report and Order *is adopted*.

33. *It is further ordered* that, pursuant to the authority found in Sections 4(i), 303(r), and 628 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 548, the Commission's Rules *are hereby amended* as set forth herein.

34. *It is further ordered* that the rules adopted herein contain new or modified information collection requirements that require approval by the Office of Management and Budget (OMB) under

the Paperwork Reduction Act (PRA), and which *will become effective* after the Commission publishes a notice in the **Federal Register** announcing such approval and the relevant effective date.

#### List of Subjects in 47 CFR Part 73

Radio broadcast services.

Federal Communications Commission.

**Marlene H. Dortch**,  
*Secretary*.

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

#### PART 73—RADIO BROADCAST SERVICES

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

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

■ 2. Section 73.3573 is amended by adding new paragraph (f)(6) and adding new Note 5 at the end of the section to read as follows:

#### § 73.3573 Processing FM broadcast station applications.

\* \* \* \* \*

(f) \* \* \*

(6)(i) When a non-reserved channel FM allotment is added to the Table of FM Allotments using the Tribal Priority described in Note 5 to this section, the FCC will specify by Public Notice a window filing period during which only those applicants that satisfy all of the eligibility criteria listed in Note 5 to this section with regard to the specific Tribal Priority FM allotment(s) listed in the Public Notice may file a long-form application for the Tribal Priority FM allotment. Only applications from applicants meeting the “threshold qualifications” listed in Note 5 will be accepted during this window filing period.

(ii) If only one application for the Tribal Priority FM allotment is accepted for filing during the threshold qualifications window, the long-form application will be processed. If two or more applications for the Tribal Priority FM allotment are accepted for filing during the threshold qualifications window, the FCC will specify by Public Notice a period of time, after the close of the threshold qualifications window but before the next FM auction, during which the parties may negotiate a settlement or *bona fide* merger, as a way of resolving the conflict between their applications. Parties to a settlement must comply with § 73.3525 of the Commission's rules. If a settlement or *bona fide* merger is reached, the

surviving application will be processed. If no settlement or *bona fide* merger is reached among the threshold qualifications window applicants, the Tribal Priority FM allotment will be offered at auction as described in paragraphs (f)(2) through (f)(5) of this section, except that only those applicants whose applications were accepted for filing pursuant to paragraph (f)(6)(i) of this section may participate in the initial auction of the Tribal Priority FM allotment.

(iii) If no application is accepted for filing during the threshold qualifications window, and the party that initially proposed the Tribal Priority FM allotment requests by letter to the Audio Division, Media Bureau, that its pending long-form application not be immediately processed, the Tribal Priority FM allotment will be auctioned as described in paragraphs (f)(2) through (f)(5) of this section in the normal course for vacant FM allotments. When a Tribal Priority FM allotment is offered at auction for the first time, only those applicants meeting the threshold qualifications for that specific Tribal Priority FM allotment, as described in Note 5 to this section, may participate in the auction of that allotment.

(iv) Should no applicant meeting threshold qualifications, as described in Note 5 to this section, apply to bid on a Tribal Priority FM allotment in the first auction in which it is offered, or should no applicant meeting threshold qualifications qualify to bid in the first auction in which a Tribal Priority FM allotment is offered, then the Tribal Priority FM allotment will be offered in a subsequent auction. Any such

subsequent auction of a Tribal Priority FM allotment shall proceed as described in paragraphs (f)(2) through (f)(5) of this section, and any qualified applicant may participate in the auction of the Tribal Priority FM allotment in such subsequent auction, regardless of whether it meets the threshold qualifications with regard to that specific Tribal Priority FM allotment.

\* \* \* \* \*

Note 5 to § 73.3573. The “Tribal Priority” is that established by the Commission in Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures, MB Docket 09–52. See First Report and Order and Further Notice of Proposed Rule Making, MB Docket 09–52, FCC 10–24, 75 FR 9797, 75 FR 9856, 75 FR 73976; Second Report and Order, First Order on Reconsideration, and Second Further Notice of Proposed Rule Making, MB Docket 09–52, FCC 11–28, 76 FR 14362, 76 FR 18942; Third Report and Order, MB Docket 09–52, FCC 11–190. To qualify for the Tribal Priority, and thus meet “threshold qualifications” for a particular allotment, an applicant must demonstrate that it meets all of the following eligibility criteria: (a) The applicant is either a federally recognized Tribe or Tribal consortium, or an entity 51 percent or more of which is owned or controlled by a Tribe or Tribes. Qualifying Tribes or Tribal entities must be those at least a portion of whose Tribal Lands lie within the principal community contour of the proposed facility. Although the 51 or greater percent Tribal control threshold

need not consist of a single Tribe, the qualifying entity must be 51 percent or more owned or controlled by Tribes at least a portion of whose Tribal Lands lie within the facility’s principal community contour; (b)(1) at least 50 percent of the area within the proposed principal community contour is over that Tribe’s Tribal Lands, or (2) the proposed principal community contour (i) encompasses 50 percent or more of that Tribe’s Tribal Lands, (ii) serves at least 2,000 people living on Tribal Lands, and (iii) the total population on Tribal Lands residing within the proposed service contour constitutes at least 50 percent of the total covered population (and, in the case of either (b)(1) or (b)(2) the proposed principal community contour does not cover more than 50 percent of the Tribal Lands of a Tribe that is not a party to the application); (c) the proposed community of license must be located on Tribal Lands; and (d) the proposed service must constitute first or second aural (reception) service, or first local Tribal-owned commercial transmission service at the proposed community of license. For purposes of this section, the definition of “Tribal Lands” is the same as that set forth at footnote 15 of the First Report and Order and Further Notice of Proposed Rule Making, FCC 10–24, and as further set forth at paragraphs 8–10 and 59 of the Second Report and Order, First Order on Reconsideration, and Second Further Notice of Proposed Rule Making, FCC 11–28.

[FR Doc. 2012–967 Filed 1–19–12; 8:45 am]

BILLING CODE 6712–01–P

# Proposed Rules

Federal Register

Vol. 77, No. 13

Friday, January 20, 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.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 110

[NRC-2012-0008]

#### Notice of Public Meeting and Request for Comment on the Branch Technical Position on the Import of Non-U.S. Origin Radioactive Sources

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of public meeting and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) plans to conduct a public meeting on January 24, 2012, in Rockville, Maryland, to solicit input on a draft Branch Technical Position (BTP) on the Import of non-U.S. Origin Radioactive Sources. In 2010, the NRC published a final rule amending 10 CFR part 110 (75 FR 44072; July 28, 2010). Among other things, it added the phrase "Of U.S. origin" to the first exclusion to the definition of "radioactive waste" in § 110.2. The phrase was added to the final rule in response to a public comment on the proposed rule to clarify the exclusion. Since publication of the final rule, industry has raised concerns with NRC staff regarding established industry practices and the need for guidance on implementation of the "U.S. origin" exclusion. The staff is holding a public meeting to obtain comments from stakeholders on the draft BTP and to discuss implementation issues associated with the "U.S. origin" exclusion.

**DATES:** Members of the public may provide feedback at the public meeting or may submit written comments on the issues discussed in this document. Comments on the BTP presented in this notice and discussed at the meeting should be postmarked no later than March 5, 2012. Comments received after this date will be considered if it is practical to do so. NRC plans to consider these stakeholder views in the development of a revised draft BTP.

Written comments may be sent to the address listed in the **ADDRESSES** section. Questions about participation in the public meeting should be directed to the facilitator at the address listed in the **ADDRESSES** section. Replies should be directed to the points of contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

The public meeting will be held on January 24, 2012, from 9:00 to 11 a.m. at One White Flint North, Room 16-B04, 11555 Rockville Pike, Rockville, Maryland 20852.

The agenda for the public meeting will be noticed no fewer than ten (10) days prior to the meeting on the NRC's electronic public meeting schedule web page at <http://www.nrc.gov/public-involve/public-meetings/index.cfm>. Please refer to the **SUPPLEMENTARY INFORMATION** section of this notice for questions that will be discussed at the meeting. The supplemental information below also contains a copy of the draft BTP. The draft BTP is available in the Agencywide Documents Access and Management System (ADAMS) under ML11300A194.

The staff has prepared the BTP draft for review by stakeholders. This draft is meant to serve as a starting point for NRC's efforts to develop the document. This draft BTP does not change the regulations in 10 CFR part 110; it clarifies what is meant by "U.S. origin" and details how the NRC interprets this exclusion to the definition of "radioactive waste."

Staff is using the public's input, now, to frame and develop the scope of the draft BTP, which will be issued again. Following the public meeting, staff will consider comments received at the meeting and in response to this **Federal Register** notice, and then formally issue a BTP for comment in the **Federal Register**.

**ADDRESSES:** Please include Docket ID NRC-2012-0008 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 NRC-2012-0008. Address questions

about NRC dockets to Carol Gallagher, telephone: (301) 492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- *Email comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive a reply email confirming that we have received your comments, contact us directly at (301) 415-1677.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852.

- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

**FOR FURTHER INFORMATION CONTACT:** Jenny Tobin Wollenweber, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-2328; email [Jennifer.Tobin@nrc.gov](mailto:Jennifer.Tobin@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. 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 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 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.

- *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](mailto:pdr.resource@nrc.gov). The Branch Technical Position paper is accessible under ADAMS Accession No. ML11300A194.

- *Federal Rulemaking Web Site:*

Public comments and supporting materials related to this proposed Branch Technical Position paper can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2012-0008.

## II. Branch Technical Position

### A. Introduction

The NRC's regulations in 10 CFR part 110 (Part 110), "Export and Import of Nuclear Equipment and Material," establishes the general and specific export and import licensing requirements for special nuclear, source and byproduct material including radioactive waste. "Radioactive waste" is defined in 10 CFR 110.2 as "[a]ny material that contains or is contaminated with source, byproduct or special nuclear material that by its possession would require a specific radioactive material license in accordance with this Chapter [10 CFR Chapter I] and is exported or imported for the purposes of disposal in a land disposal facility as defined in 10 CFR Part 61, a disposal area as defined in Appendix A of 10 CFR Part 40, or an equivalent facility."

There are six exclusions in 10 CFR 110.2 to the definition of "radioactive waste." The sealed source exclusion (exclusion one) is defined as radioactive material that is "[o]f U.S. origin and contained in a sealed source, or device containing a sealed source, that is being returned to a manufacturer, distributor or other entity which is authorized to receive and possess the sealed source or the device containing a sealed source."<sup>1</sup> Disused sources that satisfy an

<sup>1</sup> The NRC provided the following guidance on the scope of "U.S. origin" on NRC's Export and Import Web page at (<http://www.nrc.gov/about-nrc/ip/export-import.html>):

"U.S. origin was added in the first exclusion to the definition of radioactive waste to clarify that the exclusion only applies to sources of U.S. origin. U.S. origin sources may include sources with U.S. origin material and sources or devices manufactured, assembled or distributed by a U.S. company from a licensed domestic facility. Disused sources that originated in a country other than the United States would require a specific license if being exported or imported for disposal."

exclusion to the definition of "radioactive waste" may be imported under the general license in 10 CFR 110.27, which requires that the U.S. consignee be authorized to receive and possess the material under the relevant NRC or Agreement State regulations and that the importer satisfy the terms for the general license set forth in 10 CFR 110.50.

The NRC has developed this technical position to provide guidance to source manufacturers, distributors, or other entity on the NRC's application of the sealed source exclusion to imports into the U.S. of non-U.S. origin disused sources.<sup>2</sup>

### B. Background

On July 28, 2010, the NRC published a final rule in the **Federal Register** (75 FR 44072) that amended several provisions in 10 CFR part 110 to improve NRC's regulatory framework for the export and import of nuclear equipment, material, and radioactive waste. The sealed source exclusion to the definition of "radioactive waste" was revised, in response to a comment, to confirm that the exclusion applies to sources of "U.S. origin" being returned to an authorized domestic licensee. The addition of the term "U.S. origin" to the sealed source exclusion was consistent with the original intent of the exclusion, initially adopted in a 1995 rule.<sup>3</sup> In accordance with International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources and the IAEA supplemental Guidance on the Import and Export of Radioactive Sources, the NRC believed that encouraging return of disused sources to the country of origin would help prevent sources from becoming "orphaned" by facilitating responsible handling of sources at the end of their life cycle. *See* Import and Export of Radioactive Waste, 57 FR 17859, 17861 (July 21, 1992) (proposed rule) ("the return of used or depleted sealed sources, gauges, and similar items to the U.S. or to another original exporting country for reconditioning, recycling or disposal may \* \* \* help ensure that such materials are handled responsibly and not left in dispersed and perhaps unregulated locations around the world"). The NRC's willingness to embrace this policy was in large part informed by U.S. industry comments that there is a "widely accepted practice, usually rooted in a sales or leasing contract or other

<sup>2</sup> The terms "supplier" and "importer" are used interchangeably in this document with "manufacturers, distributors, or other entity."

<sup>3</sup> Import and Export of Radioactive Waste, 60 FR 37556 (July 21, 1995).

agreement, of returning depleted sealed radioactive sources, used gauges, and other instruments containing radioactive materials \* \* \* to the original supplier-manufacturer for recycle or disposal." 57 FR at 17864. *See also, e.g., id.* at 17861 ("the sale of a source is often conditioned on later return of the source for disposal"). Accordingly, central to the sealed source exclusion was the NRC's understanding, based on U.S. industry representations, that new and disused sources are routinely exchanged on a "one-for-one" basis—*i.e.*, a new source is exchanged for a disused source<sup>4</sup>—with the result that the number of disused sources imported is not greater than the number of new sources exported.

After the addition of "U.S. origin" to the sealed source exclusion in the 2010 rule, it came to the staff's attention that, while it remains a widespread industry practice to exchange new and disused sources on a "one-for-one" basis, in light of the current global supply market it is not always possible for a supplier to definitively ascertain the origin of a particular disused source that is exchanged for a new one before import and receipt of the disused source. With established customers, the disused sources will generally be of U.S. origin; however, for new customers, some of the sources initially being returned may not be of U.S. origin.

Once a source is imported and received, the manufacturer, distributor, or other entity technically has the ability to determine the source's origin. However, the only way for the supplier to accomplish this is by exposing its personnel to additional radiation doses. Specifically, the supplier must use a glove-box to take the source out of its casing to read the serial numbers and correlate those numbers to different manufacturers' coding patterns.

### C. Regulatory Position

The NRC has construed the "U.S. origin" provision in the context of the industry's recent clarification of international source exchange practices.

<sup>4</sup> The sealed sources are changed out when the decay of the source limits the usefulness of the material. At this point, a supplier typically will send a new source and the user will return the used source in the same shielded container. This practice is typically formalized in the contract between the user and the supplier. Sometimes the sources are still useful and can be recycled for re-use in a different application. In that case, the sixth exclusion to the definition of "radioactive waste" applies and the source can be imported under a general license even if it is of non-U.S. origin. Guidance on this exclusion can be found on NRC's Export and Import Web page at <http://www.nrc.gov/about-nrc/ip/export-import.html> and is in harmony with this position paper.

The NRC recognizes that in some circumstances it may not be feasible for the importer to determine the country of origin for disused sources it seeks to exchange prior to import. If, after a good faith effort the U.S. manufacturer, distributor, or other entity cannot determine whether an imported disused source that has been exchanged for a new source is of U.S. origin without exposing personnel to additional doses, the source in question shall be deemed to be of U.S. origin for the purposes of the sealed source exclusion to the definition of "radioactive waste" in 10 CFR 110.2.<sup>5</sup> This application of the sealed source exclusion is limited to disused sources imported into the U.S. that have been exchanged for a new source in a foreign country on a "one-for-one" basis. Accordingly, it is the NRC's expectation that the number of disused sources imported by the manufacturer or distributor into the U.S. must not be greater than the number of new or refurbished sources exported by that manufacturer or distributor.

The NRC believes that this application of the sealed source exclusion reasonably balances the interests of public health and safety and international policy interests in responsible handling of sources at the end of their useful life. The approach preserves the fundamental policy rationale underlying the original exclusion—to prevent sources from being dispersed in unregulated locations around the world by facilitating a "one-for one" exchange of U.S.-supplied new and disused sources—while avoiding additional and unnecessary radiation exposure to workers consistent with the "as low as reasonably achievable" (ALARA) requirement in 10 CFR 20.1101(b).

The NRC expects U.S. manufacturers, distributors, and suppliers to inform their customers about U.S. import licensing requirements for disused sources. It is recommended that U.S. importers retain copies of their communications with their foreign customers regarding U.S. import requirements. The U.S. importer at all times must comply with the specific license requirement for disused sources known to be of non-U.S. origin prior to import into the U.S. A good faith effort by the importer may include communication of U.S. import requirements with its foreign customers, examination of a photograph of the source the customer seeks to exchange,

<sup>5</sup> The definition of "radioactive waste" in this Branch Technical Position paper pertains solely to export and import. It does not affect or alter the domestic regulations of "waste" as defined in 10 CFR 20.1003.

and other relevant information related to the disused sources' origin.

Consistent with 10 CFR 110.53, the NRC may inspect export and import records to ensure that licensees understand the NRC's application of "U.S. origin" and that the company is making an effort to amend its business practices to try to determine source origin (from user paperwork and communication) before an import occurs.

This position is being distributed to all Agreement States and applicable NRC material licensees.

Additionally, the NRC has coordinated this position with the Department of Energy/National Nuclear Security Administration's (DOE/NNSA) Global Threat Reduction Initiative (GTRI). One of GTRI's programs repatriates sources from around the world that are in unsafe or insecure locations. The NRC does not have import licensing jurisdiction when U.S. companies import disused sources on behalf of NNSA's GTRI program; therefore, the licensing requirements in 10 CFR part 110 would not apply to such imports.

#### Implementation

This technical position reflects the current NRC staff position on acceptable use of the general license for import of disused radioactive sources. Therefore, except in those cases in which the source manufacturer or distributor proposes an acceptable alternative method for complying with the definition of "radioactive waste" in 10 CFR 110.2, the guidance described herein will be used in the evaluation of the use of the general import license for disused sources.

### III. Procedural Requirements

#### *Paperwork Reduction Act*

This proposed policy statement does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0136.

#### *Public Protection Notification*

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

#### *Congressional Review Act*

In accordance with the Congressional Review Act (5 U.S.C. 801-808), the NRC

has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Dated at Rockville, Maryland, this 17th day of January 2012.

For the Nuclear Regulatory Commission.

**Margaret M. Doane,**

*Director, Office of International Programs.*

[FR Doc. 2012-1209 Filed 1-19-12; 8:45 am]

**BILLING CODE 7590-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2012-0013; Directorate Identifier 2010-SW-043-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 Agusta S.p.A. (Agusta) Model AB139 and AW139 helicopters with a certain generator control unit (GCU). This proposed AD was prompted by laboratory tests which revealed a potential fault in the overvoltage protection on a certain part-numbered GCU. This proposed AD would require replacing each affected GCU with an airworthy GCU. In addition, any affected GCU is not approved for installation on any helicopter. We are proposing this AD to prevent failure of the overvoltage protection of the GCU, degraded performance of the electrical power generation and distribution systems, a fire, and subsequent loss of control of the helicopter.

**DATES:** We must receive comments on this proposed AD by March 20, 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:**

Mark Wiley, Aerospace Engineer, FAA, Regulations and Policy Group, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone: (817) 222-5134; fax: (817) 222-5961; email: [mark.wiley@faa.gov](mailto:mark.wiley@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 European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued AD No. 2009-0042, dated February 25, 2009 (AD-2009-0042) to correct an unsafe condition for the Agusta Model AB139 and AW139 helicopters, all serial numbers (S/Ns) except S/Ns 31002, 31003, 31004, and 31007. EASA advises that laboratory tests performed on a new GCU model under development have shown a potential fault in the overvoltage protection of currently installed GCUs, part number (P/N) 1152550-3. EASA advises that this condition, if not corrected, could adversely affect the helicopter's electrical power generation and distribution system functionalities.

**FAA's Determination**

We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

**Related Service Information**

Agusta S.p.A. issued Mandatory Bollettino Tecnico No. 139-133, Revision A, dated March 17, 2009 (BT), for Model AB139 and AW139 helicopters, S/Ns 31005 up to S/N 31143, except for S/Ns 31007, 31037, 31038, 31094; S/N 31112; S/Ns 31146 up to S/N 31148; S/N 31155; S/Ns 31201 up to S/N 31218; and S/Ns 41001 up to S/N 41022, except S/N 41007; with a GCU, P/N 1152550-3. This BT specifies, within 6 months from receipt of the BT, removing GCU, P/N 1152550-3, modifying electrical connector A13P1 and A14P1, and replacing each GCU with an airworthy GCU, P/N 1152550-4 or 1152550-5, to improve electrical power generation and distribution system functionalities. EASA classified this BT as mandatory and issued AD 2009-0048 to ensure the continued airworthiness of these helicopters.

**Proposed AD Requirements**

This proposed AD would require, within 6 months, removing the No. 1 and No.2 GCU, P/N 1152550-3, modifying the electrical connectors A13P1 and A14P1 by installing wiring to the power distribution panel, and installing a No. 1 and No. 2 GCU with P/N 1152550-4 or 1152550-5. Both GCUs must have identical P/Ns on the same helicopter.

**Differences Between This Proposed AD and the EASA AD**

The EASA AD does not apply to certain serial-numbered Model AB139 and AW139 helicopters, and this proposed AD applies to all serial-numbered Model AB139 and AW139 helicopters.

**Costs of Compliance**

We estimate that this proposed AD would affect 72 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. We estimate that it would take about 4 work hours per helicopter at an average labor rate of \$85 per work hour. Required parts would cost about \$42,384 per helicopter. Based on these figures, we estimate the total cost impact of the proposed AD for the U.S. operator fleet to be \$3,076,128.

According to the Agusta 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 Agusta. 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 AD:

**Agusta S.P.A. Helicopters (Agusta):** Docket No. FAA–2012–0013; Directorate Identifier 2010–SW–043–AD.

##### (a) Applicability

This AD applies to Agusta Model AB139 and AW139 helicopters, with a generator control unit (GCU), part-number (P/N) 1152550–3 installed; certificated in any category.

##### (b) Unsafe Condition

This AD defines the unsafe condition as a potential fault in the overvoltage protection in GCUs currently installed on Model AB139 and AW139 helicopters. We are proposing this AD to prevent failure of the overvoltage protection of the GCU, degraded performance of the electrical power generation and distribution systems, or fire, 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) Requirements

(1) Remove the No. 1 and No. 2 GCU, P/N 1152550–3. Do not install GCU, P/N 1152550–3, on any helicopter.

(2) Modify the electrical connector A13P1 (GCU #1) and A14P1 (GCU #2) by installing the wiring to the power distribution panel (PDP) for your serial-numbered helicopter as depicted in Figure 1 of Agusta Bollettino Tecnico No. 139–133, Revision A, dated March 17, 2009.

(3) Using either GCU P/N 1152550–4 or GCU P/N 1152550–5, install a No. 1 and No. 2 GCU that has the same part number. Having different part-numbered GCUs on the same helicopter is not approved.

##### (e) Alternative Methods of Compliance (AMOC)

(1) The Manager, Safety Management Group, Rotorcraft Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(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 European Aviation Safety Agency (Italy) AD 2009–0042, dated February 25, 2009.

##### (g) Subject

Joint Aircraft Service Component (JASC) Code: 2430 DC generating system.

Issued in Fort Worth, Texas, on January 5, 2012.

**Lance T. Gant,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2012–1121 Filed 1–19–12; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2012–0033; Directorate Identifier 2011–NM–086–AD]

RIN 2120–AA64

#### Airworthiness Directives; Airbus Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all Airbus Model A310 series airplanes. This proposed AD was prompted by a

report of an electrical arc and hydraulic haze in the wheel bay of the left-hand main landing gear (MLG) possibly resulting from chafing between the hydraulic high pressure hose and electrical wiring of the green electrical motor pump (EMP). This proposed AD would require prohibiting in-flight use of the green EMPs; revising the airplane flight manual (AFM) limitations section; installing a placard in the cockpit overhead panel; doing a one-time general visual inspection for correct condition and installation of hydraulic pressure hoses, electrical conduits, feeder cables, and associated clamping devices; and corrective action if necessary. We are proposing this AD to detect and correct chafing of hydraulic pressure hoses and electrical wiring of the green EMPs, which in combination with a system failure, could cause an uncontrolled and undetected fire in the MLG bay.

**DATES:** We must receive comments on this proposed AD by March 5, 2012.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the

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

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2012-0033; Directorate Identifier 2011-NM-086-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

**Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011-0071, dated April 18, 2011 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

An operator reported an electrical arc and a large hydraulic haze in the left hand Main Landing Gear (LH MLG) wheel bay that occurred during ground operation. The analysis revealed that this occurrence is likely the result of chafing between hydraulic high pressure hose and electrical wiring of the Green Electrical Motor Pump (EMP).

This condition, if not detected and corrected, and in combination with a system failure leading to the use of the Green EMPs in flight, could lead to an uncontrolled and undetected fire in the MLG bay.

For the reasons explained above, this AD temporarily prohibits the in-flight use of green EMPs, by mandating an update of the Aeroplane Flight Manual (AFM) limitations section and installation of a placard in the cockpit overhead panel. This [EASA] AD requires also a one-time [general] visual inspection of hydraulic pressure hoses and

electrical wiring of Green EMPs and corrective action(s), depending on findings.

Corrective actions include repair or replacement of the hydraulic pressure hoses and electrical wiring with new hydraulic pressure hoses and electrical wiring. You may obtain further information by examining the MCAI in the AD docket.

**Relevant Service Information**

Airbus has issued All Operators Telex A310-29A2101, Revision 01, dated April 12, 2011; and All Operators Telex A310-29A2102, dated April 12, 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 This Proposed AD**

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

**Costs of Compliance**

Based on the service information, we estimate that this proposed AD would affect about 58 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$200 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$21,460, or \$370 per product.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
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.

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

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

**Airbus:** Docket No. FAA-2012-0033; Directorate Identifier 2011-NM-086-AD.

**(a) Comments Due Date**

We must receive comments by March 5, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, certificated in any category, all serial numbers.

**(d) Subject**

Air Transport Association (ATA) of America Code 29: Hydraulic Power.

**(e) Reason**

This AD was prompted by a report of an electrical arc and hydraulic haze in the wheel bay of the left-hand main landing gear (MLG) possibly resulting from chafing between the hydraulic high pressure hose and electrical wiring of the green electrical motor pump (EMP). We are issuing this AD to detect and correct chafing of hydraulic pressure hoses and electrical wiring of the green EMPs, which in combination with a system failure, could cause an uncontrolled and undetected fire in the MLG bay.

**(f) Compliance**

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

**(g) Installing Placard and Revising Airplane Flight Manual**

For all airplanes, as of the effective date of this AD, the in-flight use of green EMPs is prohibited. Before the next flight, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Install in the cockpit on the hydraulic power overhead panel 427VU, a locally manufactured self-adhesive placard prohibiting the in-flight use of the green EMPs, in accordance with the instructions in Airbus All Operators Telex A310–29A2101, Revision 01, dated April 12, 2011 (for airplanes equipped with EATON (formerly VICKERS) hydraulic EMPs); or Airbus All Operators Telex A310–29A2102, dated April 12, 2011 (for airplanes equipped with PARKER (formerly ABEX) hydraulic EMPs).

(2) Revise the Limitations section of the applicable airplane flight manual (AFM) to prohibit the in-flight use of the green EMPs.

**Note 1:** Inserting a copy of this AD into the AFM Limitations section is acceptable for complying with the requirement of paragraph (g)(2) of this AD.

**(h) Inspecting for Damage and Chafing**

Within 500 flight hours or 4 months after the effective date of this AD, whichever occurs first, do a one-time general visual inspection for correct condition (*i.e.*, no damage and no chafing) and correct installation of the hydraulic pressure hoses, electrical conduits, feeder cables, and associated clamping devices at frame 54, as well as the electrical conduits and feeder cables underneath the clamps (including removal of the concerned clamps), in

accordance with the instructions in Airbus All Operators Telex A310–29A2101, Revision 01, dated April 12, 2011 (for airplanes equipped with EATON (formerly VICKERS) hydraulic EMPs); or Airbus All Operators Telex A310–29A2102, dated April 12, 2011 (for airplanes equipped with PARKER (formerly ABEX) hydraulic EMPs). If any incorrect installation is found, before further flight, install the affected parts correctly, in accordance with Airbus All Operators Telex A310–29A2101, Revision 01, dated April 12, 2011 (for airplanes equipped with EATON (formerly VICKERS) hydraulic EMPs); or Airbus All Operators Telex A310–29A2102, dated April 12, 2011 (for airplanes equipped with PARKER (formerly ABEX) hydraulic EMPs).

(1) If any damage or chafing marks are found during the inspection required by paragraph (h) of this AD, before further flight, replace or repair the affected parts (hydraulic pressure hoses, electrical conduits, feeder cables, clamps, and spacer, if installed), in accordance with the instructions in Airbus All Operators Telex A310–29A2101, Revision 01, dated April 12, 2011 (for airplanes equipped with EATON (formerly VICKERS) hydraulic EMPs); or Airbus All Operators Telex A310–29A2102, dated April 12, 2011 (for airplanes equipped with PARKER (formerly ABEX) hydraulic EMPs).

(2) Before further flight after compliance with the requirements of paragraph (h) of this AD, as applicable, remove the placard required by paragraph (g)(1) of this AD; and remove the revision of the Limitations section of the AFM, as required by paragraph (g)(2) of this AD; from the airplane and the AFM, respectively.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to Attn: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Information may be emailed to: [9-ANM-116-AMOC-REQUESTS@faa.gov](mailto:9-ANM-116-AMOC-REQUESTS@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

**(j) Related Information**

Refer to MCAI EASA Airworthiness Directive 2011–0071, dated April 18, 2011; Airbus All Operators Telex A310–29A2101, Revision 01, dated April 12, 2011; and Airbus All Operators Telex A310–29A2102, dated April 12, 2011; for related information.

Issued in Renton, Washington, on January 13, 2012.

**John Piccola,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–1131 Filed 1–19–12; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2012–0010; Directorate Identifier 2012–NE–03–AD]

RIN 2120–AA64

**Airworthiness Directives; Turbomeca S.A. Turboshaft Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all Turbomeca S.A. Arriel 2B and 2B1 turboshaft engines. This proposed AD was prompted by the discovery of non-conformities of certain power turbine (PT) blade fir-tree roots. This proposed AD would require removing the affected PT blades from service on or before reaching a new reduced life limit for those certain PT blades. We are proposing this AD to prevent PT blade rupture, which could result in an uncommanded in-flight engine shutdown, forced autorotation landing, or accident.

**DATES:** We must receive comments on this proposed AD by March 20, 2012.

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

*Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

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

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* (202) 493–2251.

For service information identified in this proposed AD, contact Turbomeca,

40220 Tarnos, France; phone: 33 05 59 74 40 00; fax: 33 05 59 74 45 15. You may review copies of the referenced service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call (781) 238-7125.

#### Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Rose Len, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: (781) 238-7772; fax: (781) 238-7199; email: [rose.len@faa.gov](mailto:rose.len@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2012-0010; Directorate Identifier 2012-NE-03-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

#### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011-0218, dated November 10, 2011 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

During production of Arriel 2 Power Turbine (PT) wheels, Turbomeca has detected geometric non-conformities on blade fir-tree roots. The technical investigations carried out by Turbomeca have shown that this non-conformity is due to PT blade manufacturing and that only a limited number of PT blades are potentially affected.

This situation, if not detected and corrected, may potentially lead to a reduction in the fatigue resistance of the PT blades, which can reduce their in service use limit. This reduction of fatigue resistance can potentially result in blade rupture, which could cause an uncommanded in-flight shutdown, ultimately leading to an emergency autorotation landing for a single-engine helicopter.

To address this unsafe condition, Turbomeca has issued Turbomeca Mandatory Service Bulletin (MSB) A292 72 2842, Version A, in which the life limit of those PT blades is reduced to 5,000 Flight Cycles (FC).

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

#### Relevant Service Information

Turbomeca S.A. has issued Mandatory Service Bulletin No. A292 72 2842, Version A, dated September 23, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

#### FAA's Determination of This Proposed AD

This product has been approved by the aviation authority of France, and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

#### Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 150 engines installed on helicopters of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with

this proposed AD. The average labor rate is \$85 per work-hour. A prorated replacement M04 module would cost about \$20,000 per engine. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$3,051,000.

#### Authority for This Rulemaking

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

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

#### Regulatory Findings

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

#### List of Subjects in 14 CFR Part 39

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

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**Turbomeca S.A.:** Docket No. FAA-2012-0010; Directorate Identifier 2012-NE-03-AD.

#### (a) Comments Due Date

We must receive comments by March 20, 2012.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to Turbomeca S.A. Arriel 2B and 2B1 turboshaft engines with at least one installed power turbine (PT) blade part number (P/N) 2 292 81 A01 0, serial numbers (S/Ns) 102782 through 120230 inclusive, or S/Ns 120293 through 120390 inclusive.

#### (d) Reason

This AD was prompted by the detection of geometric non-conformities on PT blade fir-tree roots. We are issuing this AD to prevent PT blade rupture, which could result in an uncommanded in-flight engine shutdown, forced autorotation landing, or accident.

#### (e) Actions and Compliance

Unless already done, do the following actions within 5,000 flight cycles on the PT blades, or within one month after the effective date of this AD, whichever occurs later.

(1) Replace the PT blades with PT blades eligible for installation; or

(2) Replace the M04 module with an M04 module having PT blades eligible for installation; or

(3) Replace the PT wheel assembly with a PT wheel assembly having PT blades eligible for installation.

(4) Guidance on the replacements specified in paragraphs (e)(1) through (e)(3) can be found in Turbomeca S.A. Mandatory Service Bulletin No. A292 72 2842, Version A, dated September 23, 2011.

#### (f) Definition

For the purposes of this AD, a PT blade eligible for installation is one not listed in paragraph (c) of this AD or, one listed in paragraph (c) of this AD with fewer than 5,000 flight cycles.

#### (g) Installation Prohibition

From the effective date of this AD:

(1) Do not install a PT blade as listed in paragraph (c) of this AD, that has 5,000 or more flight cycles, into any engine.

(2) Do not install any engine with a PT blade as listed in paragraph (c) of this AD,

that has 5,000 or more flight cycles, onto a helicopter.

#### (h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

#### (i) Related Information

(1) For more information about this AD, contact Rose Len, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: (781) 238-7772; fax: (781) 238-7199; email: [rose.len@faa.gov](mailto:rose.len@faa.gov).

(2) Refer to MCAI EASA Airworthiness Directive 2011-0218, dated November 10, 2011, and Turbomeca S.A. Alert Service Bulletin No. A292 72 2842, Version A, dated September 23, 2011, for related information.

(3) For service information identified in this AD, contact Turbomeca, 40220 Tarnos, France; phone: 33 05 59 74 40 00; fax: 33 05 59 74 45 15. You may review copies of the referenced service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call (781) 238-7125.

Issued in Burlington, Massachusetts, on January 13, 2012.

**Peter A. White,**

*Manager, Engine & Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2012-1129 Filed 1-19-12; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2007-28059; Directorate Identifier 2007-NE-13-AD]

RIN 2120-AA64

#### Airworthiness Directives; Rolls-Royce plc (RR) Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** We are revising an earlier proposed airworthiness directive (AD) for all RR RB211-Trent 553-61, 553A2-61, 556-61, 556A2-61, 556B-61, 556B2-61, 560-61, 560A2-61, 768-60, 772-60, 772B-60, 875-17, 877-17, 884-17, 884B-17, 892-17, 892B-17, and 895-17 turbofan engines. That NPRM proposed to supersede an existing AD that requires inspecting the intermediate-pressure (IP) compressor rotor shaft rear balance land for cracks, which could lead to engine failure. This

action revises that NPRM by changing the optional terminating action for RB211-Trent 700 and RB211-Trent 800 engines to mandatory terminating action. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

**DATES:** We must receive comments on this supplemental NPRM by March 20, 2012.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:* 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 Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011-44-1332-242424; fax: 011-44-1332-245418 or email from [http://www.rolls-royce.com/contact/civil\\_team.jsp](http://www.rolls-royce.com/contact/civil_team.jsp). You may review copies of the referenced service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7125.

#### Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, 12 New England Executive Park, Burlington, MA; phone: (781) 238-7143; fax: (781) 238-7199; email: [alan.strom@faa.gov](mailto:alan.strom@faa.gov).

**SUPPLEMENTARY INFORMATION:****Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2007–28059; Directorate Identifier 2007–NE–13–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

**Discussion**

We issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to RR RB211-Trent 553–61, 553A2–61, 556–61, 556A2–61, 556B–61, 556B2–61, 560–61, 560A2–61, 768–60, 772–60, 772B–60, 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 turbofan engines. That NPRM published in the **Federal Register** on October 18, 2011 (76 FR 64283). That NPRM proposed to require for certain RB211-Trent 700 and RB211-Trent 800 engines, on-wing initial and repetitive borescope inspections and when in the shop, repetitive eddy current inspections (ECIs) for cracks on the rear balance land; and continued for RB211-Trent 500 engines, initial and repetitive in-shop visual inspections or ECIs for cracks on the rear balance land. That NPRM also proposed certain optional terminating actions.

**Actions Since Previous NPRM Was Issued**

Since we issued that NPRM, RR has ceased efforts to develop an on-wing ECI. Therefore the optional terminating action for RB211-Trent 700 and RB211-Trent 800 engines only, should be made mandatory. EASA has also superseded EASA AD 2010–0266R1, dated January 6, 2011, with EASA Airworthiness Directive 2011–0221, dated November 14, 2011 to accomplish the same corrective actions as proposed herein.

**Comments**

We gave the public the opportunity to comment on the previous NPRM. The following presents the comments

received on the NPRM and the FAA’s response to each comment.

**Request**

US Airways requested that we allow borescope inspection using RR Alert Service Bulletin (ASB) No. RB.211–72–AG270 when at shop visit, if the exposure of the IP compressor is not visible for ECI. The commenter stated that airlines will incur more maintenance costs if not allowed to do borescope inspections under this circumstance.

We do not agree. The visual/ECI is not required unless the rear face of the IP compressor is exposed. Our Definition paragraph defined a shop visit as the introduction of an engine into a shop, and disassembly sufficient to expose the IP compressor module rear face. We did not change the NPRM.

**Request**

The Boeing Airplane Company, Rolls-Royce plc, and American Airlines requested that we correct two service bulletin reference errors and two paragraph reference errors in the compliance section. We agree. We revised this NPRM by changing the Service Bulletin (SB) and paragraph reference errors, specifically changing “RR SB No. RB.211–72–G402, Revision 2, dated July 7, 2011” to “RR ASB No. RB.211–72–AG402, Revision 2, dated July 7, 2011”, changing “RR SB No. RB.211–72–G401, Revision 2, dated July 5, 2011” to “RR ASB No. RB.211–72–AG401, Revision 2, dated July 5, 2011”, changing the reference in paragraph (k)(2)(i) from “(h)” to “(g)(1)(i)”, and by changing paragraph “(f)(3)” to paragraph “(g)”.

**Request**

Rolls-Royce plc requested that, when referencing the RB211-Trent 800 service information, we make the inspection requirements consistent with the RB211-Trent 700 inspection requirements, as they are the same except for the compliance interval.

We agree. We changed paragraph (g)(1)(i) in this NPRM to state to use RR ASB No. RB.211–72–AG264, Revision 5, dated March 21, 2011, sections 3.A.(2)(b) through 3.A.(2)(c) and 3.A.(3)(a) through 3.A.(3)(c), or 3.B.(2)(a) through 3.B.(2)(c) and 3.B.(4)(a) through 3.B.(4)(c), to do the inspection.

**Request**

Rolls-Royce plc requested that we reference EASA AD 2011–0221, dated November 14, 2011, in the NPRM since it supersedes EASA AD 2010–0266R1, dated January 6, 2011.

We agree and changed the EASA AD reference.

**Request**

Rolls-Royce plc requested that we change the compliance time from “next shop visit”, to “next shop visit or within 90 months after the effective date of the AD” to be consistent with EASA’s AD.

We do not agree. The fretting caused by movement between the balance weights and the IPC rear face is related to engine run time, not calendar time. Shop visits are also related to average run time. We did not change the NPRM.

**FAA’s Determination**

We are proposing this supplemental NPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs. Certain changes described above expand the scope of the original NPRM. As a result, we have determined to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

**Proposed Requirements of the Supplemental NPRM**

This supplemental NPRM would require:

- For the RB211-Trent 700 and RB211-Trent 800 engines, on wing initial and repetitive borescope inspections and when in the shop, repetitive ECIs and visual inspections for cracks on the rear balance land; and
- For the RB211-Trent 500 engines, initial and repetitive in-shop visual inspections or ECIs for cracks on the rear balance land.
- For the RB211-Trent 700 and RB211-Trent 800 engines, adding a mandatory terminating action to the repetitive inspection requirements.

**Costs of Compliance**

We estimate that this proposed AD would affect about 136 engines installed on airplanes of U.S. registry. We also estimate that it would take about 3.5 work-hours per engine to perform the proposed on-wing/in-shop visual inspections, about 2.5 work-hours per engine to perform the proposed in-shop ECIs, and about 8 work-hours to rebalance the IP compressor. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be \$470,696.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA’s authority to issue

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs" describes in more detail the scope of the Agency's authority.

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

### Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

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

### The Proposed Amendment

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

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directive (AD)

2008–18–08, Amendment 39–15665 (73 FR 52201, September 9, 2008), and adding the following new AD:

**Rolls-Royce plc:** Docket No. FAA–2007–28059; Directorate Identifier 2007–NE–13–AD.

#### (a) Comments Due Date

We must receive comments by March 20, 2012.

#### (b) Affected ADs

This AD supersedes AD 2008–18–08, Amendment 39–15665, (73 FR 52201, September 9, 2008).

#### (c) Applicability

This AD applies to Rolls-Royce plc (RR) RB211-Trent 553–61, 553A2–61, 556–61, 556A2–61, 556B–61, 556B2–61, 560–61, 560A2–61, 768–60, 772–60, 772B–60, 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 turbofan engines.

#### (d) Unsafe Condition

We are superseding AD 2008–18–08 because additional cracks on RB211-Trent 700 and RB211-Trent 800 intermediate-pressure (IP) compressor rotor shafts have been found since that AD was issued. This cracking could lead to IP compressor rotor shaft failure, uncontained engine failure, and damage to the airplane.

#### (e) Compliance

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

#### (f) RB211-Trent 700 Series Engines—Rear Balance Land Inspections

##### (1) On-Wing Inspections

(i) Within 625 cycles-in-service (CIS) after the effective date of this AD, borescope inspect the IP compressor rotor shaft rear balance land. Use RR Alert Service Bulletin (ASB) No. RB.211–72–AG270, Revision 4, dated March 21, 2011, sections 3.A.(2)(a) through 3.A.(2)(c) and 3.A.(3)(a) through 3.A.(3)(c), or 3.B.(2)(a) through 3.B.(2)(c) and 3.B.(4)(a) through 3.B.(4)(c), to do the inspection.

(ii) Thereafter, repeat the inspection within every 625 cycles-since-last inspection (CSLI). You may count CSLI from the last borescope inspection or the last eddy current inspection, whichever has occurred last.

##### (2) In-Shop Inspections

At each shop visit, eddy current inspect (ECI) and visually inspect the IP compressor rotor shaft rear balance land, and visually inspect the balance weights. Use RR ASB No. RB.211–72–AG085, Revision 2, dated July 7, 2011, sections 3.A. through 3.D.(3)(b)(v), except paragraphs 3.D.(3)(a)(ii) and 3.D.(3)(b)(iii) to do the inspections.

#### (g) RB211-Trent 800 Series Engines—Rear Balance Land Inspections

##### (1) On-Wing Inspections

(i) Within 475 CIS after the effective date of this AD, borescope inspect the IP compressor rotor shaft rear balance land. Use RR ASB No. RB.211–72–AG264, Revision 5,

dated March 21, 2011, sections 3.A.(2)(b) through 3.A.(2)(c) and 3.A.(3)(a) through 3.A.(3)(c), or 3.B.(2)(a) through 3.B.(2)(c) and 3.B.(4)(a) through 3.B.(4)(c), to do the inspection.

(ii) Thereafter, repeat the inspection within every 475 CSLI. You may count CSLI from the last borescope inspection or the last eddy current inspection, whichever has occurred last.

##### (2) In-Shop Inspections

At each shop visit, ECI and visually inspect the IP compressor rotor rear shaft balance land, and visually inspect the balance weights. Use RR ASB No. RB.211–72–AG085, Revision 2, dated July 7, 2011, sections 3.A. through 3.D.(3)(b)(v), except paragraphs 3.D.(3)(a)(ii) and 3.D.(3)(b)(iii), to do the inspections.

#### (h) RB211-Trent 500 Series Engines—In-Shop Rear Balance Land Inspections

At each shop visit, ECI the IP compressor rotor shaft and visually inspect the balance weights. Use RR ASB No. RB.211–72–AF260, Revision 5, dated July 7, 2011 sections 3.A. through 3.B.(3)(a)(iii) to do the visual inspection, or RR Service Bulletin (SB) No. RB.211–72–G448, Revision 3, dated July 7, 2011 section 3.D.(1) through 3.D.(14) to do the ECI.

#### (i) Definition

For the purposes of this AD, a shop visit is defined as introduction of an engine into a shop, and disassembly sufficient to expose the IP compressor module rear face.

#### (j) Mandatory Terminating Action for RB211-Trent 700 and RB211-Trent 800 Engines

(1) As mandatory terminating action to the in-shop repetitive inspections in paragraph (f)(2) of this AD, at the next shop visit in which any level of inspection or strip is scheduled to be carried out on the IPC, modify RB211-Trent 700 engines by removing the existing IPC balance weights, and then rebalancing the IPC as specified in paragraphs 3.B.(2) through 3.B.(6)(e) and 3.B.(6)(g) of RR ASB No. RB.211–72–AG402, Revision 2, dated July 7, 2011.

(2) As mandatory terminating action to the in-shop repetitive inspections in paragraph (g)(2) of this AD, at the next shop visit in which any level of inspection or strip is scheduled to be carried out on the IPC, modify RB211-Trent 800 engines by removing the existing IPC balance weights, and then rebalancing the IPC as specified in paragraphs 3.B.(2) through 3.B.(6)(e) and 3.B.(6)(g) of RR ASB No. RB.211–72–AG401, Revision 2, dated July 5, 2011.

#### (k) Previous Credit

(1) For RB211-Trent 700 series engines:  
 (i) An on-wing inspection done before the effective date of this AD using RR ASB No. RB.211–72–AG270, Revision 1, dated December 14, 2009, or Revision 2, dated December 21, 2010, or Revision 3, dated February 25, 2011, meets the inspection requirement in paragraph (f)(1) of this AD.  
 (ii) An in-shop inspection done before the effective date of this AD using RR ASB No. RB.211–72–AG085, Revision 1, dated

September 27, 2010, meets the inspection requirement in paragraph (f)(2) of this AD.

(iii) An IPC rebalancing done before the effective date of this AD using RR SB No. RB.211-72-G402, Revision 1, dated January 11, 2011, meets the rebalancing requirement in paragraph (j)(1) of this AD.

(2) For RB211-Trent 800 series engines:

(i) An on-wing inspection done before the effective date of this AD using RR ASB No. RB.211-72-AG264, Revision 3, dated December 21, 2010, or Revision 4, dated February 25, 2011, meets the inspection requirement in paragraph (g)(1) of this AD.

(ii) An in-shop inspection done before the effective date of this AD using RR ASB No. RB.211-72-AG085, Revision 1, dated September 27, 2010, meets the inspection requirement in paragraph (g)(2) of this AD.

(iii) An IPC rebalancing done before the effective date of this AD using RR SB No. RB.211-72-G402, Revision 1, dated January 11, 2011, meets the rebalancing requirement in paragraph (j)(1) of this AD.

(3) For RB211-Trent 500 series engines:

(i) An in-shop visual inspection done before the effective date of this AD using RR ASB No. RB.211-72-AF260, Revision 4, dated July 28, 2009, meets the inspection requirement in paragraph (h) of this AD.

(ii) An in-shop ECI done before the effective date of this AD using RR ASB No. RB.211-72-G448, Revision 2, dated December 23, 2010, meets the ECI requirement in paragraph (h) of this AD.

#### (l) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures in 14 CFR 39.19 to request an AMOC.

#### (m) Related Information

(1) For more information about this AD, contact Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, 12 New England Executive Park, Burlington, MA; phone: (781) 238-7143; fax: (781) 238-7199; email: [alan.strom@faa.gov](mailto:alan.strom@faa.gov).

(2) European Aviation Safety Agency AD 2011-0221, dated November 14, 2011, also pertains to the subject of this AD.

(3) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011-44-1332-242424; fax: 011-44-1332-245418; or email from [http://www.rolls-royce.com/contact/civil\\_team.jsp](http://www.rolls-royce.com/contact/civil_team.jsp). You may review copies of the referenced service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7125.

Issued in Burlington, Massachusetts, on January 11, 2012.

**Peter A. White,**

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2012-1128 Filed 1-19-12; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 73

[Docket No. FDA-2011-C-0878]

#### Mars, Inc.; Filing of Color Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of petition.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Mars, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of spirulina blue, an extract made from the biomass of *Anthrospira platensis* (spirulina), to color candy and chewing gum.

#### FOR FURTHER INFORMATION CONTACT:

Felicia M. Ellison, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740-3835, (240) 402-1264.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (section 721(d)(1) (21 U.S.C.

379e(d)(1)), notice is given that a color additive petition (CAP 2C0293) has been filed by Mars, Inc., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the color additive regulations in part 73 (21 CFR part 73) *Listing of Color Additives Exempt From Certification* to provide for the safe use of spirulina blue, an extract made from the biomass of *Anthrospira platensis* (spirulina), as a color additive in candy and chewing gum.

The Agency has determined under 21 CFR 25.32(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: January 6, 2012.

**Dennis M. Keefe,**

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 2012-599 Filed 1-19-12; 8:45 am]

**BILLING CODE 4160-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 95

#### 46 CFR Part 16

[Docket No. USCG-2010-1064]

RIN 1625-AB58

#### Revision to Chemical Testing Regulations for Mariners and Marine Employers

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of inquiry; request for comments.

**SUMMARY:** The Coast Guard is considering revising the regulations governing chemical (drug and alcohol) testing of mariners. In support of that effort, we would like input from mariners, marine employers, service agents, and substance abuse professionals on a number of questions relating to the administration of chemical testing programs for mariners by mariner employers.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before March 20, 2012 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-1064 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>, under docket number USCG-2010-1064.

(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.

*Confidential Information, Proprietary Information and Sensitive Security Information (SSI):* Do not submit comments that include trade secrets, confidential commercial or financial information, or sensitive security

information (SSI) to the public regulatory docket. Please submit such comments separately from other comments on the rulemaking. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail to the Coast Guard point of contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

Upon receipt of such comments, the Coast Guard will not place the comments in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. The Coast Guard will hold them in a separate file to which the public does not have access, and place a note in the public docket that Coast Guard has received such materials from the commenter. If the Coast Guard receives a request to examine or copy this information, we will treat it as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552).

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or email Robert Schoening, Office of Investigations and Casualty Analysis, U.S. Coast Guard; telephone (202) 372-1033, email [Robert.C.Schoening@uscg.mil](mailto:Robert.C.Schoening@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Participation and Request for Comments**

We encourage you to respond to this request by submitting comments and related material on the below questions. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

*Submitting comments and information:* If you submit a comment, please include the docket number for this notice (USCG-2010-1064) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. 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>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Select document Type" drop down

menu select "Notice" and insert "USCG-2010-1064" in the "Enter Keyword or ID" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them 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 the Comments:* To view the comments online, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Enter Keyword or ID" box insert "USCG-2010-1064" 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 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).

##### **Background and Purpose**

The Coast Guard is considering revising the regulations governing drug testing of mariners in 46 CFR part 16 and alcohol testing in 33 CFR part 95. In support of that effort, the Coast Guard is requesting information from marine employers, mariners, and the public on several questions related to chemical testing of merchant mariners. The Coast Guard also seeks input from State, local, and Tribal governments and from small entities on issues related to administering a drug testing program. When responding to the questions below, please provide quantitative data on costs, benefits, and other relevant information, specifying sources of information and citations.

##### **Request for Information**

*The Coast Guard seeks information on the following questions:*

###### *A. Casualty Data Related to Drug and Alcohol Use*

Casualties involving drug and alcohol use on commercial vessels can cause a variety of negative impacts, including loss of life, injuries, and property damage. What non-Coast Guard sources of data or information exist detailing benefits or avoided damages that may result from programs which prevent drug and alcohol-related commercial vessel casualties?

###### *B. Recurrent Training for Supervisors*

Currently, 46 CFR 16.401 requires Employee Assistance Program (EAP) training for employees subject to the chemical testing rules in 46 CFR part 16 and their supervisors. The next five questions focus on supervisors, who are required to have at least 60 minutes of EAP training.

(1) Do you, as a marine employer, or consortium or third-party administrator (C/TPA), require recurring (annual or some other frequency) training for supervisors on the signs and effects of drug and alcohol use?

(2) If so, what is the duration, frequency, and cost of training for supervisors?

(3) What method of training do you use (e.g., classroom, online, written materials, etc.)?

(5) What are the costs of your training?

(6) Would a requirement for recurrent supervisory training impact your business operations? How so and by how much?

(7) What are the benefits, if any, of training for supervisors on the signs and effects of drug and alcohol use? How effective is supervisor training in helping employers identify and prevent drug and alcohol use and resulting accidents?

###### *C. Immediate Reporting for Testing*

The Coast Guard is considering a requirement for crewmembers who are selected for testing to report immediately to the testing site upon being notified. The current requirement is that crewmembers randomly selected for testing must report, but how soon they must report is not specified. The Coast Guard believes that requiring mariners to report immediately may improve the reliability and effectiveness of employers' drug-testing programs. Immediate reporting is currently required by the Federal Aviation Administration's rule at 14 CFR 120.109(b)(8), which regulates aviation

employees, and the Federal Motor Carrier Safety Administration's rule at 49 CFR 382.305(l), which regulates commercial truck drivers. The following questions are related to immediate reporting.

(1) What is the average or usual amount of time between when crewmembers are informed of their selection for random testing and their reporting for testing at the collection site?

(2) What is your company or C/TPA's policy or practice, if any, regarding how much time may elapse after the crewmember is notified of the selection before your company or C/TPA considers the delay to be a refusal to submit to testing?

(3) As a marine employer, would a requirement to report immediately for testing impact your business operations? If so, how and by how much?

(4) Do you conduct on-site collection of specimens?

(5) How would immediate reporting for testing improve the reliability and effectiveness of your drug-testing programs?

(6) Do marine employees appear for random drug tests required by Coast Guard regulations during work hours or on their own time?

(7) How effective do you believe a "report immediately" requirement would be in detecting drug use (i.e., by what percent do you estimate non-negative test results would increase if there was a "report immediately" requirement for the industry)?

(8) Do you think a "report immediately" requirement would result in a more effective random drug testing program?

(9) The current requirement is that crewmembers randomly selected for testing must report, but how soon they must report is not specified. Since industry is currently incurring the costs of testing, the Coast Guard does not believe immediate reporting for testing poses significant additional costs. What costs, above and beyond current compliance costs, would be incurred for immediate reporting after notification compared to reporting within 24 hours, or even a few days?

#### *D. Consortia Membership for Independent Owners/Operators*

(1) If you are an independent owner/operator, do you use a Consortium or Third Party Administrator (C/TPA) to manage the random testing portion of your chemical testing program? If not, how would it impact your business operations, including costs and burden, to use a consortium?

(2) What are the benefits of using a C/TPA to manage the random testing portion of your chemical testing program?

#### *E. Marine Employer Reporting of Failed Chemical Tests*

Under 46 CFR 16.201(c), marine employers who must have a random drug testing program are only required to report failed drug test results for credentialed mariners, not for non-credentialed mariners.

(1) What would be the cost if marine employers were also required to report failed drug tests for non-credentialed mariners?

(2) How many failed drug tests of non-credentialed mariners have you received during the last 5 years? Out of how many tests?

(3) How many failed drug tests of non-credentialed mariners would you expect to see, if marine employers were required to report those test results to the Coast Guard.

(4) What benefit, if any, do you see in requiring all failed drug tests (credentialed and non-credentialed mariners) to be reported to the Coast Guard?

#### *F. Medical Review Officers (MROs) Reporting Non-Negative Test Results Directly to the Coast Guard*

A non-negative specimen is a urine specimen that is adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

(1) For MROs, how would a requirement to report all non-negative test results to the Coast Guard (in addition to the marine employer) impact your business?

(2) For MROs, what would be your preferred method to report non-negative drug test results to the Coast Guard?

#### *G. Electronic Reporting of Management Information System (MIS) Data*

Eighty percent of annual Management Information System reports are submitted through the internet.

(1) If you do not submit your annual MIS data through the internet, what would the cost or savings be if you did?

(2) Would you request an exemption from electronic reporting if one was available?

#### *H. Exemption From Reporting*

Under 46 CFR 16.500(c), employers who must have a random drug testing program but who have 10 or fewer employees are exempt from mandatory MIS reporting after their third year of reporting.

(1) Are you taking advantage of this exemption? If so, what would the

impact be to you if you no longer could take advantage of this exemption?

(2) What sources of data or information exist on the number of employers that are exempt from mandatory reporting and the cost impacts of requiring reporting by all entities?

#### *I. Minimum Drug-Testing Rate*

Current regulations require that employers who must have a random drug testing program test their crewmembers at a rate equal to 50 percent of their covered crewmembers annually. The Coast Guard is considering allowing individual companies to use a lower testing rate (25 percent) if they can demonstrate a positive test results rate of 1 percent or less for 2 consecutive years.

(1) As an employer, based on past performance, do you believe that you could qualify for the lower testing rate? If so, what would be the cost savings associated with the lower testing rate?

(2) To C/TPAs, how would managing clients, some of whom have a lower testing threshold (25 percent) and others at the standard testing threshold (50 percent), impact your business operations?

#### *J. Impacts on Small Entities*

Would the measures discussed in this notice have a significant economic impact on a substantial number of small entities? What sources of data or information exist detailing the economic impact on small entities, which may result if the measures discussed above were implemented?

Any information provided in response to this request for comments is appreciated and will be considered by the Coast Guard. This notice is issued under authority of 5 U.S.C. 552(a) and 33 CFR 1.05-1.

Dated: January 13, 2012.

**Paul F. Thomas,**  
Captain, U.S. Coast Guard, Acting Director of Prevention Policy.

[FR Doc. 2012-1156 Filed 1-19-12; 8:45 am]

**BILLING CODE 9110-04-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA-R03-OAR-2011-0925; FRL-9619-6]

### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Nonattainment New Source Review Rules**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania on August 9, 2007. This revision pertains to the preconstruction permitting requirements of Pennsylvania's nonattainment New Source Review (NSR) program. The revision is intended to update Pennsylvania's nonattainment NSR regulations to meet EPA's 2002 NSR Reform regulations (NSR Reform), and to satisfy the requirements related to antibacksliding. Additionally, the proposed revision makes clarifying changes to regulations that are not related to NSR Reform. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before February 21, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2011-0925 by one of the following methods

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: cox.kathleen@epa.gov*.

C. *Mail: EPA-R03-OAR-2011-0925, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street Philadelphia, Pennsylvania 19103.*

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2011-0925. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit 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 comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the

comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Gerallyn Duke, (215) 814-2084, or by email at *Duke.Gerallyn@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On August 9, 2007, the Pennsylvania Department of Environmental Protection (PA DEP) submitted a proposed SIP revision pertaining to preconstruction permitting requirements under Pennsylvania's nonattainment NSR program.

#### Table of Contents

- I. Background
- II. Summary of SIP Revision
- III. Proposed Action
- IV. Statutory and Executive Order Reviews

#### I. Background

EPA last took action on the nonattainment NSR provisions of the Pennsylvania SIP on December 9, 1997. At that time EPA approved a wholesale revision of Pennsylvania's preconstruction permitting program for minor and major sources and included new and revised subchapters A, B, C, and E under 25 Pa. Code Chapter 127.

Pennsylvania had adopted the new rules in response to the 1990 Clean Air Act Amendments (CAAA) requirement to submit new NSR programs addressing § 182 of the CAA. The only subchapter that was not revised was subchapter D—the state's Prevention of Significant Deterioration (PSD) program.

Pennsylvania adopted an automatic incorporation by reference (IBR) of the federal PSD regulations of 40 CFR 52.21. This automatic IBR was approved into Pennsylvania's SIP on June 18, 1983 (49 FR 33127). The currently proposed revision has no impact on Pennsylvania's PSD program.

On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 CFR parts 51 and 52, regarding the CAA's PSD and nonattainment NSR programs. On November 7, 2003 (68 FR 63021), EPA published a notice of final action on the reconsideration of the December 31, 2002, final rule changes. The December 31, 2002, and the November 7, 2003, final actions are collectively referred to as "NSR Reform." The purpose of this SIP revision is to incorporate changes to Pennsylvania's nonattainment NSR rules made as a result of EPA's 2002 NSR Reform, and to address the antibacksliding provisions of the United States Court of Appeals for the District of Columbia (D.C. Circuit Court) decision in *South Coast Air Quality Management District v. EPA*<sup>1</sup> (*South Coast*).

The 2002 NSR Reform Rules are part of EPA's implementation of parts C and D of title I of the CAA, 42 U.S.C. 7470-7515. Part C of title I of the CAA, 42 U.S.C. 7470-7492, is the PSD program, which applies in areas that meet the National Ambient Air Quality Standards (NAAQS) ("attainment" areas), as well as in areas for which there is insufficient information to determine whether the area meets the NAAQS ("unclassifiable" areas). Part D of title I of the CAA, 42 U.S.C. 7501-7515, is the nonattainment NSR program, which applies in areas that are not in attainment of the NAAQS ("nonattainment" areas). Collectively, the PSD and nonattainment NSR programs are referred to as the "New Source Review" or NSR programs. EPA regulations implementing these programs are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and part 51, appendix S.

<sup>1</sup> In 2006, the United States Court of Appeals for the District of Columbia Circuit found in *et al.*, 472 F.3d 882 (D.C. Cir 2006) that NSR is a control measure and to weaken its requirements under the SIP would constitute impermissible backsliding under the CAA.

The CAA's NSR programs are preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the CAA. The NSR programs of the CAA include a combination of air quality planning and air pollution control technology program requirements. Briefly, section 109 of the CAA, 42 U.S.C. 7409, requires EPA to promulgate primary NAAQS to protect public health and secondary NAAQS to protect public welfare. Once EPA sets those standards, states must develop, adopt, and submit to EPA for approval a SIP that contains emissions limitations and other control measures to attain and maintain the NAAQS. Each SIP is required to contain a preconstruction review program for the construction and modification of any stationary source of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect air quality related values (such as visibility) in national parks and other areas; to assure that appropriate emissions controls are applied; to maximize opportunities for economic development consistent with the preservation of clean air resources; and to ensure that any decision to increase air pollution is made only after full public consideration of the consequences of the decision.

The 2002 NSR Reform Rules made changes to five areas of the NSR programs. In summary, the 2002 Rules: (1) Provide a new method for determining baseline actual emissions; (2) adopt an actual-to-projected actual methodology for determining whether a major modification has occurred; (3) allow major stationary sources to comply with Plantwide applicability limits (PALs) to avoid having a significant emissions increase that triggers the requirements of the major NSR program; (4) provided a new applicability provision for emissions units that are designated clean units (Clean Unit test); and (5) excluded pollution control projects (PCPs) from the definition of "physical change or change in the method of operation." On November 7, 2003 (68 FR 63021), EPA published a notice of final action on its reconsideration of the 2002 NSR Reform Rules, which added a definition for "replacement unit" and clarified an issue regarding PALs.

After the 2002 NSR Reform Rules were finalized and effective (March 3, 2003), industry, state, and environmental petitioners challenged numerous aspects of the 2002 NSR Reform Rules, along with portions of EPA's 1980 NSR Rules (45 FR 52676, August 7, 1980). On June 24, 2005, the

D.C. Circuit Court issued a decision on the challenges to the 2002 NSR Reform Rules. *New York v. United States*, 413 F.3d 3 (D.C. Cir. 2005) (*New York I*). In summary, the D.C. Circuit Court vacated portions of the rules pertaining to clean units and PCPs, remanded a portion of the rules regarding recordkeeping and the term "reasonable possibility" found in 40 CFR 52.21(r)(6) and 40 CFR 51.166(r)(6), and either upheld or did not comment on the other provisions included as part of the 2002 NSR reform Rules. On June 13, 2007 (72 FR 32526), EPA took final action to revise the 2002 NSR Reform Rules to remove from federal law all provisions pertaining to clean units and the PCP exemption that were vacated by the D.C. Circuit Court.

With regard to the remanded portions of the 2002 NSR Reform Rules related to recordkeeping, on December 21, 2007, EPA took final action to establish the "reasonable possibility" provision which identifies the circumstances under which a major stationary source undergoing a modification that does not trigger major NSR must keep records (72 FR 72607). The 2002 NSR Reform Rules require that state agencies adopt and submit revisions to their SIP permitting programs implementing the minimum program elements of the 2002 NSR Reform Rules no later than January 2, 2006. State agencies may meet the requirements of the 2002 NSR Reform Rules with different but equivalent regulations.

On April 30, 2004 EPA published the Phase 1 Rule to Implement the Eight-Hour Ozone National Ambient Air Quality Standard, (69 FR 23951) which, among other things, allowed areas that had a higher nonattainment classification under the one-hour ozone standard to impose the NSR requirements of the new, less stringent eight-hour classification. In Pennsylvania, for instance, the classification for the Philadelphia ozone nonattainment area changed from serious under the one-hour standard to moderate under the eight-hour standard. The Phase I rule was subsequently challenged on a number of points, including the NSR provisions; the D.C. Circuit Court determined, in *South Coast*, that all one-hour ozone NAAQS major NSR requirements must remain in place.

## II. Summary of SIP Revision

The SIP submittal consists of changes to 25 Pa. Code Chapter 121, General Provisions, and 25 Pa. Code Chapter 127, Construction, Modification, Reactivation, and Operation of Sources. This action, when approved, will update Pennsylvania's nonattainment

NSR regulations as previously approved on December 9, 1997 (62 FR 64722). It will incorporate for the first time the 2002 "NSR Reform" provisions into Pennsylvania's nonattainment NSR program, and will satisfy the requirements of the D.C. Circuit Court decision in *South Coast* regarding antibacksliding. The proposed regulations were adopted by Pennsylvania and became effective on May 19, 2007. A detailed analysis of the regulations as well as EPA's rationale for approving them can be found in the technical support document (TSD) in the docket for this proposed action.

### A. NSR Reform Elements

Prior to NSR Reform, emission increases associated with a physical change or change in the method of operation at an existing major source were calculated by comparing past actual emissions with the facility's potential to emit after the change, commonly referred to as the actual-to-potential test. In general, NSR Reform allows owners and operators of all major sources to choose between the traditional test and a new test that would compare past actual emissions to a projection of future actual emissions, so long as those projections are based on realistic and reliable information. The latter is commonly referred to as an actual-to-actual test. In addition, the facility would not be required to establish the projected emissions as an enforceable emissions limit.

As noted above, NSR Reform was challenged on all fronts, including the applicability provisions related to the actual-to-actual test and, of particular importance to the Pennsylvania SIP, the Clean Unit test. The Clean Unit test would have allowed facilities that had installed state of the art pollution controls within the past 10 years to avoid triggering NSR even when it would be clear that actual emissions would increase. The D.C. Circuit rejected the Clean Unit test on the grounds that "the CAA unambiguously defines 'increases' in terms of actual emissions." In its concluding paragraph on the matter, the Court opined that "because the plain language of the CAA indicates that Congress intended to apply NSR to changes that increase actual emission instead of potential or allowable emissions, we hold that EPA lacks the authority to promulgate the Clean Unit provision, and we vacate that portion of the 2002 rule, 67 FR 80279-83 (codified at 40 CFR § 52.21(x)) as contrary to the statute under *Chevron* Step 1."

Pennsylvania's current SIP rules, approved on December 9, 1997, allow

sources to determine nonattainment NSR applicability based on a comparison of past “maximum allowable emissions” to future “maximum allowable emissions,” i.e., a potential-to-potential test to determine NSR applicability. By any measure, these rules did not conform to the pre-Reform actual-to-potential test or to the mandate of the D.C. Circuit Court in *New York I* that applicability must be based on increases in actual emissions. The 1997 SIP could allow facilities to make substantial increases in actual emissions without undergoing review and without applying offsets or complying with Lowest Achievable Emission Rate (LAER) requirements, particularly in nonattainment areas that already have poor air quality. By incorporating NSR Reform elements, adoption of the proposed 2007 SIP revision is a significant strengthening of the SIP and will bring Pennsylvania’s program in line with the requirements of the CAA.

Pennsylvania has adopted all of the NSR Reform measures with some modifications: The look-back period for determining baseline actual emissions (BAE) is five years for all facilities. However, facilities that are not Electric Generating Units (EGUs) may request up to ten years upon a demonstration that a different period is more representative of normal source operation. Also, BAE do not include emissions associated with malfunctions. Finally, the same 24-month period is to be used for all pollutants when multiple units are affected by a project unless a facility can demonstrate that another 24-month period would be more representative. Another difference is that Pennsylvania rules require projected actual emissions to be incorporated into the required plan approval as an emissions limit. Finally, differences in establishing BAE related to the look-back period and inclusion of emissions from malfunctions, noted above, also apply to PALs in Pennsylvania.

It wasn’t necessary for Pennsylvania to make any changes related to the remanded portions of the 2002 NSR Reform Rules related to clarification of the term “reasonable possibility” (72 FR 72607). This is because Pennsylvania facilities that use projected actual emissions with the result that major NSR is not triggered must still obtain a permit. These permits require all facilities to maintain and report their post-change emissions.

#### B. Antibacksliding

On April 30, 2004, EPA designated Bucks, Chester, Delaware, Montgomery and Philadelphia Counties in

Pennsylvania as moderate nonattainment under the eight-hour ozone NAAQS and revoked the one-hour ozone NAAQS. Under the one-hour ozone standard, Bucks, Chester, Delaware, Montgomery and Philadelphia Counties had been designated as severe nonattainment. As a result of *South Coast*, all one-hour ozone NAAQS major NSR requirements in Pennsylvania and in the five-county Philadelphia area must remain in place. Under this SIP revision, facilities in these counties which emit or have the potential to emit at least 25 tons per year (tpy) of NO<sub>x</sub> or VOCs will be considered major facilities and be subject to the requirements applicable to major facilities located in a severe nonattainment area of ozone.

#### C. Miscellaneous Changes

In addition to the changes outlined above, the proposed revisions include miscellaneous changes that were intended to provide additional clarity in Pennsylvania’s regulations. These changes include the addition of definitions (unrelated to NSR reform) to conform to the federal nonattainment regulations in 40 CFR 51.165, clarification of provisions related to emission reduction credits, the re-codification of certain sections, and some additional clarifying rule changes. The TSD contains more detail on all of the proposed changes, and can be found in the docket for this action.

#### III. Proposed Action

EPA’s review of this material indicates that the 2007 SIP revision, amending Pennsylvania’s NSR construction, modification, reactivation and operation permit programs at 25 Pa. Code Section 121.1 and 25 Pa. Code Chapter 127, significantly strengthens the existing SIP and is consistent with the federal program requirements for nonattainment NSR set forth at 40 CFR 51.165. EPA is proposing to approve the August 9, 2007 Pennsylvania SIP revision. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

#### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this proposed rule pertaining to Pennsylvania’s nonattainment NSR program does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: January 3, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012-1116 Filed 1-19-12; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2011-0818; FRL-9619-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determinations of Clean Data for the 2006 24-Hour Fine Particulate Standard for the Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster Nonattainment Areas

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to determine that the Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster nonattainment areas (hereafter referred to as "Areas") for the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS) have clean data for the 2006 24-hour PM<sub>2.5</sub> NAAQS. These proposed determinations are based upon quality-assured, quality-controlled, and certified ambient air monitoring data showing that these areas have monitored attainment of the 2006 PM<sub>2.5</sub> NAAQS based on the 2008–2010 data available in EPA's Air Quality System (AQS) database. If these proposed determinations are made final, the requirements for these Areas to submit an attainment demonstration, associated reasonably available control measures (RACM), a reasonable further progress plan (RFP), contingency measures, and other planning State Implementation Plans (SIPs) related to attainment of the standard shall be suspended for so long as these Areas continue to meet the 2006 24-hour PM<sub>2.5</sub> NAAQS. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before February 21, 2012.

**ADDRESSES:** Submit your comments regarding the two-state Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster area, identified by Docket ID Number EPA-R03-OAR-2011-0818 by one of the following methods:

A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.

B. *Email:* [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).  
C. *Mail:* EPA-R03-OAR-2011-0818, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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 comments to Docket ID No. EPA-R03-OAR-2011-0818. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division,

U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814-2166, or by email at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. What is the background for this action?
- IV. What is EPA's analysis of the relevant air quality data?
- V. What is EPA's proposed action?
- VI. Statutory and Executive Order Reviews

#### I. What action is EPA taking?

EPA is proposing to determine that these Areas have clean data for the 2006 24-hour PM<sub>2.5</sub> NAAQS. These determinations are based upon quality-assured, quality-controlled, and certified ambient air monitoring data showing that these Areas have monitored attainment of the 2006 PM<sub>2.5</sub> NAAQS based on 2008–2010 monitoring data.

#### II. What is the effect of this action?

If these determinations are made final, under the provisions of EPA's PM<sub>2.5</sub> implementation rule (40 CFR 51.1004(c)), the requirements for these Areas to submit an attainment demonstration, associated RACM, RFP plan, contingency measures, and any other planning SIP requirements related to attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS would be suspended for so long as these Areas continue to meet this NAAQS. Furthermore, as described below, a final clean data determination would not be equivalent to a redesignation of any of these Areas to attainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS.

If EPA subsequently determines that these Areas are in violation of the 2006 24-hour PM<sub>2.5</sub> NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.1004(c), would no longer exist and these Areas would thereafter have to address the pertinent requirements.

These proposed clean data determinations that the air quality data shows attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS is not equivalent to the redesignation of these Areas to attainment. This proposed action, if finalized, will not constitute a redesignation to attainment under section 107(d)(3) of the CAA because we would not yet have an approved

maintenance plan for these Areas as required under section 175A of the CAA, nor determinations that these Areas have met the other requirements for redesignation. The designation status of these Areas would remain nonattainment for the 2006 PM<sub>2.5</sub> NAAQS until such time as EPA determines that these Areas meet the CAA requirements for redesignation to attainment.

**III. What is the background for this action?**

The 2006 PM<sub>2.5</sub> NAAQS set forth at 40 CFR 50.13 became effective on December 18, 2006 (71 FR 61144) and promulgated a 24-hour standard of 35 micrograms per cubic meter (µg/m<sup>3</sup>) based on a 3-year average of the 98th percentile of 24-hour concentration. On December 14, 2009 (74 FR 58688), EPA made designation determinations, as

required by CAA section 107(d)(1), for the 2006 24-hour PM<sub>2.5</sub> NAAQS. The Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster areas are designated as nonattainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS.

**IV. What is EPA’s analysis of the relevant air quality data?**

EPA has reviewed the ambient air monitoring data, consistent with the requirements contained in 40 CFR part 50 and recorded in EPA’s AQS database for the Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster PM<sub>2.5</sub> nonattainment areas from 2008 through the present time. On the basis of that review, EPA has concluded that these Areas meet the 2006 24-hour PM<sub>2.5</sub> NAAQS based on the 2008–2010 data available in EPA’s AQS database.

Under EPA regulations in 40 CFR part 50, section 50.13 and in accordance with appendix N, the 24-hour primary and secondary PM<sub>2.5</sub> standards are met when the 98th percentile 24-hour concentration is less than or equal to 35 µg/m<sup>3</sup>. Table 1 shows the design values for the 2006 24-hour PM<sub>2.5</sub> NAAQS for the years 2008–2010. One new monitor (ID# 420950027) was placed in 2010 in the Allentown nonattainment area because the 2006–2008 data for the existing monitor (ID# 420950025) in the area was greater than 85% of the 24-hour PM<sub>2.5</sub> NAAQS as required by 40 CFR part 58, appendix D, Table D–5. EPA’s review of the data indicates that the Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster PM<sub>2.5</sub> nonattainment areas meet the 2006 PM<sub>2.5</sub> NAAQS.

TABLE 1—24-HOUR PM<sub>2.5</sub> VALUES FOR FOUR PENNSYLVANIA NONATTAINMENT AREAS \*

State	County	Monitor ID	2008 Mean (µg/m <sup>3</sup> )	2009 Mean (µg/m <sup>3</sup> )	2010 Mean (µg/m <sup>3</sup> )	Certified design value 2008–2010 (µg/m <sup>3</sup> )
<b>Harrisburg-Lebanon-Carlisle-York</b>						
Pennsylvania .....	Cumberland .....	420410101 .....	33.7	29.9	31.4	32
	Dauphin .....	420430401 .....	34.3	33.0	32.9	33
	Lebanon .....	No monitor .....	.....	.....	.....	.....
	York .....	No monitor .....	.....	.....	.....	.....
<b>Allentown</b>						
	Northampton .....	420950025 .....	33.1	30.1	33.3	32
	Northampton .....	420950027 .....	.....	.....	27.6	28
	Lehigh .....	No monitor .....	.....	.....	.....	.....
<b>Johnstown</b>						
	Cambria .....	420210011 .....	32.2	28.7	30.2	30
	Indiana (part) .....	No monitor .....	.....	.....	.....	.....
<b>Lancaster</b>						
	Lancaster .....	420710007 .....	35.0	29.4	34.1	33

\* The data presented in Table 1 are available at <http://www.epa.gov/air/airtrends/values.html>.

**V. What is EPA’s proposed action?**

EPA is proposing to determine that the Areas have clean data for the 2006 24-hour PM<sub>2.5</sub> NAAQS. As provided in 40 CFR 51.1004(c), if EPA finalizes these determinations, they will suspend the requirements for these Areas to submit an attainment demonstration, associated RACM, RFP, contingency measures, and any other planning SIP requirements related to the attainment of the 2006 PM<sub>2.5</sub> NAAQS, so long as these Areas continue to meet the standard. EPA is soliciting public comments on the issues discussed in

this document. These comments will be considered before taking final action.

**VI. Statutory and Executive Order Reviews**

This action proposes to make attainment determinations based on air quality data and would not, if finalized, result in the suspension of certain Federal requirements and would not impose any additional requirements. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking that the Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster PM<sub>2.5</sub> nonattainment areas have clean data for the 2006 24-hour PM<sub>2.5</sub> standard does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian Country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: January 3, 2012.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2012-1120 Filed 1-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R05-OAR-2010-0523; FRL-9619-8]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Illinois; Redesignation of the Illinois Portion of the St. Louis, MO-IL Area to Attainment for the 1997 8-Hour Ozone Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** EPA is extending the comment period for a proposed rule published December 22, 2011 (76 FR 79579). On December 22, 2011, EPA proposed to approve the State of Illinois' request to redesignate the Illinois portion of the St. Louis, MO-IL nonattainment area (Jersey, Madison, Monroe, and St. Clair Counties) to attainment for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). In conjunction with the proposed approval of the redesignation request, EPA proposed to approve, as a revision to the Illinois State Implementation Plan, the State's plan for maintaining the 1997 8-hour ozone NAAQS through 2025 in the area. EPA also proposed to approve the 2002 emissions inventory as meeting the comprehensive emissions inventory requirement of the Clean Air Act for the Illinois portion of the St. Louis area. Finally, EPA proposed to approve the State's 2008 and 2025 Motor Vehicle Emission Budgets for the Illinois portion of the St. Louis area. In response to a December 22, 2011, request from David C. Bender, EPA is extending the comment period for 30 days.

**DATES:** Comments. The public comment period for the proposed rule published December 22, 2011 (76 FR 79579) is being extended for 30 days to February 22, 2012.

**ADDRESSES:** Submit comments, identified by Docket ID No. EPA-R05-OAR-2010-0523, to: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6960, [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov). Additional instructions to comment can be found in the notice of proposed rulemaking published December 22, 2011 (76 FR 79579).

#### FOR FURTHER INFORMATION CONTACT:

Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

Dated: January 9, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2012-1123 Filed 1-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R2-ES-2011-0042; MO 92210-0-0009]

RIN 1018-AV86

#### Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Chupadera Springsnail (*Pyrgulopsis chupadera*) and Proposed Designation of Critical Habitat

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the reopening of the public comment period on our August 2, 2011, proposed endangered status and designation of critical habitat for the Chupadera springsnail (*Pyrgulopsis chupadera*) under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis and draft environmental assessment of the proposed designation of critical habitat and an amended required determinations section of the proposal. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the revised proposed rule, the associated draft economic analysis and draft environmental assessment, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

**DATES:** We will consider comments received on or before February 21, 2012. Comments must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered in the final decision on this action.

**ADDRESSES:** *Document availability:* You may obtain copies of the proposed rule, draft economic analysis, and draft environmental assessment on the Internet at <http://www.regulations.gov> at Docket Number FWS-R2-ES-2011-0042, or by mail from the New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

*Comment submission:* You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://>

[www.regulations.gov](http://www.regulations.gov). Search for Docket No. FWS-R2-ES-2011-0042, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-R2-ES-2011-0042; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

**FOR FURTHER INFORMATION CONTACT:**

Wally "J" Murphy, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE., Albuquerque, NM 87113, by telephone ((505) 346-2525), or by facsimile ((505) 346-2542). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

**Public Comments**

We will accept written comments and information during this reopened comment period on our proposed listing as endangered and our proposed designation of critical habitat for the Chupadera springsnail that was published in the **Federal Register** on August 2, 2011 (76 FR 46218), our draft economic analysis and draft environmental assessment of the proposed designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as "critical habitat" under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Specific information on:

(a) The distribution of the Chupadera springsnail;

(b) The amount and distribution of Chupadera springnail habitat; and

(c) What areas occupied by the species at the time of listing that contain features essential for the conservation of

the species we should include in the designation and why; and

(d) What areas not occupied at the time of listing are essential for the conservation of the species and why.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(4) Any foreseeable economic, national security, or other relevant impacts that may result from designating any area that may be included in the final designation. We are particularly interested in any impacts on small entities, and the benefits of including or excluding areas from the proposed designation that are subject to these impacts.

(5) The projected and reasonably likely impacts of climate change on the Chupadera springsnail and on the critical habitat we are proposing.

(6) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

(7) Information on the extent to which the description of economic impacts in the draft economic analysis is complete and accurate.

(8) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the draft economic analysis and draft environmental assessment, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

If you submitted comments or information on the proposed rule (76 FR 46218) during the initial comment period from August 2, 2011, to October 3, 2011, please do not resubmit them.

We will incorporate them into the public record as part of this comment period, and we will fully consider them in the preparation of our final determination. Our final determination concerning revised critical habitat will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, we may, during the development of our final determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and materials concerning the proposed rule, draft economic analysis, or draft environmental assessment by one of the

methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on <http://www.regulations.gov> as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, draft economic analysis, and draft environmental assessment, will be available for public inspection on <http://www.regulations.gov> at Docket No. FWS-R2-ES-2011-0042, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

**Background**

It is our intent to discuss only those topics directly relevant to the proposed listing and designation of critical habitat for the Chupadera springsnail in this document. For more information on previous Federal actions concerning the Chupadera springsnail, refer to the proposed listing and designation of critical habitat published in the **Federal Register** on August 2, 2011 (76 FR 46218), which is available online at <http://www.regulations.gov> (at Docket Number FWS-R2-ES-2011-0042) or from the New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

*Previous Federal Actions*

On August 2, 2011 (76 FR 46218), we published a proposed rule to list as endangered and designate critical habitat for the Chupadera springsnail. We proposed to designate approximately 1.9 acres (ac) (0.7 hectares (ha)) in two units located in Socorro County, New Mexico, as critical habitat. That proposal had a 60-day comment period, ending October 3, 2011. We received no request for a public hearing; therefore, no public hearing will be held.

*Critical Habitat*

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance

with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

#### **Consideration of Impacts Under Section 4(b)(2) of the Act**

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of the Chupadera springsnail, the benefits of critical habitat include public awareness of the presence of the Chupadera springsnail and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the Chupadera springsnail due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus

exist primarily on Federal lands or for projects undertaken by Federal agencies.

We have not proposed to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. Accordingly, we have prepared a draft economic analysis and draft environmental assessment concerning the proposed critical habitat designation, which are available for review and comment (see **ADDRESSES**).

#### *Draft Economic Analysis*

The purpose of the draft economic analysis is to identify and analyze the potential economic impacts associated with the proposed critical habitat designation for the Chupadera springsnail. The draft economic analysis describes the economic impacts of all potential conservation efforts for the Chupadera springsnail; some of these costs will likely be incurred regardless of whether we designate critical habitat. The economic impact of the proposed critical habitat designation is analyzed by comparing scenarios both “with critical habitat” and “without critical habitat.” The “without critical habitat” scenario represents the baseline for the analysis, considering protections already in place for the species (e.g., under the Federal listing and other Federal, State, and local regulations). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The “with critical habitat” scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs; these are the costs we may consider in the final designation of critical habitat when evaluating the benefits of excluding particular areas under section 4(b)(2) of the Act. The analysis looks at baseline impacts incurred from the listing of the species and forecasts both baseline and incremental impacts likely to occur if we finalize the proposed critical habitat designation. For a further description of the methodology of the analysis, see “Framework for the Analysis,” of the draft economic analysis.

The draft economic analysis provides estimated costs of the foreseeable potential economic impacts of the proposed critical habitat designation for the Chupadera springsnail. It identifies potential incremental costs as a result of the proposed critical habitat designation; these are those costs attributed to critical habitat over and above those baseline costs attributed to listing. The draft economic analysis quantifies economic impacts of Chupadera springsnail conservation efforts associated with residential development and ranch activities.

Existing and planned subdivision development in the area can lead to groundwater depletion, threatening the springsnail and its habitat by reducing water flow at the spring that supports the species. Residential activities can also lead to modification of the area around the springhead and springbrook, causing habitat degradation through inundation and changes in water flow and chemistry. However, a Federal nexus consultation under section 7 of the Act is unlikely to exist, as each parcel will have its own groundwater well, which is regulated by the New Mexico Office of the State Engineer with no Federal involvement. Unit 1 is not slated for development; therefore, it is unlikely the landowners will apply for a permit under section 404 of the Clean Water Act. We are unaware of the plans for Unit 2, but we believe that any development would avoid the spring and therefore avoid the need for a section 404 permit. Because there are no foreseeable activities with a Federal nexus, the draft economic analysis found no economic impact of the proposed designation of critical habitat beyond a possible “stigma effect” to land values. This stigma effect arises from the perception of landowners that designation of critical habitat may impede future land development and, therefore, depress land values. Our economic analysis was unable to quantify the economic value of any possible stigma effects.

As we stated earlier, we are soliciting data and comments from the public on the draft economic analysis, draft environmental assessment, and all aspects of the proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

### *Draft Environmental Assessment*

The purpose of an environmental assessment is to identify and disclose the environmental consequences associated with the proposed critical habitat designation for the Chupadera springsnail in compliance with the National Environmental Policy Act. The draft environmental assessment found the preferred alternative of designating critical habitat for the Chupadera springsnail at the two proposed locations would not have significant impacts to the human environment.

### **Required Determinations—Amended**

In our August 2, 2011, proposed rule (76 FR 46218), we indicated that we would defer our determination of compliance with several statutes and executive orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the draft economic analysis. We have now made use of the draft economic analysis data to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 12630 (Takings), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951). However, based on the draft economic analysis data, we are amending our required determination concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will

not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. Based on our draft economic analysis of the proposed designation, we provide our analysis for determining whether the proposed rule would result in a significant economic impact on a substantial number of small entities. Based on comments we receive, we may revise this determination as part of our final rulemaking.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of critical habitat for the Chupadera springsnail would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities, such as residential development and ranch activities. In order to determine whether it is appropriate for our agency to certify that this proposed rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical

habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the Chupadera springsnail is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In the draft economic analysis, we evaluated the potential economic effects on small entities resulting from implementation of conservation actions related to the proposed designation of critical habitat for the Chupadera springsnail. Information in the draft economic analysis and draft environmental assessment indicates the proposed critical habitat designation will have no effect on any small entities. Please refer to the draft economic analysis of the proposed critical habitat designation for a more detailed discussion of potential economic impacts.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. Information for this analysis was gathered from the Small Business Administration, stakeholders, and the Service. We have identified no small entity that may be impacted by the proposed critical habitat designation. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

### **Authors**

The primary authors of this notice are the staff members of the New Mexico Ecological Services Field Office, Southwest Region, U.S. Fish and Wildlife Service.

### **Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 10, 2012.

### **Eileen Sobeck,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2012-1147 Filed 1-19-12; 8:45 am]

**BILLING CODE 4310-55-P**

# Notices

Federal Register

Vol. 77, No. 13

Friday, January 20, 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

### Submission for OMB Review; Comment Request

January 13, 2012.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), [OIRA\\_Submission@OMB.EOP.GOV](mailto:OIRA_Submission@OMB.EOP.GOV) or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such

persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

### Office of the Secretary, White House Liaison Office

*Title:* Advisory Committee and Research and Promotion Board Membership Background Information.

*OMB Control Number:* 0505-0001.

*Summary of Collection:* The Department is required under Section 1804 of the Food and Agriculture Act of 1977 (7 U.S.C. 2281, *et seq.*) to provide information concerning advisory committee members' principal place of residence, persons or companies by whom employed, and other major sources of income. The Agriculture and Food Act of 1981 (Pub. L. 97-98) reiterates this requirement. Similar information will be required of research and promotion boards/committees/councils in addition to the supplemental commodity specific questions. The Secretary appoints board members under each program. Some of the information contained on form AD-755 is used by the Department to conduct background clearances of prospective board members required by departmental regulations. All committee members who are appointed by the Secretary require this clearance. The Office of the Secretary, White House Liaison Office will collect information using form AD-755, "Advisory Committee and Research and Promotion Board Membership Background Information."

*Need and Use of the Information:* The Office of the Secretary, White House Liaison Office will collect information on the background of the nominees to make sure there are no delinquent loans to the United States Department of Agriculture, (USDA), as well as making sure they have no negative record that could be a negative reflection to USDA. The information obtained from the form is also used in the compilation of an annual report to Congress. Failure of the Department to provide this information would require the Secretary to terminate the pertinent committee or board.

*Description of Respondents:* Individuals or households.

*Number of Respondents:* 2,320.

*Frequency of Responses:* Reporting: Annually.

*Total Burden Hours:* 1,160.

**Charlene Parker,**

*Departmental Information Collection  
Clearance Officer.*

[FR Doc. 2012-1027 Filed 1-19-12; 8:45 am]

**BILLING CODE 3410-01-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

### Notice of Intent To Grant Exclusive License

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Oregon State University of Corvallis, Oregon, an exclusive license to the variety of blackberry described in U.S. Plant Patent Application Serial No. 12/660,189, "Blackberry Plant Named 'Onyx'," filed on February 22, 2010 and to the variety of red raspberry described in U.S. Plant Patent Application Serial No. 13/199,578, "Red Raspberry Plant Named 'Vintage'," filed on September 2, 2011.

**DATES:** Comments must be received on or before February 21, 2012.

**ADDRESSES:** Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4-1174, Beltsville, Maryland 20705-5131.

**FOR FURTHER INFORMATION CONTACT:** June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: (301) 504-5989.

**SUPPLEMENTARY INFORMATION:** The Federal Government's rights in these plant varieties are assigned to the United States of America, as represented by the Secretary of Agriculture. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the

requirements of 35 U.S.C. 209 and 37 CFR 404.7.

**Richard J. Brenner,**  
Assistant Administrator.

[FR Doc. 2012-1102 Filed 1-19-12; 8:45 am]

BILLING CODE 3410-03-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Lake Tahoe Basin Federal Advisory Committee (LTFAC)

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Lake Tahoe Federal Advisory Committee will hold a meeting on February 9, 2012 at the Tahoe Regional Planning Agency, 128 Market Street, Stateline, NV 89449. This Committee, established by the Secretary of Agriculture on December 15, 1998 (64 FR 2876), is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

**DATES:** The meeting will be held February 9, 2012, beginning at 9 a.m. and ending at 12 p.m.

**ADDRESSES:** Tahoe Regional Planning Agency, 128 Market Street, Stateline, NV 89449.

#### FOR FURTHER INFORMATION OR TO REQUEST AN ACCOMMODATION CONTACT:

Arla Hains, Lake Tahoe Basin Management Unit, Forest Service, 35 College Drive, South Lake Tahoe, CA 96150, (530) 543-2773.

**SUPPLEMENTARY INFORMATION:** Items to be covered on the agenda: (1) Review and confirm the LTFAC Vision and Strategic Planning Session outcomes, and (2) public comment.

All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend at the above address. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: January 13, 2012.

**Michael Gabor,**  
Acting Forest Supervisor.

[FR Doc. 2012-1117 Filed 1-19-12; 8:45 am]

BILLING CODE 3410-11-P

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

#### Notice of Funding Availability for the Rural Energy for America Program

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice of Funding Availability (NOFA).

**SUMMARY:** This NOFA announces the acceptance of applications under the Rural Energy for America Program (REAP) for Fiscal Year 2012 for financial assistance as follows: grants, guaranteed loans, and combined grants and guaranteed loans for the development and construction of renewable energy systems and for energy efficiency improvement projects; grants for conducting energy audits; grants for conducting renewable energy development assistance; and grants for conducting renewable energy system feasibility studies. The Notice also announces the availability of \$25.4 million of Fiscal Year 2012 budget authority to fund these REAP activities, which will support at least \$12.5 million in grant program level and up to approximately \$48.5 million in guaranteed loan program level.

**DATES:** In order to be considered for Fiscal Year 2012 funds, complete applications under this Notice must be received by the appropriate USDA Rural Development State Office no later than 4:30 p.m. local time of the dates as follows:

For renewable energy system and energy efficiency improvement grant applications and combination grant and guaranteed loan applications: March 30, 2012.

For renewable energy system and energy efficiency improvement guaranteed loan only applications: On a continuous basis up to June 29, 2012.

For renewable energy system feasibility study applications: March 30, 2012.

For energy audits and renewable energy development assistance applications: February 21, 2012.

**ADDRESSES:** See the **SUPPLEMENTARY INFORMATION** for addresses concerning applications for the Rural Energy for America Program for Fiscal Year 2012 funds.

**FOR FURTHER INFORMATION CONTACT:** For information about this Notice, please contact Mr. Kelley Oehler, Branch Chief, USDA Rural Development, Energy Division, 1400 Independence Avenue SW., Washington, DC 20250. Telephone: (202) 720-6819. Email: [kelley.oehler@wdc.usda.gov](mailto:kelley.oehler@wdc.usda.gov).

For further information on this program, please contact the applicable USDA Rural Development Energy Coordinator for your respective State, as provided in the **SUPPLEMENTARY INFORMATION** section of this Notice.

#### SUPPLEMENTARY INFORMATION:

#### Fiscal Year 2012 Applications for the Rural Energy for America Program

**Applications.** Application materials may be obtained by contacting one of Rural Development's Energy Coordinators. In addition, for grant applications, applicants may access the electronic grant application for the Rural Energy for America Program at <http://www.Grants.gov>. To locate the downloadable application package for this program, the applicant must use the program's Catalog of Federal Domestic Assistance (CFDA) Number 10.868 or FedGrants Funding Opportunity Number, which can be found at <http://www.Grants.gov>.

**Application submittal.** For renewable energy system, energy efficiency improvement, and feasibility study applications, submit complete paper applications to the Rural Development State Office in the State in which the applicant's proposed project is located. For energy audit and renewable energy development assistance applications, submit complete paper applications to the Rural Development State Office in the State in which the applicant is headquartered.

Submit electronic grant only applications at <http://www.grants.gov>, following the instructions found on this Web site.

#### Rural Development Energy Coordinators

**Note:** Telephone numbers listed are not toll-free.

#### Alabama

Marcia Johnson, USDA Rural Development, Sterling Centre, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106-3683, (334) 279-3453, [marcia.johnson@al.usda.gov](mailto:marcia.johnson@al.usda.gov).

#### Alaska

Chad Stovall, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645-6539, (907) 761-7718, [chad.stovall@ak.usda.gov](mailto:chad.stovall@ak.usda.gov).

American Samoa (See Hawaii)

#### Arizona

Gary Mack, USDA Rural Development, 230 North First Avenue, Suite 206,

- Phoenix, AZ 85003-1706, (602) 280-8717, [Gary.Mack@az.usda.gov](mailto:Gary.Mack@az.usda.gov).
- Arkansas**  
Laura Tucker, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201-3225, (501) 301-3280, [Laura.Tucker@ar.usda.gov](mailto:Laura.Tucker@ar.usda.gov).
- California**  
Philip Brown, USDA Rural Development, 430 G Street, #4169, Davis, CA 95616, (530) 792-5811, [Phil.brown@ca.usda.gov](mailto:Phil.brown@ca.usda.gov).
- Colorado**  
Janice Pond, USDA Rural Development, Denver Federal Center, Building 56, Room 2300, P.O. Box 25426, Denver, CO 80225-0426, (720) 544-2907, [Janice.pond@co.usda.gov](mailto:Janice.pond@co.usda.gov).
- Commonwealth of the Northern Marianas Islands-CNMI (See Hawaii)**
- Connecticut (see Massachusetts)**
- Delaware/Maryland**  
Bruce Weaver, USDA Rural Development, 1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857-3629, [Bruce.Weaver@de.usda.gov](mailto:Bruce.Weaver@de.usda.gov).
- Federated States of Micronesia (See Hawaii)**
- Florida/Virgin Islands**  
Angela Prioleau, USDA Rural Development, 4440 NW. 25th Place, Gainesville, FL 32606, (352) 338-3412, [angela.prioleua@fl.usda.gov](mailto:angela.prioleua@fl.usda.gov).
- Georgia**  
J. Craig Scroggs, USDA Rural Development, 111 E. Spring St., Suite B, Monroe, GA 30655, Phone (770) 267-1413 ext. 113, [craig.scroggs@ga.usda.gov](mailto:craig.scroggs@ga.usda.gov).
- Guam (See Hawaii)**
- Hawaii/Guam/Republic of Palau/Federated States of Micronesia/Republic of the Marshall Islands/American Samoa/Commonwealth of the Northern Marianas Islands-CNMI**  
Tim O'Connell, USDA Rural Development, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933-8313, [Tim.Oconnell@hi.usda.gov](mailto:Tim.Oconnell@hi.usda.gov).
- Idaho**  
Brian Buch, USDA Rural Development, 9173 W. Barnes Drive, Suite A1, Boise, ID 83709, (208) 378-5623, [Brian.Buch@id.usda.gov](mailto:Brian.Buch@id.usda.gov).
- Illinois**  
Mary Warren, USDA Rural Development, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403-6218, [mary.warren@il.usda.gov](mailto:mary.warren@il.usda.gov).
- Indiana**  
Jerry Hay, USDA Rural Development, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (812) 346-3411, Ext. 126, [Jerry.Hay@in.usda.gov](mailto:Jerry.Hay@in.usda.gov).
- Iowa**  
Kate Sand, USDA Rural Development, 909 E. 2nd Avenue, Suite C, Indianola, IA 50125, (515) 961-5365 Ext.130, [kate.sand@ia.usda.gov](mailto:kate.sand@ia.usda.gov).
- Kansas**  
David Kramer, USDA Rural Development, 1303 SW First American Place, Suite 100, Topeka, KS 66604-4040, (785) 271-2730, [david.kramer@ks.usda.gov](mailto:david.kramer@ks.usda.gov).
- Kentucky**  
Scott Maas, USDA Rural Development, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224-7435, [scott.maas@ky.usda.gov](mailto:scott.maas@ky.usda.gov).
- Louisiana**  
Kevin Boone, USDA Rural Development, 905 Jefferson Street, Suite 320, Lafayette, LA 70501, (337) 262-6601, Ext. 133, [Kevin.Boone@la.usda.gov](mailto:Kevin.Boone@la.usda.gov).
- Maine**  
Beverly Stone, USDA Rural Development, 967 Illinois Avenue, Suite 4, P.O. Box 405, Bangor, ME 04402-0405, (207) 990-9125, [Beverly.Stone@me.usda.gov](mailto:Beverly.Stone@me.usda.gov).
- Maryland (see Delaware)**
- Massachusetts/Rhode Island/Connecticut**  
Charles W. Dubuc, USDA Rural Development, 60 Quaker Lane, Suite 44, Warwick, RI 02886, (401) 822-8867, [Charles.Dubuc@ma.usda.gov](mailto:Charles.Dubuc@ma.usda.gov).
- Michigan**  
Rick Vanderbeek, USDA Rural Development, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324-5157, [rick.vanderbeek@mi.usda.gov](mailto:rick.vanderbeek@mi.usda.gov).
- Minnesota**  
Ron Oman, USDA Rural Development, 375 Jackson St., Suite 410, St. Paul, MN 55101, (651) 602-7796, [Ron.Omann@mn.usda.gov](mailto:Ron.Omann@mn.usda.gov).
- Mississippi**  
G. Gary Jones, USDA Rural Development, 100 W. Capital Street, Suite 831, Jackson, MS 39269, (601) 965-5457, [george.jones@ms.usda.gov](mailto:george.jones@ms.usda.gov).
- Missouri**  
Matt Moore, USDA Rural Development, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876-9321, [matt.moore@mo.usda.gov](mailto:matt.moore@mo.usda.gov).
- Montana**  
John Guthmiller, USDA Rural Development, 2229 Boot Hill Court, P.O. Box 850, Bozeman, MT 59771, (406) 585-2540, [John.Guthmiller@mt.usda.gov](mailto:John.Guthmiller@mt.usda.gov).
- Nebraska**  
Debra Yocum, USDA Rural Development, 100 Centennial Mall North, Room 152, Federal Building, Lincoln, NE 68508, (402) 437-5554, [Debra.Yocum@ne.usda.gov](mailto:Debra.Yocum@ne.usda.gov).
- Nevada**  
Mark Williams, USDA Rural Development, 1390 South Curry Street, Carson City, NV 89703, (775) 887-1222, [mark.williams@nv.usda.gov](mailto:mark.williams@nv.usda.gov).
- New Hampshire (See Vermont)**
- New Jersey**  
Victoria Fekete, USDA Rural Development, 8000 Midlantic Drive, Suite 500N, Mt. Laurel, NJ 08054, (856) 787-7752, [Victoria.Fekete@nj.usda.gov](mailto:Victoria.Fekete@nj.usda.gov).
- New Mexico**  
Jesse Bopp, USDA Rural Development, 6200 Jefferson Street, NE., Room 255, Albuquerque, NM 87109, (505) 761-4952, [Jesse.bopp@nm.usda.gov](mailto:Jesse.bopp@nm.usda.gov).
- New York**  
Scott Collins, USDA Rural Development, 9025 River Road, Marcy, NY 13403, (315) 736-3316 Ext. 127, [scott.collins@ny.usda.gov](mailto:scott.collins@ny.usda.gov).
- North Carolina**  
David Thigpen, USDA Rural Development, 4405 Bland Rd., Suite 260, Raleigh, NC 27609, (919) 873-2065, [David.Thigpen@nc.usda.gov](mailto:David.Thigpen@nc.usda.gov).
- North Dakota**  
Dennis Rodin, USDA Rural Development, Federal Building, Room 208, 220 East Rosser Avenue, P.O. Box 1737, Bismarck, ND 58502-1737, (701) 530-2068, [Dennis.Rodin@nd.usda.gov](mailto:Dennis.Rodin@nd.usda.gov).
- Ohio**  
Randy Monhemius, USDA Rural Development, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215-2418, (614) 255-2424, [Randy.Monhemius@oh.usda.gov](mailto:Randy.Monhemius@oh.usda.gov).

**Oklahoma**

Jody Harris, USDA Rural Development,  
100 USDA, Suite 108, Stillwater, OK  
74074-2654, (405) 742-1036,  
[Jody.harris@ok.usda.gov](mailto:Jody.harris@ok.usda.gov).

**Oregon**

Don Hollis, USDA Rural Development,  
200 SE Hailey Ave., Suite 105,  
Pendleton, OR 97801, (541) 278-8049,  
Ext. 129, [Don.Hollis@or.usda.gov](mailto:Don.Hollis@or.usda.gov).

**Pennsylvania**

Amanda Krugh, USDA Rural  
Development, 1 Credit Union Place,  
Suite 330, Harrisburg, PA 17110-  
2996, Phone: (717) 237-2289,  
[Amanda.Krugh@pa.usda.gov](mailto:Amanda.Krugh@pa.usda.gov).

**Puerto Rico**

Luis Garcia, USDA Rural Development,  
IBM Building, 654 Munoz Rivera  
Avenue, Suite 601, Hato Rey, PR  
00918-6106, (787) 766-5091, Ext.  
251, [Luis.Garcia@pr.usda.gov](mailto:Luis.Garcia@pr.usda.gov).

**Republic of Palau (See Hawaii)****Republic of the Marshall Islands (See Hawaii)****Rhode Island (see Massachusetts)****South Carolina**

Shannon Legree, USDA Rural  
Development, Strom Thurmond  
Federal Building, 1835 Assembly  
Street, Room 1007, Columbia, SC  
29201, (803) 253-3150,  
[Shannon.Legree@sc.usda.gov](mailto:Shannon.Legree@sc.usda.gov).

**South Dakota**

Kenneth Lynch, USDA Rural  
Development, Federal Building, Room  
210, 200 4th Street SW., Huron, SD  
57350, (605) 352-1120,  
[ken.lynch@sd.usda.gov](mailto:ken.lynch@sd.usda.gov).

**Tennessee**

Will Dodson, USDA Rural Development,  
3322 West End Avenue, Suite 300,  
Nashville, TN 37203-1084, (615) 783-  
1350, [will.dodson@tn.usda.gov](mailto:will.dodson@tn.usda.gov).

**Texas**

Billy Curb, USDA Rural Development,  
Federal Building, Suite 102, 101  
South Main Street, Temple, TX 76501,  
(254) 742-9775,  
[billy.curb@tx.usda.gov](mailto:billy.curb@tx.usda.gov).

**Utah**

Roger Koon, USDA Rural Development,  
Wallace F. Bennett Federal Building,  
125 South State Street, Room 4311,  
Salt Lake City, UT 84138, (801) 524-  
4301, [Roger.Koon@ut.usda.gov](mailto:Roger.Koon@ut.usda.gov).

**Vermont/New Hampshire**

Cheryl Ducharme, USDA Rural  
Development, 89 Main Street, 3rd

Floor, Montpelier, VT 05602, (802)  
828-6083,  
[cheryl.ducharme@vt.usda.gov](mailto:cheryl.ducharme@vt.usda.gov).

**Virginia**

Laurette Tucker, USDA Rural  
Development, 1606 Santa Rosa Road,  
Suite 238, Richmond, VA 23229, (434)  
392-4906 Ext. 125, (804) 287-1606,  
[Laurette.Tucker@va.usda.gov](mailto:Laurette.Tucker@va.usda.gov).

**Virgin Islands (see Florida)****Washington**

Mary Traxler, USDA Rural  
Development, 1835 Black Lake Blvd.  
SW., Suite B, Olympia, WA 98512,  
(360) 704-7762,  
[Mary.Traxler@wa.usda.gov](mailto:Mary.Traxler@wa.usda.gov).

**West Virginia**

Lisa Sharp, USDA Rural Development,  
1550 Earl Core Road, Suite 101,  
Morgantown, WV 26505-7500, (304)  
284-4871, [lisa.sharp@wv.usda.gov](mailto:lisa.sharp@wv.usda.gov).

**Wisconsin**

Brenda Heinen, USDA Rural  
Development, 4949 Kirschling Court,  
Stevens Point, WI 54481, (715) 345-  
7615, Ext. 139,  
[Brenda.Heinen@wi.usda.gov](mailto:Brenda.Heinen@wi.usda.gov).

**Wyoming**

Jon Crabtree, USDA Rural Development,  
Dick Cheney Federal Building, 100  
East B Street, Room 1005, P.O. Box  
11005, Casper, WY 82602, (307) 233-  
6719, [Jon.Crabtree@wy.usda.gov](mailto:Jon.Crabtree@wy.usda.gov).

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with renewable energy system and energy efficiency improvement grants and guaranteed loans, as covered in this Notice, has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570-0050. The information collection requirements associated with energy audit and renewable energy development assistance grants and with renewable energy feasibility study grants have also been approved by OMB under OMB Control Number 0570-0059 and OMB Control Number 0570-0061, respectively.

**Overview**

*Federal Agency Name:* Rural Business-Cooperative Service.  
*Contract Proposal Title:* Rural Energy for America Program.  
*Announcement Type:* Initial announcement.  
*Catalog of Federal Domestic Assistance Number:* 10.868.

*Dates:* Grant applications and combined grant and guaranteed loan applications for renewable energy systems and energy efficiency improvement projects under this Notice will be accepted up to March 30, 2012. Guaranteed loan only applications for renewable energy system and energy efficiency improvement projects will be accepted on a continuous basis, but to compete for Fiscal Year 2012 funding, complete applications must be submitted to the Agency by June 29, 2012. Applications for renewable energy feasibility studies will be accepted up to March 30, 2012. Energy audit and renewable energy development assistance grants will be accepted up to February 21, 2012.

For all applications submitted under this Notice, complete applications must be received by the appropriate USDA Rural Development State Office no later than 4:30 p.m. local time of the applicable application deadline date in order to be considered for Fiscal Year 2012 funds. Any application received after its applicable date and time, regardless of the postmark on the application, will not be considered for Fiscal Year 2012 funds.

*Availability of Notice:* This Notice for the Rural Energy for America Program is available through the USDA Rural Development Web site at <http://www.rurdev.usda.gov/Energy.html>.

**I. Funding Opportunity Description**

*A. Purpose of the Rural Energy for America Program.* The program is designed to help agricultural producers and rural small businesses reduce energy costs and consumption and help meet the Nation's critical energy needs.

*B. Statutory Authority.* This program is authorized under 7 U.S.C. 8107.

*C. Definition of Terms.* The definitions applicable to this Notice are published at 7 CFR 4280.103. In addition, the following definition applies to this Notice.

*Hybrid.* A combination of two or more renewable energy technologies that are incorporated into a unified system to support a single project.

**II. Award Information**

*A. Available funds.* The amount of funds available for renewable energy systems and energy efficiency improvements in Fiscal Year 2012 will be approximately \$59.6 million. For renewable energy system and energy efficiency improvement projects only, there will be an allocation of funds to each State, and the Rural Development's National Office will maintain a reserve of funds.

The amount of grant funds available for renewable energy system feasibility studies in Fiscal Year 2012 will be \$500,000. The balance of the funds unused for the feasibility study grants may be utilized in any of the renewable energy system and energy efficiency improvement National competitions.

The amount of funds available for energy audits and renewable energy development assistance in Fiscal Year 2012 will be \$880,000. Obligations of these funds will take place through March 31, 2012. Any unobligated balances will be moved to the renewable energy subsidy account as of April 1, 2012. These funds may be utilized in any of the renewable energy system and energy efficiency improvement National competitions. In order to ensure that small projects have a fair opportunity to compete for the funding and are consistent with the priorities set forth in the statute, the Agency will set-aside approximately \$5 million to fund grants of \$20,000 or less. Obligations of these funds will take place through June 30, 2012. Any unobligated balances will be moved to the renewable energy subsidy account as of July 1, 2012. These funds may be utilized in any of the renewable energy system and energy efficiency improvement National competitions.

**B. Approximate number of awards.** The number of awards will depend on the amount of funds made available and on the number of eligible applicants participating in this program.

**C. State and National competitions.** Renewable energy system and energy efficiency improvement applications for Fiscal Year 2012 funds will compete for funds allocated to their State for competition. Separate competitions will be held for (1) grant only and grant and guaranteed loan combination applications; (2) grants of \$20,000 or less applications, and (3) guaranteed loan only applications. Grant only and grant and guaranteed loan combination applications and grants of \$20,000 or less applications will each have one State competition. All unfunded eligible grant only and grant and guaranteed loan combination applications received by March 30, 2011, will be competed against other grant only and grant and guaranteed loan combination applications from other States at a final National competition. However, the Agency reserves the right to hold a separate National competition for grants of \$20,000 or less if funding remains after the State competition. Obligations of these funds will take place through June 30, 2012. State competitions will be held bi-weekly for guaranteed loan only applications. A minimum score of 50 is required for guaranteed loan only

applications to compete in the State competitions. If a State does not have sufficient funds to make a guaranteed loan award, funding may be obtained from the guaranteed loan reserves held at the National Office. The guaranteed loan application will not have to compete any further. Finally, all unfunded eligible guaranteed loan only applications received by June 29, 2011, will be competed against other guaranteed loan only applications from other States at a final National competition if the guaranteed loan reserves have not been completely depleted. If funds remain after the final guaranteed loan only National competition, the Agency may elect to utilize budget authority to fund additional grant only and grant and guaranteed loan combination applications that competed in the National competition. Renewable energy system feasibility study grant applications and energy audits and renewable energy development assistance grant applications will compete in separate National competitions.

**D. Type of instrument.** Grant, guaranteed loan, and grant/guaranteed loan combinations.

**E. Funding limitations.** The following funding limitations apply to applications submitted under to this Notice.

(1) *Maximum grant assistance to an entity.* For the purposes of this Notice, the maximum amount of grant assistance to an entity will not exceed \$750,000 for Fiscal Year 2012 based on the total amount of renewable energy system, energy efficiency improvement, and renewable energy feasibility study grants awarded to an entity under the Rural Energy for America Program.

(2) *Maximum percentage of Agency funding.* The Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234, 122 Stat. 93 (May 22, 2008) (2008 Farm Bill) mandates the maximum percentages of funding that USDA Rural Development will provide. Within the maximum funding amounts specified in this Notice, renewable energy system and energy efficiency improvement funding approved for guaranteed loan only requests and for combination guaranteed loan and grant requests will not exceed 75 percent of eligible project costs, with the grant portion not to exceed 25 percent of total eligible project costs, whether the grant is part of a combination request or is a stand-alone grant.

(3) *Reallocation of loan and grants funds.* The Agency reserves the right, at its discretion, to move funds between grant and loan budget authority based

upon the demand of applications received under this Notice after June 29, 2012.

(4) *Universal identifier and Central Contract Registration (CCR).* Unless exempt under 2 CFR § 25.110, all applicants must:

(a) Be registered in the CCR prior to submitting an application or plan;

(b) Maintain an active CCR registration with current information at all times during which it has an active Federal award or an application or plan under consideration by the Agency; and

(c) Provide its DUNS number in each application or plan it submits to the Agency.

(5) *Transparency Act Reporting.* All recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation in accordance with 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR section 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR section 170.200(b).

(6) *Renewable energy system and energy efficiency improvement grant-only applications.* For renewable energy system grants, the minimum grant is \$2,500 and the maximum is \$500,000. For energy efficiency improvement grants, the minimum grant is \$1,500 and the maximum grant is \$250,000.

(7) *Renewable energy system and energy efficiency improvement loan guarantee-only applications.* For renewable energy system and energy efficiency improvement loan guarantees, the minimum guaranteed loan amount is \$5,000 and the maximum amount of a guaranteed loan to be provided to a borrower is \$25 million.

(8) *Renewable energy system and energy efficiency improvement guaranteed loan and grant combination applications.* Funding for grant and loan combination packages for renewable energy systems and energy efficiency improvement projects are subject to the funding limitations specified in Section II.E.(2). The maximum amount for the grant portion is \$500,000 for renewable energy systems and \$250,000 for energy efficiency improvements. The minimum amount of the grant portion is \$1,500 for either renewable energy systems or energy efficiency improvements. For the guarantee portion, the maximum amount is \$25 million and the minimum amount is \$5,000.

(9) *Renewable energy system feasibility study grant applications.* The maximum amount of grant funds that will be made available for an eligible

feasibility study project under this subpart to any one recipient will not exceed \$50,000 or 25 percent of the total eligible project cost of the study, whichever is less.

(10) *Energy audit and renewable energy development assistance grant applications.* The maximum aggregate amount of energy audit and renewable energy development assistance grants awarded to any one recipient under this Notice cannot exceed \$100,000 for Fiscal Year 2012. In addition, the 2008 Farm Bill mandates that the recipient of a grant that conducts an energy audit for an agricultural producer or a rural small business must require the agricultural producer or rural small business to pay at least 25 percent of the cost of the energy audit, which shall be retained by the eligible entity for the cost of the audit.

### III. Eligibility Information

*A. Eligible applicants.* To be eligible for this program, an applicant must meet the eligibility requirements specified in 7 CFR 4280.109, 7 CFR 4280.110(c), and, as applicable, 7 CFR 4280.112, 7 CFR 4280.122, 7 CFR 4280.170, or 7 CFR 4280.186.

For the purpose of this Notice, and in addition to meeting the small business size determination as defined under small business in 7 CFR 4280.103, rural small business applicants must demonstrate that the majority (i.e. 51 percent or more) of their past 3 years' annual receipts from their business operation are derived from a rural area. If the rural small business applicant has not engaged in business operations for the past 3 years, than information for as long as the rural small business applicant has been in business must be submitted. To ensure that there is sufficient information for the Agency to make this determination; rural small business applicants, as part of their application requirements in 7 CFR 4280.116 (b)(v)(A), should list the physical address, total annual receipts and number of employees for each urban or rural location. The Agency will make this determination for rural small business applicants that do not have any annual receipts (new businesses only) on the location of the rural small business applicant.

*B. Eligible lenders.* To be eligible for this program, lenders must meet the eligibility requirements in 7 CFR 4280.130.

*C. Eligible projects.* To be eligible for this program, a project must meet the eligibility requirements specified in 7 CFR 4280.113, 7 CFR 4280.123, 7 CFR 4280.171, and 7 CFR 4280.187, as applicable.

### IV. Fiscal Year 2012 Application and Submission Information

Applicants seeking to participate in this program must submit applications in accordance with this Notice and 7 CFR part 4280, subpart B, as applicable. Applicants must submit complete applications containing all parts necessary for the Agency to determine applicant and project eligibility, to score the application, and to conduct the technical evaluation, as applicable in order to be considered.

#### A. Where To Obtain Applications

Applicants may obtain applications from any USDA Rural Development Energy Coordinator, as provided in the **ADDRESSES** section of this Notice. In addition, for grant applications, applicants may access the electronic grant application for the Rural Energy for America Program at <http://www.Grants.gov>. To locate the downloadable application package for this program, the applicant must use the program's CFDA Number 10.868 or FedGrants Funding Opportunity Number, which can be found at <http://www.Grants.gov>.

When you enter the Grants.gov site, you will find information about submitting an application electronically through the site. To use *Grants.gov*, all applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number (unless the applicant is an individual), which can be obtained at no cost via a toll-free request line at 1 (866) 705-5711 or online at <http://fedgov.dnb.com/webform>. USDA Rural Development strongly recommends that applicants do not wait until the application deadline date to begin the application process through *Grants.gov*.

#### B. When To Submit

Complete applications submitted under this Notice must be received by the appropriate USDA Rural Development State Office no later than 4:30 p.m. local time on the applicable date as identified in the **DATES** section of this Notice, in order to be considered for Fiscal Year 2012 funds. Any application received after 4:30 p.m. local time on the applicable date, regardless of the postmark on the application, will not be considered for Fiscal Year 2012 funds.

#### C. Where To Submit

All renewable energy system, energy efficiency improvement, and renewable energy system feasibility study applications are to be submitted to the USDA Rural Development Energy Coordinator in the State in which the

applicant's proposed project is located. All energy audit and renewable energy development assistance applications are to be submitted to the USDA Rural Development Energy Coordinator in the State in which the applicant is headquartered. A list of USDA Rural Development Energy Coordinators is provided in the **ADDRESSES** section of this Notice. Alternatively, for grant only applications, applicants may submit their electronic applications to the Agency via the Grants.gov Web site.

#### D. How To Submit

Applicants may submit their applications either as hard copy or electronically as specified in the following paragraphs. When submitting an application as hard copy, applicants must submit one original.

(1) *Grant applications.* All grant applications may be submitted either as hard copy to the appropriate Rural Development Energy Coordinator or electronically using the Government-wide Grants.gov Web site. Users of Grants.gov who download a copy of the application package may complete it off line and then upload and submit the application via the Grants.gov site, including all information typically included on the application, and all necessary assurances and certifications. After electronically submitting an application through the Web site, the applicant will receive an automated acknowledgement from Grants.gov that contains a Grants.gov tracking number.

(2) *Guaranteed loan applications.* Guaranteed loan only applications (i.e., those that are not part of a guaranteed loan/grant combination request) must be submitted as hard copy.

(3) *Guaranteed loan/grant combination applications.* Applications for guaranteed loans/grants (combination applications) must be submitted as hard copy.

#### E. Other Submission Requirements and Information

(1) *Application restrictions.* Applicants may apply for only one renewable energy system project and one energy efficiency improvement project in Fiscal Year 2012. A renewable energy system application cannot be submitted in Fiscal Year 2012 if a REAP feasibility study grant application for the same renewable energy system is submitted in Fiscal Year 2012 and vice versa.

Applicants may only submit one renewable energy system feasibility study grant for Fiscal Year 2012 funds.

Applicants may only submit one energy audit grant application and one renewable energy development

assistance grant application for Fiscal Year 2012 funds.

(2) *Environmental information.* For the Agency to consider an application, the application must include all environmental review documents with supporting documentation in accordance with 7 CFR part 1940, subpart G. Applications for financial assistance for planning purposes or management and feasibility studies are typically categorically excluded from the environmental review process by 7 CFR 1940.310(e)(1). Any required environmental review must be completed in full prior to obligation of funds or the approval of the application.

(3) *Original signatures.* USDA Rural Development may request that the applicant provide original signatures on forms submitted through Grants.gov at a later date.

(4) *Award considerations.* In determining the amount of a renewable energy system or energy efficiency improvement grant or loan guarantee, the Agency will consider the six criteria specified in 7 CFR 4280.115(g) or 7 CFR 4280.124(f), as applicable.

(5) *Hybrid projects.* If the application is for a hybrid project, technical reports, as required under 7 CFR 4280.116(b)(7), must be prepared for each technology that comprises the hybrid project.

(6) *Multiple facilities.* Applicants may submit a single application that proposes to apply the same renewable energy system (including the same hybrid project) or energy efficiency improvement across multiple facilities. For example, a rural small business owner owns five retail stores and wishes to install solar panels on each store. The rural small business owner may submit a single application for installing the solar panels on the five stores. However, if this same owner wishes to install solar panels on three of the five stores and wind turbines for the other two stores, the owner can only submit an application for either the solar panels or for the wind turbines in the same fiscal year.

(7) *Applications from cooperatives.* In recognition of the International Year of Cooperatives, the Agency encourages cooperatives to submit applications for Fiscal Year 2012.

## V. Program Provisions

This section of the Notice identifies the provisions of 7 CFR 4280, subpart B applicable to each type of funding available under REAP.

### A. General

The provisions specified in 7 CFR 4280.101 through 4280.111 apply to this Notice.

### B. Renewable Energy System and Energy Efficiency Improvement Project Grants

In addition to the other provisions of this Notice, the requirements specified in 7 CFR 4280.112 through 4280.121 apply to renewable energy system and energy efficiency improvement projects grants.

### C. Renewable Energy System and Energy Efficiency Improvement Project Guaranteed Loans

In addition to the other provisions of this Notice, the requirements specified in 7 CFR 4280.122 through 4280.160 apply to guaranteed loans for renewable energy system and energy efficiency improvement projects. For Fiscal Year 2012, the guarantee fee amount is 1 percent of the guaranteed portion of the loan and the annual renewal fee is 0.250 percent (one-quarter of 1 percent) of the guaranteed portion of the loan.

### D. Renewable Energy System and Energy Efficiency Improvement Project Grant and Guaranteed Loan Combined Requests

In addition to the other provisions of this Notice, the requirements specified in 7 CFR 4280.165 apply to a combined grant and guaranteed loan for renewable energy system and energy efficiency improvement projects.

### E. Renewable Energy System Feasibility Study Grants

In addition to the other provisions of this Notice, the requirements specified in 7 CFR 4280.170 through 4280.182 apply to renewable energy system feasibility study grants.

### F. Energy Audit and Renewable Energy Development Assistance Grants

In addition to the other provisions of this Notice, the requirements specified in 7 CFR 4280.186 through 4280.196 apply to energy audit and renewable energy development assistance grants.

### G. Resubmittal of Fiscal Year 2011 Renewable Energy System and Energy Efficiency Improvement Applications

If an applicant submitted an application for funding in Fiscal Year 2011 and that application was determined eligible but was not funded, the Agency will consider that Fiscal Year 2011 application for funding in Fiscal Year 2012 as provided in this section.

(1) *Written request.* An applicant must submit a written request for the Agency to consider its Fiscal Year 2011 application for Fiscal Year 2012 funds.

(i) For a guarantee loan and grant combination application, both the lender and grant applicant must submit

the written request to the Agency in order to be considered for Fiscal Year 2012 funds.

(ii) Except for simplified applications, applicants must provide current financial statements that meet the program requirements outlined in 7 CFR 4280.116(b)(4) with the written request.

(iii) Written requests to consider Fiscal Year 2011 applications for Fiscal Year 2012 funds may be submitted at any time during Fiscal Year 2012, up to and including 4:30 p.m. local time on March 30, 2012, to be considered for Fiscal Year 2012 funds. Written requests received after this time and date will not be accepted by the Agency and the applicant's Fiscal Year 2011 application will not be considered for Fiscal Year 2012 funds.

(2) *Revisions/change in score to Fiscal Year 2011 applications.* If an applicant plans to make any revisions to its Fiscal Year 2011 application or if the required current financial statements results in a change to the application's score (even if no other revisions to the Fiscal Year 2011 application are planned), a new application meeting the requirements of this Notice must be submitted in order to be considered for Fiscal Year 2012 funds and a new submission date of record will be established.

(3) *No revisions/changes in score to Fiscal Year 2011 applications.* If an applicant does not plan to make any revisions to its Fiscal Year 2011 application and the required current financial statements do not result in a change to the application's score, a new application is not required and the submission date of record remains unchanged from its original Fiscal Year 2011 submittal date.

### H. Award Process

In addition to the process for awarding funding under 7 CFR 4280, subpart B, the Agency will make awards using the following considerations:

(1) *Funding renewable energy system and energy efficiency improvement grant and grant/guaranteed loan awards.* Considering the availability of funds, the Agency will fund those grant only applications and grant/guaranteed loan applications that score the highest based on the grant score of the application; that is, the grant score an application receives will be compared to the grant scores of other applications, with higher scoring applications receiving first consideration for funding.

(2) *Guaranteed loan only awards.* Considering the availability of funds, the Agency will fund those guaranteed loan only applications that score the highest compared to the scores of other applications, with higher scoring

applications receiving first consideration for funding.

(3) *Evaluation criteria.* Agency personnel will score each application based on the evaluation criteria specified in 7 CFR 4280.117(c), 7 CFR 4280.129(c), 7 CFR 4280.178, or 7 CFR 4280.192, as applicable.

For hybrid applications, each technical report will be evaluated and scored based on its own merit. The scores for the technologies will be consolidated using a weighted average approach based on the percentage of the cost for each system to the total eligible project cost.

*Example:* A hybrid project contains a wind and solar photovoltaic components. The wind system will cost \$30,000 (75 percent of total eligible project cost) and the solar will cost \$10,000 (25 percent of total eligible project cost). The wind technical report was evaluated and assigned a total score of 22 points, while the solar report was evaluated and assigned a total score of 31 points. In this scenario, the final technical score would be assigned as follows:  $(22 \times 75 \text{ percent}) + (31 \times 25 \text{ percent}) = 24.25$ .

(4) *Applications that receive the same score.* If applications score the same and if remaining funds are insufficient to fund each such application, the Agency may distribute the remaining funds to a lower scoring application. Before this occurs, the Agency will provide the applicant of the higher scoring application the opportunity to reduce the amount of the applicant's grant request to the amount of funds available. If the applicant agrees to lower its grant request, the applicant must certify that the purposes of the project will be met and provide the remaining total funds needed to complete the project. At its discretion, the Agency may also elect to allow the remaining funds to be carried over to the next fiscal year rather than selecting a lower scoring application or distributing funds on a pro-rata basis.

## VI. Administration Information

### A. Notifications

(1) *Applicants.* The notification provisions of 7 CFR 4280.111 apply to this Notice.

(2) *Lenders.* The notification provisions of 7 CFR 4280.129(a) apply to this Notice.

### B. Administrative and National Policy Requirements

(1) *Exception authority.* The provisions of 7 CFR 4280.104 apply to this Notice.

(2) *Appeals.* A person may seek a review of an Agency decision or appeal to the National Appeals Division in accordance with 7 CFR 4280.105.

(3) *Conflict of interest.* The provisions of 7 CFR 4280.106 apply to this Notice.

(4) *USDA Departmental Regulations and other laws that contains other compliance requirements.* The provisions of 7 CFR 4280.107 and 7 CFR 4280.108 apply to this Notice.

## VII. Agency Contacts

For assistance on this program, please contact a USDA Rural Development Energy Coordinator, as provided in the **ADDRESSES** section of this Notice.

## VIII. Nondiscrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination write to USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider, employer, and lender.

Dated: January 11, 2012.

**Judith A. Canales,**

*Administrator, Rural Business-Cooperative Service.*

[FR Doc. 2012-755 Filed 1-19-12; 8:45 am]

**BILLING CODE 3410-XY-P**

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

#### Notice of Stakeholder Meetings on Rural Energy for America Program

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Rural Business-Cooperative Service (RBS) will hold meetings for stakeholders focusing on Rural Development's Rural Energy for America Program implemented under the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) during the first quarter of calendar year 2012. These meetings will be hosted by Rural

Development State Directors. Stakeholders must contact the appropriate Rural Development State Office in order to participate.

**DATES:** The stakeholder meetings will be held during the first quarter of calendar year 2012. Please contact the Rural Development State Office for your State, as identified in the **ADDRESSES** section of this Notice, for the specific date and time.

**ADDRESSES:** RBS intends to hold the stakeholder meetings at Rural Development's State Offices. To confirm the location of the meeting for your State, please contact the applicable USDA Rural Development Energy Coordinator for your State. These Energy Coordinators are listed below.

### Rural Development Energy Coordinators

**Note:** Telephone numbers listed are not toll-free.

#### Alabama

Marcia Johnson, USDA Rural Development, Sterling Centre, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106-3683, (334) 279-3453, [marcia.johnson@al.usda.gov](mailto:marcia.johnson@al.usda.gov).

#### Alaska

Chad Stovall, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645-6539, (907) 761-7718, [chad.stovall@ak.usda.gov](mailto:chad.stovall@ak.usda.gov).

*American Samoa (See Hawaii)*

#### Arizona

Gary Mack, USDA Rural Development, 230 North First Avenue, Suite 206, Phoenix, AZ 85003-1706, (602) 280-8717, [Gary.Mack@az.usda.gov](mailto:Gary.Mack@az.usda.gov).

#### Arkansas

Laura Tucker, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201-3225, (501) 301-3280, [Laura.Tucker@ar.usda.gov](mailto:Laura.Tucker@ar.usda.gov).

#### California

Philip Brown, USDA Rural Development, 430 G Street, #4169, Davis, CA 95616, (530) 792-5811, [Phil.brown@ca.usda.gov](mailto:Phil.brown@ca.usda.gov).

#### Colorado

Janice Pond, USDA Rural Development, Denver Federal Center, Building 56, Room 2300, P.O. Box 25426, Denver, CO 80225-0426, (720) 544-2907, [Janice.pond@co.usda.gov](mailto:Janice.pond@co.usda.gov).

*Commonwealth of the Northern  
Marianas Islands-CNMI (See Hawaii)*

*Connecticut (see Massachusetts)*

*Delaware/Maryland*

Bruce Weaver, USDA Rural  
Development, 1221 College Park Drive,  
Suite 200, Dover, DE 19904, (302) 857-  
3629, [Bruce.Weaver@de.usda.gov](mailto:Bruce.Weaver@de.usda.gov).

*Federated States of Micronesia (See  
Hawaii)*

*Florida/Virgin Islands*

Angela Prioleau, USDA Rural  
Development, 4440 NW. 25th Place,  
Gainesville, FL 32606, (352) 338-3412,  
[angela.prioleua@fl.usda.gov](mailto:angela.prioleua@fl.usda.gov).

*Georgia*

J. Craig Scroggs, USDA Rural  
Development, 111 E. Spring St., Suite B,  
Monroe, GA 30655, Phone (770) 267-  
1413 ext. 113,  
[craig.scroggs@ga.usda.gov](mailto:craig.scroggs@ga.usda.gov).

*Guam (See Hawaii)*

*Hawaii/Guam/Republic of Palau/  
Federated States of Micronesia/Republic  
of the Marshall Islands/American  
Samoa/Commonwealth of the Northern  
Marianas Islands-CNMI*

Tim O'Connell, USDA Rural  
Development, Federal Building, Room  
311, 154 Waianuenue Avenue, Hilo, HI  
96720, (808) 933-8313,  
[Tim.Oconnell@hi.usda.gov](mailto:Tim.Oconnell@hi.usda.gov).

*Idaho*

Brian Buch, USDA Rural  
Development, 9173 W. Barnes Drive,  
Suite A1, Boise, ID 83709, (208) 378-  
5623, [Brian.Buch@id.usda.gov](mailto:Brian.Buch@id.usda.gov).

*Illinois*

Mary Warren, USDA Rural  
Development, 2118 West Park Court,  
Suite A, Champaign, IL 61821, (217)  
403-6218, [mary.warren@il.usda.gov](mailto:mary.warren@il.usda.gov).

*Indiana*

Jerry Hay, USDA Rural Development,  
5975 Lakeside Boulevard, Indianapolis,  
IN 46278, (812) 346-3411, Ext. 126,  
[Jerry.Hay@in.usda.gov](mailto:Jerry.Hay@in.usda.gov).

*Iowa*

Kate Sand, USDA Rural Development,  
909 E. 2nd Avenue, Suite C, Indianola,  
IA 50125, (515) 961-5365 Ext. 130,  
[kate.sand@ia.usda.gov](mailto:kate.sand@ia.usda.gov).

*Kansas*

David Kramer, USDA Rural  
Development, 1303 SW First American  
Place, Suite 100, Topeka, KS 66604-  
4040, (785) 271-2730,  
[david.kramer@ks.usda.gov](mailto:david.kramer@ks.usda.gov).

*Kentucky*

Scott Maas, USDA Rural  
Development, 771 Corporate Drive,  
Suite 200, Lexington, KY 40503, (859)  
224-7435, [scott.maas@ky.usda.gov](mailto:scott.maas@ky.usda.gov).

*Louisiana*

Kevin Boone, USDA Rural  
Development, 905 Jefferson Street, Suite  
320, Lafayette, LA 70501, (337) 262-  
6601, Ext. 133,  
[Kevin.Boone@la.usda.gov](mailto:Kevin.Boone@la.usda.gov).

*Maine*

Beverly Stone, USDA Rural  
Development, 967 Illinois Avenue, Suite  
4, P.O. Box 405, Bangor, ME 04402-  
0405, (207) 990-9125,  
[Beverly.Stone@me.usda.gov](mailto:Beverly.Stone@me.usda.gov)

*Maryland (see Delaware)*

*Massachusetts/Rhode Island/  
Connecticut*

Charles W. Dubuc, USDA Rural  
Development, 60 Quaker Lane, Suite 44,  
Warwick, RI 02886, (401) 822-8867,  
[Charles.Dubuc@ma.usda.gov](mailto:Charles.Dubuc@ma.usda.gov).

*Michigan*

Rick Vanderbeek, USDA Rural  
Development, 3001 Coolidge Road,  
Suite 200, East Lansing, MI 48823, (517)  
324-5157,  
[rick.vanderbeek@mi.usda.gov](mailto:rick.vanderbeek@mi.usda.gov).

*Minnesota*

Ron Oman, USDA Rural  
Development, 375 Jackson St., Suite  
410, St. Paul, MN 55101, (651) 602-  
7796, [Ron.Omann@mn.usda.gov](mailto:Ron.Omann@mn.usda.gov).

*Mississippi*

G. Gary Jones, USDA Rural  
Development, 100 W. Capital Street,  
Suite 831, Jackson, MS 39269, (601)  
965-5457, [george.jones@ms.usda.gov](mailto:george.jones@ms.usda.gov).

*Missouri*

Matt Moore, USDA Rural  
Development, 601 Business Loop 70  
West, Parkade Center, Suite 235,  
Columbia, MO 65203, (573) 876-9321,  
[matt.moore@mo.usda.gov](mailto:matt.moore@mo.usda.gov).

*Montana*

John Guthmiller, USDA Rural  
Development, 2229 Boot Hill Court, P.O.  
Box 850, Bozeman, MT 59771, (406)  
585-2540,  
[John.Guthmiller@mt.usda.gov](mailto:John.Guthmiller@mt.usda.gov).

*Nebraska*

Debra Yocum, USDA Rural  
Development, 100 Centennial Mall  
North, Room 152, Federal Building,  
Lincoln, NE 68508, (402) 437-5554,  
[Debra.Yocum@ne.usda.gov](mailto:Debra.Yocum@ne.usda.gov).

*Nevada*

Mark Williams, USDA Rural  
Development, 1390 South Curry Street,  
Carson City, NV 89703, (775) 887-1222,  
[mark.williams@nv.usda.gov](mailto:mark.williams@nv.usda.gov).

*New Hampshire (See Vermont)*

*New Jersey*

Victoria Fekete, USDA Rural  
Development, 8000 Midlantic Drive,  
Suite 500N, Mt. Laurel, NJ 08054, (856)  
787-7752, [Victoria.Fekete@nj.usda.gov](mailto:Victoria.Fekete@nj.usda.gov).

*New Mexico*

Jesse Bopp, USDA Rural  
Development, 6200 Jefferson Street NE.,  
Room 255, Albuquerque, NM 87109,  
(505) 761-4952,  
[Jesse.bopp@nm.usda.gov](mailto:Jesse.bopp@nm.usda.gov).

*New York*

Scott Collins, USDA Rural  
Development, 9025 River Road, Marcy,  
NY 13403, (315) 736-3316 Ext. 127,  
[scott.collins@ny.usda.gov](mailto:scott.collins@ny.usda.gov).

*North Carolina*

David Thigpen, USDA Rural  
Development, 4405 Bland Rd., Suite  
260, Raleigh, NC 27609, (919) 873-2065,  
[David.Thigpen@nc.usda.gov](mailto:David.Thigpen@nc.usda.gov).

*North Dakota*

Dennis Rodin, USDA Rural  
Development, Federal Building, Room  
208, 220 East Rosser Avenue, P.O. Box  
1737, Bismarck, ND 58502-1737, (701)  
530-2068, [Dennis.Rodin@nd.usda.gov](mailto:Dennis.Rodin@nd.usda.gov).

*Ohio*

Randy Monhemius, USDA Rural  
Development, Federal Building, Room  
507, 200 North High Street, Columbus,  
OH 43215-2418, (614) 255-2424,  
[Randy.Monhemius@oh.usda.gov](mailto:Randy.Monhemius@oh.usda.gov).

*Oklahoma*

Jody Harris, USDA Rural  
Development, 100 USDA, Suite 108,  
Stillwater, OK 74074-2654, (405) 742-  
1036, [Jody.harris@ok.usda.gov](mailto:Jody.harris@ok.usda.gov).

*Oregon*

Don Hollis, USDA Rural  
Development, 200 SE Hailey Ave., Suite  
105, Pendleton, OR 97801, (541) 278-  
8049, Ext. 129, [Don.Hollis@or.usda.gov](mailto:Don.Hollis@or.usda.gov).

*Pennsylvania*

Amanda Krugh, USDA Rural  
Development, 1 Credit Union Place,  
Suite 330, Harrisburg, PA 17110-2996,  
Phone: (717) 237-2289,  
[Amanda.Krugh@pa.usda.gov](mailto:Amanda.Krugh@pa.usda.gov).

*Puerto Rico*

Luis Garcia, USDA Rural  
Development, IBM Building, 654 Munoz  
Rivera Avenue, Suite 601, Hato Rey, PR

00918–6106, (787) 766–5091, Ext. 251,  
Luis.Garcia@pr.usda.gov.

*Republic of Palau (See Hawaii)*

*Republic of the Marshall Islands (See Hawaii)*

*Rhode Island (see Massachusetts)*

*South Carolina*

Shannon Legree, USDA Rural Development, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3150, Shannon.Legree@sc.usda.gov.

*South Dakota*

Kenneth Lynch, USDA Rural Development, Federal Building, Room 210, 200 4th Street, SW., Huron, SD 57350, (605) 352–1120, ken.lynch@sd.usda.gov.

*Tennessee*

Will Dodson, USDA Rural Development, 3322 West End Avenue, Suite 300, Nashville, TN 37203–1084, (615) 783–1350, will.dodson@tn.usda.gov.

*Texas*

Billy Curb, USDA Rural Development, Federal Building, Suite 102, 101 South Main Street, Temple, TX 76501, (254) 742–9775, billy.curb@tx.usda.gov.

*Utah*

Roger Koon, USDA Rural Development, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138, (801) 524–4301, Roger.Koon@ut.usda.gov.

*Vermont/New Hampshire*

Cheryl Ducharme, USDA Rural Development, 89 Main Street, 3rd Floor, Montpelier, VT 05602, (802) 828–6083, cheryl.ducharme@vt.usda.gov.

*Virginia*

Laurette Tucker, USDA Rural Development, 1606 Santa Rosa Road, Suite 238, Richmond, VA 23229, (434) 392–4906 Ext. 125, (804) 287–1606, Laurette.Tucker@va.usda.gov.

*Virgin Islands (see Florida)*

*Washington*

Mary Traxler, USDA Rural Development, 1835 Black Lake Blvd. SW., Suite B, Olympia, WA 98512, (360) 704–7762, Mary.Traxler@wa.usda.gov.

*West Virginia*

Lisa Sharp, USDA Rural Development, 1550 Earl Core Road, Suite 101, Morgantown, WV 26505–7500, (304) 284–4871, lisa.sharp@wv.usda.gov.

*Wisconsin*

Brenda Heinen, USDA Rural Development, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7615, Ext. 139, Brenda.Heinen@wi.usda.gov.

*Wyoming*

Jon Crabtree, USDA Rural Development, Dick Cheney Federal Building, 100 East B Street, Room 1005, P.O. Box 11005, Casper, WY 82602, (307) 233–6719, Jon.Crabtree@wy.usda.gov.

**FOR FURTHER INFORMATION CONTACT:**

Justin Hatmaker, Rural Business-Cooperative Service, U.S. Department of Agriculture, Stop 3201, 1400 Independence Avenue SW., Washington, DC 20250–3201, Telephone: (202) 720–1599. Email: Justin.Hatmaker@wdc.usda.gov.

**SUPPLEMENTARY INFORMATION:** The energy programs implemented under the 2008 Farm Bill continue to be a priority of the Secretary of Agriculture, the Undersecretary of Rural Development, and the Administrator of Rural Business-Cooperative Service. Over the past three plus years, we have developed reliable, successful energy programs and are looking to continue our success as we move forward. Our energy programs are making significant beneficial impacts on both rural communities and the business owners and agricultural producers that receive assistance under these programs. Benefits of our energy programs include decreasing the energy footprint of rural communities, businesses, and farms; converting renewable resources into clean energy; and creating and saving jobs.

In recognition of current budget conditions and as we approach the time for developing the next Farm Bill, we are calling together stakeholders in order for Rural Development to provide updates on the Rural Energy for America Program; to discuss ways we can leverage Agency resources, including working with private and public partners and emphasizing guaranteed loans; and to re-iterate our commitment to helping meet the President's energy independence goals. We encourage state energy partners; businesses that have used or may be looking to use our energy programs; lenders; local, state, and federal elected officials and government offices; and grant writers to participate.

Please note that, due to space limitations, participation in each stakeholder meeting will be limited and will be based on a "first-come, first-served" basis. Therefore, we encourage

you to contact, as soon as possible, the Rural Development Energy Coordinator for your state, as identified in the ADDRESSES section of this Notice, to obtain information on participating in the meeting for your state.

Lastly, please be advised that, if you participate in one of these meetings, you are responsible for your own transportation and any other costs (e.g., food) incurred in participating in the meeting.

Dated: January 12, 2012.

**Judith A. Canales,**

*Administrator, Rural Business-Cooperative Service.*

[FR Doc. 2012–1020 Filed 1–19–12; 8:45 am]

**BILLING CODE 3410–XY–P**

**DEPARTMENT OF COMMERCE**

**Submission for OMB Review;  
Comment Request**

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

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Northwest Region Gear Identification Requirements.

*OMB Control Number:* 0648–0352.

*Form Number(s):* NA.

*Type of Request:* Regular submission (revision and extension of a current information collection).

*Number of Respondents:* 946.

*Average Hours per Response:* 15 minutes.

*Burden Hours:* 3,798.

*Needs and Uses:* This request is for revision and extension of a current information collection.

The success of fisheries management programs depends significantly on regulatory compliance. The requirements that fishing gear be marked are essential to facilitate enforcement. The ability to link fishing gear to the vessel owner or operator is crucial to the enforcement of regulations issued under the authority of the Magnuson Stevens Fishery Conservation and Management Act (MSA). The marking of fishing gear is also valuable in actions concerning damage, loss, and civil proceedings. Regulations at 50 CFR 660.219 and 660.319 specify fishing gear must be marked with the vessel's official number, federal permit or tag number, or some other specified form of identification. The regulations further specify how the gear is to be marked

(e.g., location and color). Law enforcement personnel rely on this information to assure compliance with fisheries management regulations. Gear that is not properly identified is confiscated. The identifying number on fishing gear is used by the National Marine Fisheries Service (NMFS), the United States Coast Guard (USCG), and other marine agencies in issuing violations, prosecutions, and other enforcement actions. Gear marking helps ensure that a vessel harvests fish only from its own traps/pots/other gear and that traps/pots/other gear are not illegally placed. Gear violations are more readily prosecuted when the gear is marked, allowing for more cost effective enforcement. Cooperating fishermen also use the number to report placement or occurrence of gear in unauthorized areas. Regulation-compliant fishermen ultimately benefit from this requirement, because unauthorized and illegal fishing is deterred and more burdensome regulations are avoided.

Revised individual fishing quota (IFQ) trawl fishery regulations at 50 CFR 660.140, per Final Rule 0648–AY68 (75 FR 78344) allow trawl allocation to be harvested with fixed gears. Thus, 20 of the limited entry vessels in this collection would have up to a total of 400 additional pieces of gear to mark, adding 100 hours and \$100.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* Annually.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:*

*OIRA\_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to

*OIRA\_Submission@omb.eop.gov.*

Dated: January 17, 2012.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2012–1039 Filed 1–19–12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Docket 5–2012]

#### Application for Manufacturing Authority, Liberty Pumps, Inc. (Submersible and Water Pumps), Bergen, NY

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Genesee Gateway Local Development Corporation, the proposed grantee of a new foreign-trade zone planned for Genesee County, New York (see Docket 69–2011, 76 FR 67672, 11–2–2011), requesting manufacturing authority on behalf of Liberty Pumps, Inc., located in Bergen, New York. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 12, 2012.

The Liberty Pumps, Inc., facility (108 employees, 9.1 acres, production capacity—300,000 pumps/year) is located at 7000 Appletree Avenue in Bergen (Genesee County), within Site 1 of the proposed new zone. The facility is used for the manufacturing of submersible and water pumps, including drain pumps, effluent pumps, condensate pumps, and sewage pumps. Components and materials sourced from abroad (representing 30 to 40% of the value of the finished pumps) include: Plastic (polyamide) resins, plastic boxes/cases/tanks, articles of plastic, rubber gaskets/seals, labels, wood pallets, fiberglass, fasteners, cast iron parts, articles of iron/steel, aluminum castings, parts of pumps, valves, mechanical seals, electric motors, transformers, capacitors, switches, electronic components, integrated circuits, process controllers, printed circuit assemblies, electrical components, and measuring instruments (duty rates range from free to 10.7%).

FTZ procedures could exempt Liberty Pumps from customs duty payments on the foreign components used in export production. The company anticipates that 12 to 18 percent of the facility's shipments will be exported. On its domestic sales, Liberty Pumps would be able to choose the duty rate during customs entry procedures that applies to submersible and water pumps (duty rate—free) for the foreign inputs noted above. FTZ designation would further allow Liberty Pumps to realize logistical benefits through the use of weekly customs entry procedures. Customs duties also could possibly be deferred or

reduced on foreign status production equipment. Liberty Pumps would also be exempt from duty payments on foreign inputs that become scrap during the production process. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, Pierre Duy of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 20, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 4, 2012.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Pierre Duy at [Pierre.Duy@trade.gov](mailto:Pierre.Duy@trade.gov) or (202) 482–1378.

Dated: January 12, 2012.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2012–1104 Filed 1–19–12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Docket 6–2012]

#### Foreign-Trade Zone 219—Yuma, AZ; Application for Reorganization and Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Greater Yuma Economic Development Corporation, grantee of FTZ 219, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170, 1/12/09 (correction 74 FR 3987, 1/22/09); 75 FR 71069–71070, 11/22/10). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit

significantly greater flexibility in the designation of new “usage-driven” FTZ sites for operators/users located within a grantee’s “service area” in the context of the Board’s standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 13, 2012.

FTZ 219 was approved by the Board on April 2, 1997 (Board Order 874, 62 FR 17850–17851, 04/10/1997) and expanded on April 5, 2001 (Board Order 1161, 66 FR 19422, 04/16/2001); February 7, 2003 (Board Order 1267, 68 FR 9047, 02/27/2003); and, June 25, 2004 (Board Order 1341, 69 FR 40600, 07/06/2004).

The current zone project includes the following sites: *Site 1* (125 acres)—within the Yuma International Airport, 2191 East 32nd Street, Yuma; *Site 2* (95 acres)—Yuma Commerce Center, East 30th Street and South Avenue 7E, Yuma; and, *Site 3* (75 acres)—Big Lot Industrial LLC, 2301 North Main Street, San Luis.

The grantee’s proposed service area under the ASF would be all of Yuma County, Arizona, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies’ needs for FTZ designation. The proposed service area is within and adjacent to the San Luis U.S. Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize and expand its existing zone project to include existing Sites 1 and 2 as “magnet” sites as well as requesting approval of an additional “magnet” site: Proposed *Site 4* (220 acres)—The Greater Yuma Port Authority Industrial Park, 1002 South Avenue D, San Luis. The ASF allows for the possible exemption of one magnet site from the “sunset” time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The applicant is also requesting approval of the following initial “usage-driven” site: Proposed *Site 5* (36 acres)—Johnson Controls Battery Group, 3740 South Arizona Avenue, Yuma. In addition, the applicant is requesting that existing Site 3 be removed from the zone project due to changed circumstances. Because the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ 219’s authorized subzone.

In accordance with the Board’s regulations, Christopher Kemp of the FTZ Staff is designated examiner to

evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board’s Executive Secretary at the address below. The closing period for their receipt is March 20, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 4, 2012.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the “Reading Room” section of the Board’s Web site, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz). For further information, contact Christopher Kemp at [Christopher.Kemp@trade.gov](mailto:Christopher.Kemp@trade.gov) or (202) 482–0862.

Dated: January 13, 2012.

**Andrew McGilvray,**  
*Executive Secretary.*

[FR Doc. 2012–1105 Filed 1–19–12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–549–820]

#### **Prestressed Concrete Steel Wire Strand From Thailand: Correction to Notice of Opportunity To Request Administrative Review**

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

**FOR FURTHER INFORMATION CONTACT:** Sergio Balbontin, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6478.

**SUPPLEMENTARY INFORMATION:** On January 3, 2012, the Department of Commerce (“Department”) published its opportunity to request administrative review of the antidumping duty order on prestressed concrete steel wire strand (“PC Strand”) from Thailand. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 83 (January 3, 2012). Subsequent to this publication, we identified an

inadvertent error. The case number associated with the antidumping duty order on PC Strand from Thailand is incorrect. The correct case number is A–549–820 and not A–583\814. This notice serves as a correction. The opportunity to request administrative review of the antidumping duty order on PC Strand from Thailand is correct and remains unchanged.

Dated: January 17, 2012.

**Christian Marsh,**  
*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2012–1107 Filed 1–19–12; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–552–802]

#### **Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Extension of Preliminary Results of Antidumping Duty Administrative Review**

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

**DATES:** *Effective Date:* January 20, 2012.  
**SUMMARY:** The Department of Commerce (the “Department”) is extending the time limit for the preliminary results of the sixth administrative review of the antidumping duty order on certain frozen warmwater shrimp (“shrimp”) from the Socialist Republic of Vietnam (“Vietnam”) to February 28, 2012. The period of review (“POR”) is February 1, 2010, through January 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Toni Dach or Seth Isenberg, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1655 and (202) 482–0588, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On March 31, 2011, the Department published in the **Federal Register** a notice of initiation of the administrative review of the antidumping duty order on certain frozen warmwater shrimp from Vietnam. *See Initiation of Antidumping Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review*, 76 FR 17825 (March 31, 2011). The Department extended the time limit for the preliminary results by 90 days on

October 20, 2011.<sup>1</sup> The preliminary results are currently due no later than January 29, 2012.<sup>2</sup>

### Statutory Time Limits

In antidumping duty administrative reviews, section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

### Extension of Time Limit of Preliminary Results

We determine that it is not practicable to complete the preliminary results of this administrative review within the original time limit because the Department requires additional time to analyze the questionnaire responses, which include substantial sales and factor information, issue supplemental questionnaires, evaluate surrogate value submissions, and conduct an on-site verification.

Therefore, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), the Department is extending the time limit for the preliminary results by 30 days, until February 28, 2012. The final results continue to be due 120 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: January 13, 2012.

#### Christian Marsh,

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2012–1110 Filed 1–19–12; 8:45 am]

**BILLING CODE 3510–DS–P**

<sup>1</sup> See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Extension of Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 65178 (October 20, 2011).

<sup>2</sup> The 90 day extension FR noted the deadline was extended to January 30, 2012. However, this was because the initial 90 day extension to January 29, 2012 fell on a Sunday. As a result, per Department practice, the deadline fell to the next business day. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended*, 70 FR 24533 (May 10, 2005).

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–886]

### Polyethylene Retail Carrier Bags From the People’s Republic of China: Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** In response to a request from interested parties, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from the People’s Republic of China (PRC) with respect to Dongguan Nozawa Plastics Products Co., Ltd., and United Power Packaging, Ltd. (collectively Nozawa). The period of review is August 1, 2010, through July 31, 2011. The Department is rescinding the administrative review.

**DATES:** *Effective Date:* January 20, 2012.

**FOR FURTHER INFORMATION CONTACT:** Yang Jin Chun, AD/CVD Operations Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5760.

#### SUPPLEMENTARY INFORMATION:

#### Background

On August 9, 2004, we published in the **Federal Register** an antidumping duty order on PRCBs from the PRC. See *Antidumping Duty Order: Polyethylene Retail Carrier Bags From the People’s Republic of China*, 69 FR 48201 (August 9, 2004). On August 1, 2011, we published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on PRCBs from the PRC. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 76 FR 45773 (August 1, 2011). On August 31, 2011, pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), the petitioners, the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation, requested an administrative review of the order with respect to Nozawa, an exporter of PRCBs from the PRC. See the letter from the petitioners dated August 31, 2011. On October 3, 2011, in accordance with section 751(a) of the

Act and 19 CFR 351.221(c)(1)(i), we published a notice of initiation of an administrative review of the order. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 76 FR 61076 (October 3, 2011).

#### Rescission of Review

In accordance with 19 CFR 351.213(d)(1), the Department will rescind an administrative review, “in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.” We received a letter of withdrawal from the petitioners with respect to the review requested of Nozawa within the 90-day time limit. See the letter from the petitioners dated December 21, 2011. Because we received no other requests for review of Nozawa and no other requests for the review of the order on PRCBs from the PRC with respect to other companies subject to the order, we are rescinding the administrative review of the order in full. This rescission is in accordance with 19 CFR 351.213(d)(1).

The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice.

#### Notification to Importer

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice is published in accordance with section 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: January 13, 2012.

#### Christian Marsh,

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2012–1106 Filed 1–19–12; 8:45 am]

**BILLING CODE 3510–DS–P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

RIN 0648-XA847

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Exempted Fishing Permit**

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

**ACTION:** Notice of receipt of an application for an exempted fishing permit; request for comments.

**SUMMARY:** NMFS announces the receipt of an application for an exempted fishing permit (EFP) from the Louisiana Department of Wildlife and Fisheries (LDWF). If granted, the EFP would authorize the applicant to collect and retain red snapper that would otherwise be prohibited from possession and retention. This study, to be conducted in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) off Louisiana, is intended to better document the age structure and life history of fish associated with offshore platforms and artificial reefs in Louisiana coastal waters.

**DATES:** Comments must be received no later than 5 p.m., eastern time, on February 21, 2012.

**ADDRESSES:** You may submit comments on the application by any of the following methods:

- *Email:* [Steve.Branstetter@noaa.gov](mailto:Steve.Branstetter@noaa.gov).

Include in the subject line of the email comment the following document identifier: "LDWF\_EFP".

- *Mail:* Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

The application and related documents are available for review upon written request to any of the above addresses.

**FOR FURTHER INFORMATION CONTACT:**

Steve Branstetter, (727) 824-5305; email: [Steve.Branstetter@noaa.gov](mailto:Steve.Branstetter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

The described research is part of a new research program by LDWF. The research is intended to involve recreational fishermen in the collection of fundamental biological information on Gulf red snapper. The proposed

collection for scientific research involves activities that could otherwise be prohibited by regulations at 50 CFR part 622, as they pertain to reef fish managed by the Gulf of Mexico Fishery Management Council (Council). The applicant requires authorization through the EFP to collect these Council-managed species that may be taken as part of the normal fishing activities of the recreational sector of the Gulf reef fish fishery. LDWF is requesting that selected participants in as many as seven Louisiana recreational fishing tournaments during the summer of 2012 be allowed to bring red snapper to port. The EFP would only be applicable if the 2012 recreational red snapper season has closed because the recreational quota was projected to be met. These fish would be turned over to LDWF personnel, and sampled for otoliths and gonads. LDWF would be responsible for providing all data collected under the EFP to NMFS for use in the next red snapper stock assessment.

The goal of the research is to provide a more robust data base on Gulf red snapper for the next stock assessment. The EFP, if approved, would authorize the take of as many as 1,400 federally-managed red snapper from July 1, 2012, through September 30, 2012. Such fish, collected as biological samples, would not be subject to seasonal closures or recreational bag limits.

NMFS finds this application warrants further consideration. Possible conditions the agency may impose on this permit, if it is indeed granted, include but are not limited to, a prohibition of conducting research within marine protected areas, marine sanctuaries, or special management zones, without additional authorization. A report on the research would be due at the end of the collection period, to be submitted to NMFS and reviewed by the Council.

A final decision on issuance of the EFP will depend on NMFS's review of public comments received on the application, consultations with the affected states, the Council, and the U.S. Coast Guard, as well as a determination that it is consistent with all applicable laws.

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

Dated: January 17, 2012.

**Steven Thur,**

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

[FR Doc. 2012-1145 Filed 1-19-12; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

RIN 0648-XA942

**Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Pre-Workshop Webinar for HMS Blacktip Sharks**

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

**ACTION:** Notice of SEDAR 29 pre-workshop webinar for HMS blacktip sharks.

**SUMMARY:** The SEDAR assessment of the HMS stocks of Gulf of Mexico blacktip sharks will consist of one workshop and a series of webinars. See **SUPPLEMENTARY INFORMATION**.

**DATES:** The SEDAR pre-Workshop webinar will take place February 14, 2012 from 10 a.m. to 12 p.m. Central time. The established time may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

**ADDRESSES:** The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information.

**FOR FURTHER INFORMATION CONTACT:** Julie Neer, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571-4366; email: [Julie.neer@safmc.net](mailto:Julie.neer@safmc.net)

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data/Assessment Workshop, and (2) a series of webinars. The product of the Data/Assessment Workshop is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks,

projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

During the SEDAR 29 pre-data workshop webinar participants will present summary data, and discuss data needs and treatments.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

Dated: January 17, 2012.

**Tracey L. Thompson,**

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

[FR Doc. 2012-1037 Filed 1-19-12; 8:45 am]

**BILLING CODE 3510-22-P**

---

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XA943

#### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's (Council) Tilefish Advisory Panel (AP) will meet with the Council's Social and Economic Sub-committee of the Scientific and Statistical Committee (SSC).

**DATES:** The meeting will be held on February 7, 2012 at 11 a.m. until 3 p.m.

**ADDRESSES:** The meeting will be held at Ocean Place Resort, One Ocean Blvd., Long Branch NJ 07740; telephone: (732) 571-4000.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331.

**FOR FURTHER INFORMATION CONTACT:**

Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526-5255.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to review fishery performance and create an AP Fishery Performance Report for Tilefish.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526-5251, at least 5 days prior to the meeting date.

Dated: January 17, 2012.

**Tracey L. Thompson,**

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

[FR Doc. 2012-1038 Filed 1-19-12; 8:45 am]

**BILLING CODE 3510-22-P**

---

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XA945

#### North Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Meeting of the North Pacific Fishery Management Council Golden King Crab Price Formula Workgroup.

**SUMMARY:** The North Pacific Fishery Management Council (Council) Golden King Crab Price Formula Workgroup is meeting in February in Seattle, WA.

**DATES:** The meeting will be held on February 7, 2012 at 2 p.m.

**ADDRESSES:** The meeting will be held at 1201 3rd Avenue, Suite 4800, Seattle, WA 98121-3099.

*Council address:* North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:**

Mark Fina, Council staff; telephone: (907) 271-2809.

**SUPPLEMENTARY INFORMATION:** The Committee is meeting concerning the arbitration system that is part of the Bering Sea and Aleutian Islands crab rationalization program. The committee will give specific attention to the development of the price formula for golden king crab under the arbitration system. Additional information is posted on the Council Web site: <http://www.alaskafisheries.noaa.gov/npfmc/>.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271-2809 at least 7 working days prior to the meeting date.

Dated: January 17, 2012.

**Tracey L. Thompson,**

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

[FR Doc. 2012-1127 Filed 1-19-12; 8:45 am]

**BILLING CODE 3510-22-P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the Procurement List.

**SUMMARY:** This action adds products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Effective Date:* 2/20/2012.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or email [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

### SUPPLEMENTARY INFORMATION:

#### Additions

On 11/14/2011 (76 FR 70423-70424) and 11/18/2011 (76 FR 71554), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and service and impact of the additions on the current or most recent contractors, the Committee has determined that the products and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. Chapter 85 and 41 CFR 51-2.4.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping, or other compliance requirements for small entities other than the small organizations that will furnish the products and service to the Government.
2. The action will result in authorizing small entities to furnish the products and service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501-8506) in connection with the products and

service proposed for addition to the Procurement List.

### End of Certification

Accordingly, the following products and service are added to the Procurement List:

#### Products

NSN: 8920-00-NSH-0130—Sweet Roll Mix, 6—5 lb bags.

NSN: 8920-00-NSH-0131—Sweet Roll Mix, 6—4 lb cans.

NSN: 8920-00-NSH-0132—Hot Roll Mix, 6—5 lb bags.

NSN: 8920-00-NSH-0133—Hot Roll Mix, 6—4 lb cans.

NPA: Transylvania Vocational Services, Inc., Brevard, NC.

*Contracting Activity:* Defense Logistics Agency Troop Support, Philadelphia, PA.

*Coverage:* C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

#### Service

*Service Type/Location:* Base Supply Center, Joint Base Andrews Naval Air Facility Washington, 1500 West Perimeter Road, Suite 2780, Joint Base Andrews, MD.

NPA: Blind Industries & Services of Maryland, Baltimore, MD.

*Contracting Activity:* Dept. of the Air Force, FA2860 11 Cons Lgc, Andrews AFB, MD.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. 2012-1061 Filed 1-19-12; 8:45 am]

**BILLING CODE 6353-01-P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Sunshine Act Meeting Notice

The White House Council for Community Solutions gives notice of the following meeting:

**DATE AND TIME:** Friday, February 3, 2012, 12:15-1:15 p.m. Eastern Standard Time.

**PLACE:** The Council will meet via phone conference call. The meeting will be open to the public in Listen-Only mode and it will be recorded. To dial in, please call (866) 525-0652. More details and materials will be available on the Council's Web site (<http://www.serve.gov/communitysolutions>) on Thursday, February 2nd.

**PUBLIC COMMENT:** The public is invited to submit publicly available comments through the Council's Web site. To send statements to the Council, please send written statements to the Council's electronic mailbox at [WhiteHouseCouncil@cns.gov](mailto:WhiteHouseCouncil@cns.gov). The public can also follow the Council's

work by visiting its Web site: <http://www.serve.gov/communitysolutions>.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Following the Administration's Summer Jobs Plus announcement on January 4, the Council launched a 100-day initiative to unite all citizens to go "All In" for youth. The purpose of this meeting is to review the Council's efforts to-date and plan next steps for continuing to raise awareness about the need to address the issue of disconnected youth.

**CONTACT PERSON FOR MORE INFORMATION:** Leslie Boissiere, Executive Director, White House Council for Community Solutions, Corporation for National and Community Service, 10th Floor, Room 10911, 1201 New York Avenue NW., Washington, DC 20525. Phone: (202) 606-3910. Fax: (202) 606-3464. Email: [WhiteHouseCouncil@cns.gov](mailto:WhiteHouseCouncil@cns.gov).

Dated: January 18, 2012.

**Leslie Boissiere,**

*Executive Director, White House Council for Community Solutions.*

[FR Doc. 2012-1271 Filed 1-18-12; 4:15 pm]

**BILLING CODE 6050-SS-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Department of Defense Wage Committee; Notice of Closed Meetings

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice of closed meetings.

**SUMMARY:** Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a closed meeting of the Department of Defense Wage Committee will be held.

**DATES:** Tuesday, March 6, 2012, at 10 a.m.

**ADDRESSES:** 1400 Key Boulevard, Level A, Room A101, Rosslyn, Virginia, 22209.

**FOR FURTHER INFORMATION CONTACT:** Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301-4000.

**SUPPLEMENTARY INFORMATION:** Under the provisions of section 10(d) of Public Law 92-463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials

of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Dated: January 13, 2012.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2012-1021 Filed 1-19-12; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Department of Defense Wage Committee; Notice of Closed Meetings

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice of closed meetings.

**SUMMARY:** Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a closed meeting of the Department of Defense Wage Committee will be held.

**DATES:** Tuesday, March 20, 2012, at 10 a.m.

**ADDRESSES:** 1400 Key Boulevard, Level A, Room A101, Rosslyn, Virginia 22209.

**FOR FURTHER INFORMATION CONTACT:**

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301-4000.

**SUPPLEMENTARY INFORMATION:** Under the provisions of section 10(d) of Public Law 92-463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Dated: January 13, 2012.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2012-1022 Filed 1-19-12; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. IC12-1-000]

#### Commission Information Collection Activities (FERC-725F); Comment Request

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Comment request.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collection FERC-725F, "Mandatory Reliability Standards for Nuclear Plant Interface Coordination", to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (76 FR 67158, 10/31/2011) requesting public comments. FERC received no comments on the FERC-725F and is making this notation in its submittal to OMB.

**DATES:** Comments on the collection of information are due by February 21, 2012.

**ADDRESSES:** Comments filed with OMB, identified by the OMB Control No. 1902-0249, should be sent via email to the Office of Information and Regulatory Affairs: [oira\\_submission@omb.gov](mailto:oira_submission@omb.gov). Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at (202) 395-4718.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission, identified by the Docket No. IC12-1-000, by either of the following methods:

*eFiling at Commission's Web site:*  
<http://www.ferc.gov/docs-filing/efiling.asp>.

*Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. For user assistance contact FERC Online Support by e-mail at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at: (866) 208-3676 (toll-free), or (202) 502-8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

**FOR FURTHER INFORMATION:** Ellen Brown may be reached by e-mail at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), by telephone at (202) 502-8663, and by fax at (202) 273-0873.

**SUPPLEMENTARY INFORMATION:**

*Title:* FERC-725F Mandatory Reliability Standards for Nuclear Plant Interface Coordination

*OMB Control No.:* 1902-0249

*Type of Request:* Three-year extension of the FERC-725F information collection requirements with no changes to the reporting requirements.

*Abstract:* The Commission requires the information collected by the FERC-725F to implement the statutory provisions of section 215 of the Federal Power Act (FPA) (16 U.S.C. 824o). On August 8, 2005, the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005), was enacted into law.<sup>1</sup> EPAct 2005 added a new section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.<sup>2</sup>

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.<sup>3</sup> Pursuant to Order No. 672, the Commission certified one organization, North American Electric Reliability Corporation (NERC), as the ERO. The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

On November 19, 2007, NERC filed its petition for Commission approval of the Nuclear Plant Interface Coordination Reliability Standard, designated NUC-001-1. In Order No. 716, issued October 16, 2008, the Commission approved the standard while also directing certain

<sup>1</sup> Energy Policy Act of 2005, Public Law 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), 16 U.S.C. 824o.

<sup>2</sup> 16 U.S.C. 824o(e)(3).

<sup>3</sup> *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, order on reh'g, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

revisions.<sup>4</sup> Revised Reliability Standard, NUC-001-2, was filed with the Commission by NERC in August 2009 and subsequently approved by the Commission January 21, 2010.<sup>5</sup>

The purpose of Reliability Standard NUC-001-2 is to require “coordination between nuclear plant generator operators and transmission entities for the purpose of ensuring nuclear plant safe operation and shutdown.”<sup>6</sup> The Nuclear Reliability Standard applies to nuclear plant generator operators (generally nuclear power plant owners and operators, including licensees) and “transmission entities,” defined in the Reliability Standard as including a

nuclear plant’s suppliers of off-site power and related transmission and distribution services. To account for the variations in nuclear plant design and grid interconnection characteristics, the Reliability Standard defines transmission entities as “all entities that are responsible for providing services related to Nuclear Plant Interface Requirements (NPIRs),” and lists eleven types of functional entities (heretofore described as “transmission entities”) that could provide services related to NPIRs.<sup>7</sup>

Reliability Standard NUC-001-2 requires a nuclear power plant operator and its suppliers of back-up power and

related transmission and distribution services to coordinate concerning nuclear licensing requirements for safe nuclear plant operation and shutdown and system operating limits. Information collection requirements include establishing and maintaining interface agreements, including record retention requirements.

*Type of Respondents:* e.g. nuclear operators, nuclear plants, transmission entities

*Estimate of Annual Burden:*<sup>8</sup> The Commission estimates the Public Reporting Burden for this information collection as:

FERC data collection FERC-725F (OMB Control No. 1902-0249)	Number of respondents annually	Number of responses (Documents)	Average burden hours per response	Total annual burden hours
	(1)	(2)	(3)	(1)*(2)*(3)
New agreements .....	10 nuclear operators + 20 transmission entities.	1 .....	Reporting: 1,080 .....	Reporting: 32,400
			Recordkeeping: 108 .....	Recordkeeping: 3,240
Modifications to agreements ...	65 nuclear plants + 130 transmission entities <sup>9</sup> .	2 .....	Reporting: 67 (rounded) .....	Reporting: 26,000
			Recordkeeping: 7 (rounded)	Recordkeeping: 2,600
Total .....	Not applicable (see text for discussion).	Not applicable .....	Not applicable .....	64,240

The Commission estimates the total annual cost burden to respondents as:

- 58,400 Reporting hours × \$120/hour<sup>10</sup> = \$7,008,000.
- 5,840 Recordkeeping hours × \$28/hour<sup>11</sup> = \$163,520 (plus the record storage cost: 143 entities × \$15.25/year per entity<sup>12</sup> = \$2,181 (rounded))

Total annual cost burden to respondents = \$7,173,701.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate

of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: January 13, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012-1070 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory  
Commission**

[Docket No. CP12-41-000]

**Liberty Energy (Midstates) Corp.;  
Notice of Application**

Take notice that on January 4, 2012, Liberty Energy (Midstates) Corp. (Liberty Midstates), 2845 Bristol Circle, Oakville, Ontario, Canada L6H 7H7, filed in Docket No. CP12-41-000, an application pursuant to section 7(f) of the Natural Gas Act (NGA) requesting the determination of a service area<sup>1</sup>

<sup>4</sup> *Mandatory Reliability Standard for Nuclear Plant Interface Coordination*, Order No. 716, 125 FERC ¶ 61,065, at P 189 & n.90 (2008), order on reh’g, Order No. 716-A, 126 FERC ¶ 61,122 (2009).

<sup>5</sup> *North American Electric Reliability Corporation*, 130 FERC ¶ 61,051 (2010). When the revised Reliability Standard was approved the Commission did not go to OMB for approval. It is assumed that the changes made did not substantively affect the information collection and therefore a formal submission to OMB was not needed.

<sup>6</sup> See Reliability Standard NUC-001-2 at <http://www.nerc.com/files/NUC-001-2.pdf>.

<sup>7</sup> The list of functional entities consists of transmission operators, transmission owners, transmission planners, transmission service providers, balancing authorities, reliability

coordinators, planning authorities, distribution providers, load-serving entities, generator owners and generator operators.

<sup>8</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

<sup>9</sup> This figure of 130 transmission entities is based on the assumption that each agreement will be between 1 nuclear plant and 2 transmission entities (65 times 2 = 130). However, there is some double counting in this figure because some transmission entities may be party to multiple agreements with multiple nuclear plants. The double counting does

not affect the burden estimate and the correct number of unique respondents will be reported to OMB.

<sup>10</sup> The \$120/hour figure is a combined average of legal, technical and administrative staff.

<sup>11</sup> The \$28/hour figure is based on a FERC staff study that included estimating public utility recordkeeping costs.

<sup>12</sup> This is based on the estimated cost to service and store 1 GB of data (based on the aggregated cost of an IBM advanced data protection server).

<sup>1</sup> Liberty Midstates states that it seeks a service area determination in order to provide natural gas service to more than 65 Missouri communities via the Missouri distribution facilities it would acquire from Atmos Energy Corporation (Atmos). Liberty Midstates would also acquire a 35-foot pipeline on

within which Liberty Midstates may, without further Commission authorization, enlarge or expand its natural gas distribution facilities. Liberty Midstates also requests: (i) A waiver of the Commission's accounting and reporting requirements and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and the NGPA; (ii) pregranted abandonment of this service; and (iii) such further relief the Commission may deem appropriate, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Any questions regarding this application should be directed to William F. Demarest, Jr., Husch Blackwell LLP, 750 17th St. NW., Suite 900, Washington, DC 20006, or at (202) 378-2310 (telephone) or email: [william.demarest@huschblackwell.com](mailto:william.demarest@huschblackwell.com).

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as

possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

*Comment Date:* February 2, 2012.

Dated: January 12, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012-1079 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2821-011]

#### City of Portland, Oregon; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Capacity Amendment of License.

b. *Project No.:* 2821-011.

c. *Date Filed:* June 27, 2011, and supplemented November 23, 2011, and January 11, 2012.

d. *Applicant:* City of Portland, Oregon.

e. *Name of Project:* Portland Hydroelectric Project.

f. *Location:* Approximately 25 miles east of the City of Portland, on the Bull Run River, in Multnomah and Clackamas Counties, Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Frank Galida, Portland Hydroelectric Project Manager, Portland Water Bureau, City of Portland, Oregon, Room 530, 1120 SW 5th Avenue, Portland, OR 97204, (503) 823-7517, [frank.galida@portlandoregon.gov](mailto:frank.galida@portlandoregon.gov).

i. *FERC Contact:* Christopher Chaney, (202) 502-6778, [christopher.chaney@ferc.gov](mailto:christopher.chaney@ferc.gov).

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice. All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at 1-(866) 208-3676, or for TTY, (202) 502-8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of proposed amendment:* The licensee proposes to modify the North Tower intake at the Dam No. 2 Development of the Portland Project. A multi-level intake structure would be added to the tower to allow for the selective withdrawal of water

the Kansas-Missouri border, which would enable Liberty Midstates to receive natural gas volumes from Atmos on behalf of its Missouri distribution customers.

from different reservoir elevations. The modifications are necessary to allow for better temperature management below Dam No. 2, as required by the Bull Run Water Supply Habitat Conservation Plan (HCP). Environmental impacts related to selective water withdrawal were already analyzed as part of the HCP. Neither the hydraulic capacity nor the installed capacity would change as a result of the modifications, and there would be no change in project operation or normal reservoir elevations.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*: Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary

basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: January 12, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012-1085 Filed 1-19-12; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 14345-000]

#### Rock River Beach, Inc.; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

- a. *Type of Application*: Exemption from Licensing.
- b. *Project No.*: 14345-000.
- c. *Filing Date*: January 5, 2012.
- d. *Applicant*: Rock River Beach, Inc.
- e. *Name of Project*: Rock River Beach Hydroelectric Project.
- f. *Location*: On the Rock River, in the Township of Onota, Alger County, Michigan. The proposed project would not occupy any federal lands.
- g. *Filed Pursuant to*: Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.
- h. *Applicant Contact*: Mary C. Edgar, Rock River Beach, Inc., 2617 Rockwood Drive, East Lansing, MI 48823; [edgarjh@aol.com](mailto:edgarjh@aol.com).
- i. *FERC Contact*: Aaron Liberty at (202) 502-6862; or email at [Aaron.Liberty@ferc.gov](mailto:Aaron.Liberty@ferc.gov).

j. Cooperating agencies: Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues

that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of the Commission's regulations, 18 CFR 4.32(b)(7), if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status*: March 5, 2012.

All documents may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at 1-(866) 208-3676, or for TTY, (202) 502-8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

m. The application is not ready for environmental analysis at this time.

n. *Project description*: The project would include the following existing facilities: (1) A 33.6-foot-long, 5.5-foot-high concrete gravity dam with a crest elevation of 607.5 feet National Geodetic Vertical Datum; (2) a 3-foot-high by 6-foot-wide vertical steel slide sluice gate; (3) a 5-acre impoundment; (4) a 30-foot-wide by 50-foot-long power canal that feeds water to a water wheel and turbine; (5) a 100-foot-long by 50-foot-wide bypass reach that directs overflow water to the dam; (6) a powerhouse containing a 3-kilowatt (kW) and a 5-kW generating unit; and (7) a 2,640-foot-long transmission line. The project

would generate an annual average of approximately 9,000 to 18,000 kW-hours.

The proposed project is currently unlicensed and was found to be jurisdictional because it is located on a Commerce Clause water and affects the interests of interstate commerce. See, 103 FERC ¶ 62,180 (2003).

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Michigan State Historic Preservation Officer (SHPO), as required by 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Acceptance Letter or Deficiency Letter.	April 2012.
Issue Notice of Ready for Environmental Analysis.	June 2012.
Comments, Recommendations, and Terms and Conditions.	August 2012.
Commission issues EA .....	November 2012.

Dated: January 13, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012-1069 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Combined Notice of Filings #1**

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10-879-000.  
*Applicants:* Entergy Arkansas, Inc.

*Description:* Compliance Refund Report of Entergy Arkansas, Inc.

*Filed Date:* 1/10/12.

*Accession Number:* 20120110-5096.

*Comments Due:* 5 p.m. ET 1/31/12.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES12-18-000.

*Applicants:* Rochester Gas and Electric Corporation.

*Description:* Application of Rochester Gas and Electric Corporation for Authorization to Issue Short-Term Debt under section 204 of the Federal Power Act.

*Filed Date:* 1/11/12.

*Accession Number:* 20120111-5163.

*Comments Due:* 5 p.m. ET 2/1/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: January 11, 2012.

**Nathaniel J. Davis, Sr.,**

Deputy Secretary.

[FR Doc. 2012-1041 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP12-302-000.

*Applicants:* Transcontinental Gas Pipe Line Company,

*Description:* Revise Sections 2.4 and 2.5 (PS and ACQ) of Rate Schedule FT to be effective 2/11/2012.

*Filed Date:* 1/11/12.

*Accession Number:* 20120111-5115.

*Comments Due:* 5 p.m. ET 1/23/12.

*Docket Numbers:* RP12-303-000.

*Applicants:* Midcontinent Express Pipeline LLC.

*Description:* Annual Report of Operational Purchases and Sales of Midcontinent Express Pipeline LLC.

*Filed Date:* 1/11/12.

*Accession Number:* 20120111-5129.

*Comments Due:* 5 p.m. ET 1/23/12.

*Docket Numbers:* RP12-304-000.

*Applicants:* Dominion Transmission, Inc.

*Description:* DTI—January 11, 2012—Nonconforming Service Agreement to be effective 1/15/2012.

*Filed Date:* 1/11/12.

*Accession Number:* 20120111-5136.

*Comments Due:* 5 p.m. ET 1/23/12.

*Docket Numbers:* RP12-305-000

*Applicants:* Discovery Gas Transmission LLC.

*Description:* Footnote 4 Removal to be effective 1/1/2012.

*Filed Date:* 1/11/12.

*Accession Number:* 20120111-5175.

*Comments Due:* 5 p.m. ET 1/23/12.

*Docket Numbers:* RP12-306-000.

*Applicants:* Equitrans, L.P.

*Description:* Non-Conforming Agreement Filing—GeoMet Operating Company, Inc. to be effective 1/1/2012.

*Filed Date:* 1/11/12.

*Accession Number:* 20120111-5225.

*Comments Due:* 5 p.m. ET 1/23/12.

*Docket Numbers:* RP12-307-000

*Applicants:* Texas Eastern Transmission, LP.

*Description:* Submits tariff filing per 154.204: Duke Energy Indiana Negotiated Rate to be effective 1/12/2012.

*Filed Date:* 1/12/12.

*Accession Number:* 20120112-5055.

*Comments Due:* 5 p.m. ET 1/24/12.

*Docket Numbers:* CP12-42-000.

*Applicants:* Liberty Energy (Midstates) Corporation

*Description:* Application for Limited Jurisdiction Blanket Certificate, and Approval of Rates.

*Filed Date:* 1/4/12.

*Accession Number:* 20120104-5143.

*Comments Due:* 5 p.m. ET 12/25/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, and service can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: January 12, 2012.

**Nathaniel J. Davis, Sr.,**  
Deputy Secretary.

[FR Doc. 2012-1042 Filed 1-19-12; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 12790-001]

#### Pomperaug Hydro Project, Andrew Peklo III; Notice Establishing Deadline for Comments and Reply Comments

On December 15, 2011, the Commission issued notice that Office of Energy Projects staff will hold a site visit and technical meeting on January 18, 2012. The meeting will be transcribed by a court reporter and all oral comments made at the meeting will be included in the public record. Any written comments should be filed by February 17, 2012, and any reply comments must be filed by March 5, 2012. If you have questions about filing comments, please contact Steve Kartalia at (202) 502-6131, or via email at [stephen.kartalia@ferc.gov](mailto:stephen.kartalia@ferc.gov).

Dated: January 12, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012-1082 Filed 1-19-12; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP12-33-000]

#### Caledonia Energy Partners, L.L.C.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Caledonia Delta Pressure—DP33 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 affects of the Caledonia Delta Pressure—DP33 Project (Project) proposed by Caledonia Energy Partners, L.L.C. (Caledonia) in Lowndes County, Mississippi. The Commission will use this EA in its

decision-making process to determine whether the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the Project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on February 13, 2012.

You may submit comments in written form. Further details on how to submit written comments are in the Public Participation section of this notice.

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.

Caledonia 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](http://www.ferc.gov)).

#### Summary of the Proposed Project

The Project involves the modification of the Caledonia Storage Facility by upgrading the maximum allowable operating pressure (MAOP) from 2700 pounds per square inch gauge (psig) to 3300 psig and to add sufficient compression to increase injection and withdrawal capacity. This would involve construction of the following principal facilities at the Caledonia Storage Facility:

- Approximately 0.84 mile of 16-inch-diameter high pressure injection pipeline connecting the existing gas storage field wells on well pads A, B and C to the existing plant facilities;

- Installation of two additional natural gas-driven reciprocating compressor units added to the existing compression system; and

- Addition of separators, gas piping, modified or replacement well heads, a gas-driven backup generator, and electrical and instrumentation equipment to accommodate the increase in operating pressure.

In addition, the Project involves changes to the measurement, and flow control equipment and replacement of filter separation at Caledonia's interconnection with Tennessee Gas Pipeline to accommodate the increased flow rate during injection and withdrawal.

The general location of the Project facilities is shown in Appendix 1.<sup>1</sup>

#### Land Requirements for Construction

Construction of the Project would impact a total of approximately 48.6 acres, including lands affected for the pipeline construction, construction of well pads and tie-ins, aboveground facility sites, and temporary workspaces. All of the construction acreage within the compressor station, interconnect meter station, well pads, as well as the pipeline right-of-way was previously disturbed during installation of the original Caledonia facility in 2007. The only new permanent right-of-way that would be required for the Project is 0.13 acres associated with the tie-in at Well Pad A. The remaining 48.5 acres would be temporarily affected by construction activities and then returned to the previous land use.

#### 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. The NEPA also requires us<sup>2</sup> 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 important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to

<sup>1</sup> The appendices referenced in this notice are not printed 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](http://www.ferc.gov) using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502-8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

<sup>2</sup> "We", "us", and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss environmental affects 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 recreation;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise; 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 (FERC's records information system, see the Additional Information section of this Notice). To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section. 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. Comments on the EA will be considered before we make our recommendations to the Commission.

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.<sup>3</sup> Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

### Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Mississippi 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.<sup>4</sup> 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, 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 in your comments so that they will be received in Washington, DC on or before February 13, 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 (CP12-33-000) 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](mailto:efiling@ferc.gov).

(1) You may file your comments electronically by using the *eComment* feature, which is located on the Commission's Web site at ([www.ferc.gov](http://www.ferc.gov)) under the link to *Documents and Filings*. This is a method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the *eFiling* feature, which is located on the Commission's Web site at ([www.ferc.gov](http://www.ferc.gov)) under the link to *Documents and Filings*. With eFiling you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister". You 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 may 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; Indian tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the 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. Intervenor 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](http://www.ferc.gov) using the "eLibrary" link. Click on the eLibrary link, click on "General Search" and

<sup>3</sup> The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, part 1501.6.

<sup>4</sup> 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.

enter the docket number, excluding the last three digits, in the Docket Number field i.e., CP12–33). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto: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](http://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](http://www.ferc.gov/EventCalendar/EventsList.aspx) along with other related information.

Dated: January 13, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012–1072 Filed 1–19–12; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 12478–003]

#### Gibson Dam Hydroelectric Company, LLC, Montana; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the Gibson Dam Hydroelectric Project, located at the U.S. Department of the Interior, Bureau of Reclamation's Gibson dam on the Sun River in Lewis and Clark and Teton Counties, Montana, and has prepared a final environmental assessment (EA) for the project. The project would occupy a total of 68.5 acres of federal lands.

The final EA contains staff's analysis of the potential environmental impacts of 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 final 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](mailto:FERCOnlineSupport@ferc.gov) or toll-free at 1–(866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Matt Cutlip at (503) 552–2762 or [matt.cutlip@ferc.gov](mailto:matt.cutlip@ferc.gov).

Dated: January 12, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012–1084 Filed 1–19–12; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP12–31–000]

#### Notice of Intent To Prepare an Environmental Assessment for the Proposed Elba BOG Compressor Project and Request for Comments on Environmental Issues; Southern LNG Company, L.L.C.

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 Elba BOG Compressor Project involving construction and operation of facilities by Southern LNG Company, L.L.C. (SLNG) in Chatham County, Georgia. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on February 13, 2012.

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.

#### Summary of the Proposed Project

SLNG proposes to construct and operate additional boil-off gas (BOG) compression facilities at its liquefied natural gas (LNG) marine terminal on Elba Island in Chatham County, Georgia (Terminal). The Elba BOG Compressor Project would supplement the existing 1,500 horsepower BOG compressor and is expected to operate any time the overall plant vaporization rate is below approximately 120 million cubic feet per day. The additional compression would increase the Terminal's capability to compress a total of 21 million cubic feet per day of BOG generated within its storage tanks without the need to re-gasify additional LNG. The project would not increase the LNG sendout or storage of the Terminal. The Elba BOG Compressor Project would consist of the following facilities:

- 2,500 horsepower electric-motor driven reciprocating gas compressor;
- flow metering modifications;
- underground discharge piping tie-in to the existing 30-inch-diameter sendout pipeline;
- approximately 200 feet of 4-inch-diameter suction/discharge pipe;
- approximately 420 feet of aboveground 10-inch-diameter piping;
- electrical modifications in the existing compressor building; and
- valving modifications.

The general location of the project facilities is shown in appendix 1.<sup>1</sup>

#### Land Requirements for Construction

The project would be located entirely within SLNG's existing Terminal. All work would be performed within an approximately 21-acre portion of the existing Terminal boundaries, near the existing K–5 compressor at the Terminal. The majority of the project land requirements would be temporary use areas associated with fabrication, parking, and staging areas, which have been previously disturbed. Existing access roads would be used for construction and operations activities. At completion, approximately 0.05 acre of additional land within the Terminal

<sup>1</sup> 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](http://www.ferc.gov) using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

boundaries would be permanently converted to project use.

### 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<sup>2</sup> 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;
  - 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 beginning on page 4.

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.<sup>3</sup> Agencies that

<sup>2</sup> “We,” “us,” and “our” refer to the environmental staff of the Commission’s Office of Energy Projects.

<sup>3</sup> The Council on Environmental Quality regulations addressing cooperating agency

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.<sup>4</sup> 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, 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 13, 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 (CP12–31–000) 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](mailto:efiling@ferc.gov).

(1) You can file your comments electronically using the *eComment*

responsibilities are at Title 40, Code of Federal Regulations, part 1501.6.

<sup>4</sup> 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.

feature on the Commission’s Web site ([www.ferc.gov](http://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](http://www.ferc.gov)) under the link to *Documents and Filings*. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on “*eRegister*.” You 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. Intervenor’s 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](http://www.ferc.gov) using the "eLibrary" link. Click on the eLibrary link, click on "General Search" and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP12-31). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto: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](http://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](http://www.ferc.gov/EventCalendar/EventsList.aspx) along with other related information.

Dated: January 12, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012-1078 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Project No. 2230-044]

**City and Borough of Sitka, Alaska, Alaska; Notice of Availability of Environmental Assessment**

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC's) regulations, 18 Code of Federal Regulations (CFR) part 380 (Order No. 486, 52 **Federal Register** [FR] 47897), Commission staff has reviewed the City and Borough of Sitka's application for a capacity-related amendment to the license for the Blue Lake Hydroelectric Project (FERC Project No. 2230) and has prepared an Environmental Assessment (EA). The project is located on Sawmill Creek, formerly the Medvetche River, in the Borough of Sitka, Alaska. The project currently occupies a total of 1,676 acres of federal lands administered by the U.S. Department of Agriculture, Forest Service, and under the City of Sitka's proposal, it would occupy 1,798 acres of federal lands.

The EA contains the Commission staff's analysis of the potential environmental effects of the proposed modifications to the project and the addition of new generating capacity and the conclusion that authorizing the amendment, 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 2-A of the Commission's offices at 888 First Street NE., Washington, DC 20426. The EA also may be viewed on the Commission's Internet Web site at ([www.ferc.gov](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. Additional information about the project is available from the Commission's Web site using the

eLibrary link. For assistance with eLibrary, contact [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676; for TTY contact (202) 502-8659.

You may also register online at [www.ferc.gov/docs-filing/esubscription.asp](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 at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. 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.

For further information, contact Steven Sachs by telephone at (202) 502-8666 or by email at [Steven.Sachs@ferc.gov](mailto:Steven.Sachs@ferc.gov).

Dated: January 12, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012-1076 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Thunder Bay Power Company, Thunder Bay Power, LLC, et al.; Notice of Application for Transfer of Licenses, and Soliciting Comments and Motions To Intervene**

Thunder Bay Power Company .....	Project No. 2404-095
Thunder Bay Power, LLC .....	
Midwest Hydro, Inc. ....	Project Nos. 2348-035, 287-034, 2347-049, 2373-010
Midwest Hydro, LLC .....	
Midwest Hydraulic Company, Inc .....	Project No. 10805-054
Midwest Hydraulic Company, LLC .....	
N.E.W. Hydro, Inc .....	Project Nos. 2550-026, 2689-039, 2523-052, 2744-040
N.E.W. Hydro, LLC .....	

N.E.W. Hydro, Inc. and Neenah Paper FR, LLC .....	Project No. 7264-024
N.E.W. Hydro, LLC and Neenah Paper FR, LLC, jointly	

On January 3, 2012, see Table below, all wholly-owned subsidiaries of North American Hydro Holdings, Inc. filed an

application to transfer the licenses for the following projects:

Project No.	Transferor	Transferee	Project name	Location
P-2404-095 .....	Thunder Bay Power Company.	Thunder Bay Power, LLC	Thunder Bay Basin Project	Upper Branch River, Alpena, Montmorency, Alcona, Presque Isle, and Oscoda counties, MI.
P-2348-035 .....	Midwest Hydro, Inc .....	Midwest Hydro, LLC .....	Beloit Blackhawk .....	Rock River, Rock County, WI.
P-287-034 .....	Midwest Hydro, Inc .....	Midwest Hydro, LLC .....	Dayton .....	Fox River, LaSalle County, IL.
P-2347-049 .....	Midwest Hydro, Inc .....	Midwest Hydro, LLC .....	Janesville Central .....	Rock River, Rock County, WI.
P-2373-010 .....	Midwest Hydro, Inc .....	Midwest Hydro, LLC .....	Rockton .....	Rock River, Winnebago County, IL.
P-10805-054 .....	Midwest Hydraulic Company, Inc.	Midwest Hydraulic Company, LLC.	Hatfield .....	Black River, Jackson and Clark counties, WI.
P-2550-026 .....	N.E.W. Hydro, Inc .....	N.E.W. Hydro, LLC .....	Weyauwega .....	Waupaca River, Waupaca County, WI.
P-2689-039 .....	N.E.W. Hydro, Inc .....	N.E.W. Hydro, LLC .....	Oconto Falls Lower .....	Oconto River, Oconto County, WI.
P-2523-052 .....	N.E.W. Hydro, Inc .....	N.E.W. Hydro, LLC .....	Oconto Falls Upper .....	Oconto River, Oconto County, WI.
P-2744-040 .....	N.E.W. Hydro, Inc .....	N.E.W. Hydro, LLC .....	Menominee/Park Mill .....	Menominee River, Marinette County, WI and Menominee County, MI.
P-7264-024 .....	Neenah Paper FR, LLC and N.E.W. Hydro, Inc.	Neenah Paper FR, LLC and N.E.W. Hydro, LLC, jointly.	Middle Appleton Dam .....	Lower Fox River, Outagamie County, WI.

Applicants seek Commission approval to transfer the licenses for the above projects from the transferors to the transferees.

Applicants' Contact: Transferors and Transferees: Mr. Charles F. Alsberg, Chief Executive Officer, North American Hydro Holdings, Inc., 116 State Street, Neshkoro, WI 54960, (920) 293-4628, Ext. 11 and Mr. Donald H. Clarke, Esq., Law Offices of GKRSE, 1500 K Street NW., Suite 330, Washington, DC 20005, (202) 408-5400.

FERC Contact: Patricia W. Gillis, (202) 502-8735, [patricia.gillis@ferc.gov](mailto:patricia.gillis@ferc.gov).

Deadline for filing comments and motions to intervene: 15 days from the issuance date of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1) and the instructions on the Commission's Web site under <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original plus seven copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. More information about this project can be viewed or printed on the eLibrary

link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket numbers (P-2404, P-2348, P-287, P-2347, P-2373, P-10805, P-2550, P-2689, P-2523, P-2744, and P-7264) in the docket number field to access the document. For assistance, call toll-free 1-(866) 208-3372.

Dated: January 13, 2012.

**Kimberly D. Bose,**

Secretary.

[FR Doc. 2012-1071 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL12-20-000]

#### PPL Electric Utilities Corporation; Notice of Petition for Declaratory Order

Take notice that on December 30, 2011, pursuant to section 219 of the Federal Power Act, 16 U.S.C. 824s, Order No. 679, and 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207 (2011), PPL Electric Utilities Corporation (PPL Electric) filed a Petition for Declaratory Order, requesting that the Commission find that PPL Electric is entitled to an integrated and tailored incentive rate package that includes: (1) A 100 basis point incentive adder to PPL Electric's

base return on equity; and (2) authorization for 100 percent prudently incurred construction work in progress (CWIP) to be included in rate base, subject to the use of appropriate accounting methodologies to prevent double recovery.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public

Reference Room in Washington, DC. There is an “eSubscription” link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on January 30, 2012.

Dated: January 12, 2012.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2012-1080 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 14341-000]

#### Longview Energy Exchange, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 3, 2012, Longview Energy Exchange, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Longview Pumped Storage Project (project) to be located Ash Fork City, Yavapai County, Arizona. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) Two upper reservoirs constructed of rock fill each with a dam drainage system; (2) a single lower reservoir dam constructed of earth fill materials with an internal dam drainage system; (3) concrete inlet-outlet structures at both upper reservoirs equipped with trash racks; (4) water conductors constructed of concrete-lined pressure tunnels; (5) three 12.5-foot-diameter penstocks serving the pump-turbine units associated with both upper reservoirs; (6) surge control facilities; (7) a 500-foot-long by 100-foot-wide and 150-foot-high reinforced concrete powerhouse containing 6 units; (8) a switchyard to be located near the powerhouse; (9) a 38-mile-long, 500-kilovolt (kV) transmission line

extending from the project to an interconnection with the existing Arizona Public Service owned and operated Eldorado-Moenkopi 500-kV line; (10) a 27-mile-long, 500-kilovolt (kV) transmission line extending from the project to an interconnection with an existing Western Area Power Administration owned and operated 230-kV (to be upgraded to 500-kV); and (11) appurtenant facilities. The estimated annual generation of the Longview Pumped Storage Project would be 35,040 gigawatt-hours.

*Applicant Contact:* Mr. Mitchell M. Wexler, Manager, Longview Energy Exchange, 13397 Lakefront Drive, Saint Louis, Missouri 63045; phone: (314) 739-5555.

*FERC Contact:* Mary Greene; phone: (202) 502-8865.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at 1-(866) 208-3676, or for TTY, (202) 502-8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the “eLibrary” link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14341) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: January 12, 2012.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2012-1075 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2246-058]

#### Yuba County Water Agency; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.<sup>1</sup> The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the California State Historic Preservation Officer (hereinafter, California SHPO), and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended*, (16 U.S.C. section 470 f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Yuba River Project No. 2246.

The programmatic agreement, when executed by the Commission and the California SHPO, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the Yuba River Project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

Yuba County Water Agency, as licensee for the Yuba River Project No. 2246, and the United Indian Auburn Indian Community, Nevada City Rancheria, Strawberry Valley Rancheria, Enterprise Rancheria, Mooretown Rancheria, Greenville Rancheria,

<sup>1</sup> 18 CFR section 385.2010.

Washoe Tribe, Mechoopda Maidu Indians, Tsi-Akim Maidu Tribe, Tahoe and Plumas National Forest have expressed an interest in this preceding and are invited to participate in consultations to develop the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for the aforementioned project as follows:

John Eddins or Representative, Office of Planning and Review, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave. NW., Suite 809, Washington, DC 20004

Carrie Smith or Representative, Tahoe National Forest, 9646 Donner Pass Road, Truckee, CA 96161

Cathy Bishop or Representative, Strawberry Valley Rancheria, 1540 Strader Avenue, Sacramento, CA 95815

Virginia Covert or Representative, Nevada City Rancheria, P.O. Box 825, Nevada City, CA 95959

Guy Taylor or Representative, Mooretown Rancheria of Maidu Indians, 31 Alverde Drive, Oroville, CA 95966

Ren Reynolds or Representative, Butte Tribal Council, Enterprise Rancheria, 1693 Mt. Ida Road, Oroville, CA 95966

Crista Steward or Representative, Greenville Rancheria, P.O. Box 279, Greenville, CA 95947

Marcos Guerrero or Representative, United Auburn Indian Community of the Auburn Rancheria, 10720 Indian Hill Road, Auburn, CA 95603

Darrel Cruz or Representative, Washoe Tribe of Nevada and California, 919 US Highway 395 South, Gardnerville, NV 89410

Dan Elliot or Representative, Plumas National Forest, 159 Lawrence Street/ P.O. Box 11500, Quincy, CA 95971

Grayson Coney or Representative, Tsi-Akim Maidu Tribe, P.O. Box 1316, Colfax, CA 95713

Mike DeSpain or Representative, Mechoopda Maidu Indians, 125 Mission Ranch Blvd., Chico, CA 95926

Amanda Blosser or Representative, Office of Historic Preservation, Department of Parks and Recreation, 1725 23rd Street, Suite 100, Sacramento, CA 95816-7100

Geoff Rabone or Representative, Yuba County Water Agency, 1220 F Street, Marysville, CA 95901

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established,

by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

Any such motions 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. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov); call toll-free at (866) 208-3676; or, for TTY, contact (202) 502-8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please put the project number (P-2246-005) on the first page of the filing.

If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Dated: January 12, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012-1077 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the Southwest Power Pool, Inc. (SPP): SPP Strategic Planning Committee Task Force on Order No. 1000 Meeting, January 18, 2012, 3:30-6:30 p.m., Local Time.

SPP Strategic Planning Committee Meeting, January 19, 2012, 8 a.m.-3 p.m., Local Time.

The above-referenced meetings will be held at:

Intercontinental Stephen F. Austin, 701 Congress Avenue, Austin, TX 78701.

The above-referenced meetings are open to stakeholders.

Further information may be found at [www.spp.org](http://www.spp.org).

The discussions at the meetings described above may address matters at issue in the following proceedings:

Docket No. ER09-35-001, *Tallgrass Transmission, LLC*

Docket No. ER09-36-001, *Prairie Wind Transmission, LLC*

Docket No. ER09-36-002, *Prairie Wind Transmission, LLC*

Docket No. ER09-548-001, *ITC Great Plains, LLC*

Docket No. ER11-4105-000, *Southwest Power Pool, Inc.*

Docket No. EL11-34-001, *Midwest Independent Transmission System Operator, Inc.*

For more information, contact Luciano Lima, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502-6210 or [luciano.lima@ferc.gov](mailto:luciano.lima@ferc.gov).

Dated: January 12, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012-1081 Filed 1-19-12; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 11572-001]

#### Roosevelt Water Conservation District; Notice of Termination of Exemption by Implied Surrender and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. *Type of Proceeding:* Termination of exemption by implied surrender.

b. *Project No.:* 11572-001.

c. *Date Initiated:* January 9, 2012.

d. *Exemptee:* Roosevelt Water Conservation District.

e. *Name and Location of Project:* The Roosevelt Water Conservation District Conduit Hydropower Project (RWCD) is located on the RWCD irrigation canal, near Mesa City, in Maricopa County, Arizona.

f. *Filed Pursuant to:* 18 CFR 4.106.

g. *Exemptee Contact Information:* Mr. Michael Leonard, General Manager, Roosevelt Water Conservation District, 2344 S. Higley Road, Gilbert, AZ 82595-4794, (480) 988-9586.

h. *FERC Contact*: Patricia W. Gillis, (202) 502-8735, or [patricia.gillis@ferc.gov](mailto:patricia.gillis@ferc.gov).

i. Deadline for filing comments, protests, and motions to intervene is 30 days from the issuance date of this notice. All documents may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov/docs-filing/efiling.asp>. The Commission strongly encourages electronic filings. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be sent to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. Please include the project number (P-11572-001) on any documents or motions filed.

j. *Description of Existing Facilities*: The inoperative project consists of the following existing facilities: (1) A bifurcation attached to the applicant's existing irrigation conduit; (2) a 42-inch-diameter, 100-foot-long penstock; and (3) a powerhouse containing one generating unit with a total capacity of 860 kilowatts.

k. *Description of Proceeding*: The exemptee is currently in violation of Standard Article 1 of its exemption granted on August 28, 1996 (76 FERC ¶ 62,150). Section 4.106 of the Commission's regulations, 18 CFR 4.106, provides, among other things, that the Commission reserves the right to revoke an exemption if any term or condition of the exemption is violated. The project has not operated since 2004 or 2005, when testing determined that the equipment could not operate without significant retro-fit to the underlying irrigation system at a substantial cost. By not operating the project as proposed and authorized, the exemptee is in violation of the terms and conditions of the exemption.

On November 3, 2011, the Commission directed the exemptee to file a plan and schedule for restoring operation to the project or surrendering the exemption. The Commission also informed the exemptee that it was in violation of the terms and conditions of the exemption. The Commission required the exemptee to show cause within 30 days why the exemption should not be revoked. A response was not filed by the exemptee. To date, the

information requested from the exemptee has not been filed and the project remains inoperative.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the Docket number (P-11572) excluding the last three digits in the docket number field to access the notice. 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, call toll-free 1-(866) 208-3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). For TTY, call (202) 502-8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular proceeding.

o. *Filing and Service of Responsive Documents*—Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE," as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, protests or motions to intervene must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, protests, or motions to intervene should relate to project works which are the subject of the termination of exemption. A copy of any protest or motion to intervene must be served upon each representative of the exemptee specified in item g above. If an intervenor files comments or documents with the Commission relating to the merits of an issue that

may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this notice must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR § 4.34(b) and 385.2010.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: January 12, 2012.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2012-1083 Filed 1-19-12; 8:45 am]

BILLING CODE 6717-01-P

---

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2011-0232; FRL-9510-7]

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Metal Coil Surface Coating Plants (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

**DATES:** Additional comments may be submitted on or before January 20, 2012.

**ADDRESSES:** Submit your comments, referencing docket ID number EPA-HQ-OECA-2011-0232, to: (1) EPA online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), or by email to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov), or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA,

725 17th Street NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**

Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564-4113; fax number: (202) 564-0050; email address: [williams.learia@epa.gov](mailto:williams.learia@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA-HQ-OECA-2011-0232, which is available for public viewing online at <http://www.regulations.gov>, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566-1752.

Use EPA's electronic docket and comment system at <http://www.regulations.gov> to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at <http://www.regulations.gov> as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to [www.regulations.gov](http://www.regulations.gov).

**Title:** NESHAP for Metal Coil Surface Coating Plants (Renewal).

**ICR Numbers:** EPA ICR Number 1957.06, OMB Control Number 2060-0487.

**ICR Status:** The National Emission Standards for Hazardous Air Pollutants

(NESHAP) for Metal Coil Surface Coating Plants were proposed on July 18, 2000, promulgated on June 10, 2002, and amended on March 17, 2003. These standards apply to each facility operating a coil coating line and that is a major source of hazardous air pollutants (HAPs). This coil coating line is a process and the collection of equipment used to apply an organic coating to the surface of a metal coil that is less than 0.15 millimeters (0.006 inches) thick.

**Abstract:** Owners or operators must submit notification reports upon construction or reconstruction of any metal coil surface coating plant. Semiannual reports for periods of operation during which the emission limitation has exceeded, or reports certifying that no exceedances have occurred, also are required. Owners and operators must submit notification reports upon the construction, reconstruction, or modification of any metal coil surface coating plant. Also, required is a one-time-only initial notification for new and reconstructed sources. Owners or operators of metal coil surface coating plants subject to the rule must maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart SSSS, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA's regulations listed in 40 CFR part 9 and 48 CFR chapter 15, are identified on the form and/or instrument, if applicable.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information estimated to average 119 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose and provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

information, processing and maintaining information, and disclosing and providing information. All existing ways will have to adjust to comply with any previously applicable instructions and requirements that have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Metal coil surface coating plants.

**Estimated Number of Respondents:** 89.

**Frequency of Response:** Initially, weekly, annually, semiannually, and occasionally.

**Estimated Total Annual Hour Burden:** 19,901.

**Estimated Total Annual Cost:** \$1,618,874, which includes \$1,615,226 in labor costs, \$0 in capital/startup costs, and \$3,648 in operation and maintenance (O&M) costs.

**Changes in the Estimates:** There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden. However, there is an increase in the total labor and Agency costs as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in cost estimates reflects updated labor rates available from the Bureau of Labor Statistics.

**John Moses,**

*Director, Collection Strategies Division.*

[FR Doc. 2012-1015 Filed 1-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[EPA-HQ-RCRA-2011-0625; FRL-9510-6]

**Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Identification, Listing and Rulemaking Petitions (Renewal)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information

Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

**DATES:** Additional comments may be submitted on or before February 21, 2012.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-RCRA-2011-0625, to (1) EPA online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), by email to [rcra-docket@epa.gov](mailto:rcra-docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Melissa Kaps, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, (5304P), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: 703-308-6787; fax number: (703) 308-0514; email address: [kaps.melissa@epa.gov](mailto:kaps.melissa@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On August 9, 2011 (76 FR 48856), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-RCRA-2011-0625, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270.

Use EPA's electronic docket and comment system at [www.regulations.gov](http://www.regulations.gov), to submit or view public comments, access the index listing of the contents of the docket, and

to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at [www.regulations.gov](http://www.regulations.gov) as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to [www.regulations.gov](http://www.regulations.gov).

**Title:** Identification, Listing and Rulemaking Petitions (Renewal).

**ICR numbers:** EPA ICR No. 1189.24, OMB Control No. 2050-0053.

**ICR Status:** This ICR is scheduled to expire on January 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

**Abstract:** Under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, Congress directed the U.S. Environmental Protection Agency (EPA) to implement a comprehensive program for the safe management of hazardous waste. In addition, Congress wrote that "[a]ny person may petition the Administrator for the promulgation, amendment or repeal of any regulation" under RCRA (section 7004(a)).

40 CFR parts 260 and 261 contain provisions that allow regulated entities to apply for petitions, variances, exclusions, and exemptions from various RCRA requirements.

Under 40 CFR 260.20(b), all rulemaking petitioners must submit basic information with their demonstrations, including name, address, and statement of interest in the proposed action. Under § 260.21, all petitioners for equivalent testing or analytical methods must include specific information in their petitions and demonstrate to the satisfaction of

the Administrator that the proposed method is equal to, or superior to, the corresponding method in terms of its sensitivity, accuracy, and reproducibility. Under § 260.22, petitions to amend part 261 to exclude a waste produced at a particular facility (more simply, to delist a waste) must meet extensive informational requirements. When a petition is submitted, the Agency reviews materials, deliberates, publishes its tentative decision in the **Federal Register**, and requests public comment. EPA also may hold informal public hearings (if requested by an interested person or at the discretion of the Administrator) to hear oral comments on its tentative decision. After evaluating all comments, EPA publishes its final decision in the **Federal Register**.

**Burden Statement:** The annual public reporting burden for this ICR is estimated to average 25 hours per response, and the annual recordkeeping burden for this ICR is estimated to average 2 hours per response. Combined, the annual public reporting and recordkeeping burden for this collection of information is estimated to average 26 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Businesses/industries subject to the regulations under 40 CFR Parts 260 and 261.

**Estimated Number of Respondents:** 2,603.

**Frequency of Response:** On occasion.  
**Estimated Total Annual Hour Burden:** 68,923.

**Estimated Total Annual Cost:** \$12,504,987, includes \$9,660,864 annualized O&M costs and \$2,844,124 annualized labor costs.

**Changes in the Estimates:** There is a decrease of 4,864 hours in the total estimated burden currently identified in

the OMB Inventory of Approved ICR Burdens. This decrease is an adjustment to the existing estimates based on data gathered through consultations with EPA Regional and State offices and the regulated community, not due to program changes.

**John Moses,**

*Director, Collection Strategies Division.*

[FR Doc. 2012-1014 Filed 1-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[ER-FRL-9001-2]

**Environmental Impacts Statements; Notice of Availability**

*Responsible Agency:* Office of Federal Activities, General Information (202) 564-1399 or <http://www.epa.gov/compliance/nepa/>.

Weekly receipt of Environmental Impact Statements Filed 01/09/2012 Through 01/13/2012

Pursuant to 40 CFR 1506.9.

**Notice**

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EIS are available at: <http://www.epa.gov/compliance/nepa/eisdata.html>.

*EIS No. 20120004, Final Supplement, BOEM, 00, Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sales: 2012 Central Planning Area Lease Sales: 216 and 222, Potential Changes to the Baseline Conditions, Offshore Marine Environment and Coastal Counties/Parishes of MS, LA, AL, Review Period Ends: 02/21/2012, Contact: Gary Goeke (504) 736-3233.*

*EIS No. 20120005, Draft EIS, NRCS, HI, South Kona Watershed Irrigation System, To Provide Supplemental Irrigation Water to Farms in the Honomalino/Kapu'a Area, Funding, County of Hawaii, HI, Comment Period Ends: 03/05/2012, Contact: Sharon Sawdey (808) 541-2600, ext. 125.*

*EIS No. 20120006, Draft EIS, USACE, AK, Alaska Stand Alone Gas Pipeline, Construction and Operation of a 737 mile Pipeline to Transport Supply of Natural Gas and Natural Gas Liquids from Alaska's North Slope to Fairbanks, Anchorage and the Cook Inlet Area by 2019, USACE Section 10 and 404 Permits, NPDES Permit, AK, Comment Period Ends: 03/05/2012, Contact: Mary Romero (907) 261-7710.*

*EIS No. 20120007, Final EIS, USFWS, TX, Habitat Conservation Plan for Oncor Electric Delivery Facilities, Application for Incidental Take Permit for 11 Federally Listed Species in 100 Texas Counties, Review Period Ends: 02/21/2012, Contact: Adam Zerrenner (512) 490-0057.*

*EIS No. 20120008, Draft EIS, FHWA, 00, 14th Street Bridge Corridor Project, To Reduce Congestion, Enhance Safety and Improve Traffic Operation, Funding, Arlington, VA to Washington, DC, Comment Period Ends: 03/05/2012, Contact: Jack Van Dop (703) 404-6282.*

*EIS No. 20120009, Draft EIS, BPA, OR, Albany-Eugene 115 kilovolt No. 1 Transmission Line Rebuild Project, Extending from Albany Substation to the Alderwood Tap, Linn and Lane Counties, OR, Comment Period Ends: 03/05/2012.*

*EIS No. 20120010, Draft EIS, BLM, NV, Searchlight Wind Energy Project, Application for Right-of-Way Grant on Public Land to Develop, Construct, Operate, Maintain and Decommission of a 200 megawatt Wind Energy Facility, USACE Section 404 Permit, Clark County, NV, Comment Period Ends: 04/18/2012, Contact: Gregory Helseth (702) 515-5173.*

*EIS No. 20120011, Final EIS, FTA, CA, Regional Connector Transit Corridor Project, Proposes a Light Rail Extension Connecting Metro Gold Line to the Metro Blue Line and the Metro Expo Line, Los Angeles County, CA, Review Period Ends: 02/21/2012, Contact: Ray Tellis (213) 202-3956.*

*EIS No. 20120012, Draft EIS, USAF, 00, F-35A Training Basing, To Base a Pilot Training Center with the Beddown of F-35A Training Aircraft at four Alternative Bases, Boise AGS, Holloman AFD, Luke AFB, and Tucson AGS, ID, AZ, NM, Comment Period Ends: 03/13/2012, Contact: Kim Fornof (210) 652-1961.*

**Amended Notices**

*EIS No. 20110436, Draft EIS, NOAA, AK, Effects of Oil and Gas Activities in the Arctic Ocean, Beaufort and Chukchi Seas, AK, Comment Period Ends: 02/28/2012, Contact: James H. Lecky (301) 427-8400.*

Revision to FR Notice Published 12/30/2011: Extending Comment Period from 2/13/2012 to 2/28/2012.

Dated: January 17, 2012.

**Cliff Rader,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2012-1114 Filed 1-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9620-5]

**Regulation of Fuel and Fuel Additives: Modification to Octamix Waiver**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** On February 1, 1988, the Environmental Protection Agency (EPA) conditionally granted a waiver requested by the Texas Methanol Corporation (Texas Methanol) for a gasoline-alcohol fuel, pursuant to section 211(f) of the Clean Air Act.<sup>1</sup> A minor correction was made on May 12, 1988.<sup>2</sup> A modification to the original conditions was made on October 21, 1988.<sup>3</sup> Baker Hughes submitted a request to modify the waiver. The new request seeks approval on an alternative corrosion inhibitor, TOLAD™ MFA-10A, to be used within Texas Methanol's gasoline-alcohol fuel, also known as OCTAMIX. EPA considers this to be a request for modification of the waiver under 211(f) of the Clean Air Act (Act).

**DATES:** Comments or a request for a public hearing must be received on or before February 21, 2012. EPA does not plan to hold a public hearing on this notice, unless one is requested. If requested by February 6, 2012, a public hearing will be held. If such a hearing is held, comments must be received within 90 days after the date of such hearing.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-HQ-OAR-2011-0894, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- *Email:* [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov).
- *Fax:* (202) 566-9744.
- *Mail:* EPA-HQ-OAR-2011-0894, Environmental Protection Agency, Mailcode: 2822T, 1301 Constitution Ave. NW., Washington, DC 20460.

• *Hand Delivery:* EPA Headquarters Library, Room 3334, EPA West Building, 1301 Constitution Ave. NW., Washington, DC. 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 comments to Docket ID Number EPA-HQ-OAR-

<sup>1</sup> 53 FR 3636, February 8, 1988.

<sup>2</sup> 53 FR 17977, May 19, 1988.

<sup>3</sup> 53 FR 43768, October 28, 1988.

2011-0894. EPA's policy is that all comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), <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 [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Unit 1.B of the **SUPPLEMENTARY INFORMATION** section of this document: <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Docket, EPA Headquarters Library, Mail Code: 2822T, EPA West Building, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The telephone number for the Public Reading Room is (202) 566-1742, and the facsimile number for the Air Docket is (202) 566-9744.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this proposal contact, Joseph R. Sopata, U.S.

Environmental Protection Agency, Office of Air and Radiation, Office of Transportation and Air Quality, (202) 343-9034.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Section 211(f)(1) of the Clean Air Act ("CAA" or "the Act") makes it unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use by any person in motor vehicles manufactured after model year 1974, which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. The Environmental Protection Agency ("EPA" or "the Agency") last issued an interpretive rule on the phrase "substantially similar" at 73 FR 22281 (April 25, 2008). Generally speaking, this interpretive rule describes the types of unleaded gasoline that are likely to be considered "substantially similar" to the unleaded gasoline utilized in EPA's certification program by placing limits on a gasoline's chemical composition as well as its physical properties, including the amount of alcohols and ethers (oxygenates) that may be added to gasoline. Fuels that are found to be "substantially similar" to EPA's certification fuels may be registered and introduced into commerce. The current "substantially similar" interpretive rule for unleaded gasoline allows oxygen content up to 2.7 weight for certain ethers and alcohols.

Section 211(f)(4) of the Act provides that upon application of any fuel or fuel additive manufacturer, the Administrator may waive the prohibitions of section 211(f)(1) if the Administrator determines that the applicant has established that the fuel or fuel additive, or a specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of the motor vehicle, motor vehicle engine, nonroad engine or nonroad vehicle in which such device or system is used) to achieve compliance by the vehicle or engine with the emission standards to which it has been certified pursuant to sections 206 and 213(a) of the Act. The statute requires that the Administrator shall take final action to grant or deny an application after public notice and comment, within 270 days of receipt of the application.

The Texas Methanol Corporation received a waiver under CAA section 211(f)(4) for a gasoline-alcohol fuel

blend, known as OCTAMIX,<sup>4</sup> provided that the resultant fuel is composed of a maximum of 3.7 percent by weight fuel oxygen, a maximum of 5 percent by volume methanol, a minimum of 2.5 percent by volume co-solvents<sup>5</sup> and 42.7 milligrams per liter (mg/l) of Petrolite TOLAD MFA-10 corrosion inhibitor.<sup>6</sup> In the OCTAMIX waiver, the Agency invited other corrosion inhibitor manufacturers to submit test data to establish, on a case-by-case basis, whether their fuel additive formulations are acceptable as alternatives to TOLAD<sup>TM</sup> MFA-10.<sup>7</sup> The physical properties of TOLAD<sup>TM</sup> MFA-10A are shown in EPA-HQ-OAR-2011-0894-0002.

##### **II. Today's Announcement**

On October 14, 2011, Baker Hughes requested EPA allow the use of its alternative corrosion inhibitor, TOLAD<sup>TM</sup> MFA-10A, in the OCTAMIX gasoline-alcohol fuel blend which otherwise would not be allowed under the waiver.<sup>8</sup> TOLAD<sup>TM</sup> MFA-10A is a fuel additive formulation consisting of a corrosion inhibitor.

One of the major areas of concern to EPA in reviewing any waiver request is the problem of materials compatibility. Materials compatibility data could show a potential failure of fuel systems, emissions related parts and emission control parts from use of the fuel or fuel additive. Any failure could result in greater emissions that would cause or contribute to the engines or vehicles exceeding their emissions standards. Initially, Texas Methanol requested the use of TOLAD MFA-10 or an appropriate concentration of any other corrosion inhibitor such that the fuel will pass the National Association of Corrosion Engineer's TM-01-72 (NACE RUST TEST). However, EPA concluded that compliance with the NACE Rust Test alone was not adequate in determining suitability of a corrosion inhibitor for use under the OCTAMIX

<sup>4</sup> OCTAMIX decision, 53 FR 3636 (February 8, 1988).

<sup>5</sup> The co-solvents are any one or a mixture of ethanol, propanols, butanols, pentanols, hexanols, heptanols and octanols with the following constraints; the ethanol, propanols and butanols or mixtures thereof must compose a minimum of 60 percent by weight of the co-solvent mixture; a maximum limit of 40 percent by weight of the co-solvents mixture is placed on the pentanols, hexanols, heptanols and octanols; and the heptanols and octanols are limited to 5 percent by weight of the co-solvent mixture.

<sup>6</sup> Additional conditions were the final fuel must meet ASTM volatility specifications contained in ASTM D439-85a, as well as phase separation conditions specified in ASTM D-2 Proposal P-176 and Texas Methanol alcohol purity specifications.

<sup>7</sup> 53 FR at 3637.

<sup>8</sup> EPA-HQ-OAR-2011-0894-0001.

waiver.<sup>9</sup> The Agency decided, therefore, to look at corrosion inhibitors on a case-by-case basis to establish whether each formulation would be acceptable as an alternative to the formulation of the original corrosion inhibitor used in the OCTAMIX waiver.<sup>10</sup>

Therefore, pursuant to section 211(f)(4), EPA will examine the data submitted by Baker Hughes, along with all comments received from interested parties, to determine whether use of the corrosion inhibitor, TOLAD™ MFA-10A, in place of the original corrosion inhibitor TOLAD MFA-10, would cause or contribute to vehicles or engines failing to meet their emissions standards when using OCTAMIX. If use of TXCeed does not cause or contribute to such failures, EPA will modify the OCTAMIX waiver to allow the use of TOLAD™ MFA-10A as an alternative corrosion inhibitor to TOLAD MFA-10.

Dated: January 13, 2012.

**Gina McCarthy,**

*Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 2012-1073 Filed 1-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[CERCA-04-2012-3754, FRL-9619-9]

### Constitution Road Drum Superfund Site; Atlanta, Dekalb County, GA; Notice of Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of settlement.

**SUMMARY:** Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for past response costs concerning the Constitution Road Drum Superfund Site located in Atlanta, Dekalb County, Georgia.

**DATES:** The Agency will consider public comments on the settlement until February 21, 2012. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

**ADDRESSES:** Copies of the settlement are available from Ms. Paula V. Painter. Submit your comments by Site name

Constitution Road Drum Superfund Site by one of the following methods:

- [www.epa.gov/region4/waste/sf/enforce.htm](http://www.epa.gov/region4/waste/sf/enforce.htm).
- *Email.* Painter.Paula@epa.gov

**FOR FURTHER INFORMATION CONTACT:** Paula V. Painter at (404) 562-8887.

Dated: January 4, 2012.

**Anita L. Davis,**

*Chief, Superfund Enforcement & Information Management Branch, Superfund Division.*

[FR Doc. 2012-1115 Filed 1-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before March 20, 2012. If you anticipate that you will be submitting comments, but find it

difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to the Federal Communications Commission via email to [PRA@fcc.gov](mailto:PRA@fcc.gov) and [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

### SUPPLEMENTARY INFORMATION:

*OMB Control Number:* 3060-0565.

*Title:* Section 76.944, Commission Review of Franchising Authority Decisions on Rates for the Basic Service Tier and Associated Equipment.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities; State, Local or Tribal Government.

*Number of Respondents and Responses:* 32 respondents; 32 responses.

*Estimated Time per Response:* 2-30 hours.

*Frequency of Response:* On occasion reporting requirement; Third party disclosure requirement.

*Obligation to Respond:* Required to obtain benefits. The statutory authority for this collection of information is contained in Sections 4(i) and 623 of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Total Annual Burden:* 816 hours.

*Total Annual Costs:* \$4,800.

*Privacy Impact Assessment(s):* No impact(s).

*Needs and Uses:* 47 CFR 76.944(b) provides that any participant at the franchising authority level in a ratemaking proceeding may file an appeal of the franchising authority's decision with the Commission within 30 days of release of the text of the franchising authority's decision as computed under § 1.4(b) of this chapter. Appeals shall be served on the franchising authority or other authority that issued the rate decision. Where the state is the appropriate decisionmaking authority, the state shall forward a copy of the appeal to the appropriate local official(s). Oppositions may be filed within 15 days after the appeal is filed, and must be served on the parties appealing the rate decision. Replies may be filed 7 days after the last day for oppositions and shall be served on the parties to the proceeding.

<sup>9</sup> 53 FR at 3637

<sup>10</sup> 53 FR at 3637.

Federal Communications Commission.

**Bulah P. Wheeler,**

*Deputy Manager, Office of the Secretary,  
Office of Managing Director.*

[FR Doc. 2012-1067 Filed 1-19-12; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 6, 2012.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *Kenneth Ray Lehman, Arlington, Virginia*, to acquire voting securities of First Capital Bancorp, Inc., Glen Allen, Virginia, and thereby indirectly acquire voting shares of First Capital Bank, Glen Allen, Virginia.

Board of Governors of the Federal Reserve System, January 17, 2012.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 2012-1074 Filed 1-19-12; 8:45 am]

**BILLING CODE 6210-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), the Agency for Healthcare Research and Quality (AHRQ) announces meetings of scientific peer review groups. The subcommittees listed below are part of the Agency's Health Services Research Initial Review Group Committee.

The subcommittee meetings will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications are to be reviewed and discussed at these meetings. These discussions are likely to involve information concerning individuals associated with the applications, including assessments of their personal qualifications to conduct their proposed projects. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of Subcommittee:* Healthcare Effectiveness and Outcomes Research.

*Date:* February 22-23, 2012 (Open from 8:30 a.m. to 8:45 a.m. on February 22 and closed for remainder of the meeting).

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20850.

2. *Name of Subcommittee:* Health Systems and Value Research.

*Date:* February 22-23, 2012 (Open from 8:30 a.m. to 8:45 a.m. on February 22 and closed for remainder of the meeting).

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20850.

3. *Name of Subcommittee:* Healthcare Information Technology Research.

*Date:* February 23-24, 2012 (Open from 8:30 a.m. to 8:45 a.m. on February 23 and closed for remainder of the meeting).

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20850.

4. *Name of Subcommittee:* Healthcare Safety and Quality Improvement Research.

*Date:* February 29-March 1, 2012 (Open from 8:30 a.m. to 8:45 a.m. on February 29 and closed for remainder of the meeting).

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20850.

5. *Name of Subcommittee:* Health Care Research Training.

*Date:* March 8-9, 2012 (Open from 8:30 a.m. to 8:45 a.m. on March 8 and closed for remainder of the meeting).

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20850.

*Contact Person:* Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of the meetings should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Suite 2000, Rockville, Maryland 20850, Telephone (301) 427-1554.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: January 11, 2012.

**Carolyn M. Clancy,**

*Director.*

[FR Doc. 2012-992 Filed 1-19-12; 8:45 am]

**BILLING CODE 4160-90-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Request for Measures and Domains To Use in Development of a Standardized Instrument for Use in Public Reporting of Family Experience of Pediatric Inpatient Care

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ), HHS.

**ACTION:** Notice of request for measures and domains.

**SUMMARY:** Section 401(a) of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3, amended the Social Security Act (the Act) to enact section 1139A (42 U.S.C. 1320b-9a). Section 1139A(b) charged the Department of Health and Human Services with improving pediatric health care quality measures. The Agency for Healthcare Research and Quality (AHRQ) is soliciting the submission of instruments or domains (for example, key concepts) measuring aspects of families' experience with the quality of inpatient medical and surgical hospital care from all researchers, vendors, hospitals, stakeholders, and other interested parties. The survey development team of Children's Hospital Boston Center of Excellence for Pediatric Quality Measurement (CEPQM), is one of the CHIPRA Pediatric Quality Measures Program (PQMP) Centers of Excellence, which were created pursuant to an interagency agreement between the Centers for Medicare & Medicaid Services (CMS) and AHRQ, and are funded through cooperative agreement awards with AHRQ. AHRQ is interested in instruments and items through which families of pediatric patients assess the care their child receives during the child's inpatient stay. The goal is to develop a standardized instrument for use in the public reporting of family experience of pediatric inpatient care. The CEPQM team is collaborating with the CAHPS 3 Consortium to develop this instrument. The survey will be developed in accordance with CAHPS Survey Design Principles and will develop implementation instructions based on those for CAHPS instruments (<https://www.cahps.AHRQ.gov/About-CAHPS/principles.aspx>). All CAHPS surveys are available to users free of charge and are published on the AHRQ Web site. This notice is republished because of technical clarification.

**DATES:** Please submit materials February 21, 2012. AHRQ will not respond to

individual submissions, but will consider all suggestions.

**ADDRESSES:** Electronic submissions are encouraged, preferably as an email with an electronic file in a standard word processing format as an email attachment. Submissions may also be in the form of a letter to: Maushami DeSoto, Ph.D., MHA, Staff Service Fellow, Office of Extramural Research, Education and Priority Populations, Agency for Healthcare Research and Quality, 540 Gaither Rd., Rockville, MD 20850, *Phone:* (301) 427-1546, *Fax:* (301) 427-1238, *Email:* *Maushami.Desoto@HRQ.hhs.gov*.

All submissions must include a written statement from the submitter that it will grant AHRQ the necessary rights to use, modify, and adapt the submitted instruments, items, and their documentation for the development of this survey and its dissemination for AHRQ purposes. In accordance with CHIPRA's charge to improve pediatric quality care measures, and consistent with AHRQ's mandate to disseminate research results, 42 U.S.C. 299c-3, AHRQ purposes include public disclosure and dissemination (e.g., on the AHRQ Web site) of AHRQ products and the results of AHRQ-sponsored research and activities. The written statement must be signed by an individual authorized to act for any holder of copyright and/or data rights on each submitted measure or instrument. The authority of the signatory to provide such authorization should be described in the letter. Submitters must attach a proposed license granting all of the above-referenced rights, including the following terms:

- A worldwide, royalty-free, nonexclusive, irrevocable license to AHRQ and those acting on its behalf to reproduce, prepare derivative works of, and otherwise use the submitted materials for the development of AHRQ products, including a standardized instrument for use in the public reporting of family experience of pediatric inpatient care; and
- The right of AHRQ and those acting on its behalf to publicly disseminate, in any media (including AHRQ's Web site), any derivative works that AHRQ or those acting on its behalf develops based on the submitted materials.

#### Submission Guidelines

When submitting instruments, please include, to the extent that it is available:

- Name of the instrument;
- Copies of the full instrument, in all languages available;
- Domains or key concepts included in the instrument;

- Instrument reliability (internal consistency, test-retest, etc) and validity (content, construct, criterion-related);

- Results of cognitive testing;
- Results of field-testing;
- Current use of the instrument (who is using it, what it is being used for, how instrument findings are reported, and by whom the findings are used); and,
- Relevant peer-reviewed journal articles or full citations.

When submitting domains, please include, to the extent available:

- Detailed descriptions of question domain and specific purpose;
- Sample questions, in all languages available; and,
- Relevant peer-reviewed journal articles or full citations.

For all submissions, please also include:

- A brief cover letter summarizing the information requested above for submitted instruments and domains, respectively;

- Complete information about the person submitting the material, including:

- (a) Name;
- (b) Title;
- (c) Organization;
- (d) Mailing address;
- (e) Telephone number;
- (f) Email address; and,
- (g) The written statement granting

AHRQ the necessary rights to use, modify, and adapt the submitted instruments, items, and their supporting documentation for the development of the survey and its dissemination for AHRQ purposes, as described above.

**FOR FURTHER INFORMATION CONTACT:** Maushami DeSoto, Ph.D., MHA.

**SUPPLEMENTARY INFORMATION:** Section 401(a) of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), public Law 111-3, amended the Social Security Act (the Act) to enact section 1139A (42 U.S.C. 1320b-9a). Since the law was passed, the Agency for Healthcare Research and Quality (AHRQ) and the Centers for Medicare & Medicaid Services (CMS) have been working together to implement selected provisions of the legislation related to children's health care quality. Section 1139A(b) of the Act charged the Department of Health and Human Services with improving pediatric health care quality measures. To implement the law, AHRQ and CMS have established the CHIPRA Pediatric Quality Measures Program (PQMP), which is designed to enhance select pediatric quality measures and develop new measures as needed.

The Children's Hospital Boston Center of Excellence for Pediatric

Quality Measurement (CEPQM) is one of seven CHIPRA PQMP Centers of Excellence, which were created pursuant to an interagency agreement between CMS and AHRQ and funded through cooperative agreement awards with AHRQ. CEPQM has been assigned to develop a family experience of pediatric inpatient care measure to be considered as a standardized instrument for publicly reporting pediatric inpatient hospital family experiences voluntarily by State Medicaid and CHIP programs and to be used by providers, consumers, other public and private purchasers, and others. The CEPQM team is collaborating with the CAHPS 3 Consortium to develop this instrument.

Existing instruments or domains submitted should capture the family's experience of hospital or related care (for example, preparation for discharge or care coordination). The survey development team is looking for items for which families of pediatric inpatients are generally the best or only judge; for example, the family can best say if the provider spent sufficient time with them or explained things in ways they could understand. Existing instruments that have been tested should have a high degree of reliability and validity; and evidence of wide use will be helpful.

Dated: January 10, 2012.

**Carolyn M. Clancy,**  
*AHRQ Director.*

[FR Doc. 2012-634 Filed 1-19-12; 8:45 am]

**BILLING CODE 4160-90-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-7023-N]

### Medicare, Medicaid, and Children's Health Insurance Programs; Meeting of the Advisory Panel on Outreach and Education (APOE), February 7, 2012

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on opportunities to enhance the effectiveness of consumer education

strategies concerning Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). This meeting is open to the public.

**DATES: Meeting Date:** Tuesday, February 7, 2012 from 8:30 a.m. to 4 p.m., Eastern Daylight Time (EDT).

**Deadline for Meeting Registration, Presentations and Comments:** Tuesday, January 24, 2012, 5 p.m., EDT.

**Deadline for Requesting Special Accommodations:** Tuesday, January 24, 2012, 5 p.m., EDT.

**ADDRESSES: Meeting Location:** The Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, DC 20036.

**Meeting Registration, Presentations, and Written Comments:** Jennifer Kordonski, Designated Federal Official (DFO), Division of Forum and Conference Development, Office of Communications, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1-13-05, Baltimore, MD 21244-1850 or contact Ms. Kordonski via email at *mail to: Jennifer.Kordonski@cms.hhs.gov*.

**Registration:** The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, by the date listed in the **DATES** section of this notice. Individuals requiring sign language interpretation or other special accommodations should contact the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Kordonski, (410) 786-1840, or on the Internet at *http://www.cms.gov/FACA/04\_APOE.asp* for additional information. Press inquiries are handled through the CMS Press Office at (202) 690-6145.

**SUPPLEMENTARY INFORMATION:** In accordance with section 10(a) of the Federal Advisory Committee Act (FACA), this notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel). Section 9(a)(2) of the Federal Advisory Committee Act authorizes the Secretary of Health and Human Services (the Secretary) to establish an advisory panel if the Secretary determines that the panel is "in the public interest in connection with the performance of duties imposed \* \* \* by law." Such duties are imposed by section 1804 of the Social Security Act (the Act),

requiring the Secretary to provide informational materials to Medicare beneficiaries about the Medicare program, and section 1851(d) of the Act, requiring the Secretary to provide for "activities \* \* \* to broadly disseminate information to [M]edicare beneficiaries \* \* \* on the coverage options provided under [Medicare Advantage] in order to promote an active, informed selection among such options."

The Panel is also authorized by section 1114(f) of the Act (42 U.S.C. 1314(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a). The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7899, February 17, 1999) and approved the renewal of the charter on January 21, 2011 (76 FR 11782, March 3, 2011).

Pursuant to the amended charter, the Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services (CMS) concerning optimal strategies for the following:

- Developing and implementing education and outreach programs for individuals enrolled in, or eligible for, Medicare, Medicaid, and the Children's Health Insurance Program (CHIP).
- Enhancing the Federal government's effectiveness in informing Medicare, Medicaid, and CHIP consumers, providers and stakeholders pursuant to education and outreach programs of issues regarding these and other health coverage programs, including the appropriate use of public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers, and stakeholders.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of Medicare, Medicaid, and CHIP education programs.
- Assembling and sharing an information base of "best practices" for helping consumers evaluate health plan options.
- Building and leveraging existing community infrastructures for information, counseling, and assistance.
- Drawing the program link between outreach and education, promoting consumer understanding of health care coverage choices and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including prevention services, envisioned under health care reform.

The current members of the Panel are: Samantha Artiga, Principal Policy Analyst, Kaiser Family Foundation;

Joseph Baker, President, Medicare Rights Center; Philip Bergquist, Manager, Health Center Operations; CHIPRA Outreach & Enrollment Project and Director, Michigan Primary Care Association, Marjorie Cadogan, Executive Deputy Commissioner, Department of Social Services; Jonathan Dauphine, Senior Vice President, AARP; Barbara Ferrer, Executive Director, Boston Public Health Commission; Shelby Gonzales, Senior Health Outreach Associate, Center on Budget & Policy Priorities; Jan Henning, Benefits Counseling & Special Projects Coordinator, North Central Texas Council of Governments' Area Agency on Aging; Warren Jones, Executive Director, Mississippi Institute for Improvement of Geographic Minority Health; Cathy Kaufmann, Administrator, Oregon Health Authority; Sandy Markwood, Chief Executive Officer, National Association of Area Agencies on Aging; Miriam Mobley-Smith, Dean, Chicago State University, College of Pharmacy; Ana Natale-Pereira, Associate Professor of Medicine, University of Medicine & Dentistry of New Jersey; Megan Padden, Vice President, Sentara Health Plans; David W. Roberts, Vice-President, Healthcare Information and Management System Society; Julie Bodèn Schmidt, Associate Vice President, National Association of Community Health Centers; Alan Spielman, President & Chief Executive Officer, URAC; Winston Wong, Medical Director, Community Benefit Director, Kaiser Permanente; and Darlene Yee-Melichar, Professor & Coordinator, San Francisco State University.

The agenda for the February 7, 2012 meeting will include the following:

- Welcome and Listening Session with CMS Leadership;
- Recap of the Previous (November 17, 2011) Meeting;
- Affordable Care Act Initiatives;
- An opportunity for public comment;
- Meeting Summary, Review of Recommendations and Next Steps;

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make a presentation may submit written comments to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

**Authority:** Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Public Law 92-463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102-3).

(Catalog of Federal Domestic Assistance Program No. 93.733, Medicare—Hospital Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 5, 2012.

**Marilyn Tavenner,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2012-594 Filed 1-19-12; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel DDK-C Conflict Applications.

*Date:* February 21, 2012.

*Time:* 5 p.m. to 7 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:* Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 760, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-3993, [tathamt@mail.nih.gov](mailto:tathamt@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 13, 2012.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012-1087 Filed 1-19-12; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Science Education Awards (R-25).

*Date:* February 10, 2012.

*Time:* 1:30 p.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

*Contact Person:* Richard W. Morris, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 3251, 6700-B Rockledge Drive, MSC-7616, Bethesda, MD 20892-7616, (301) 451-2663, [rmorris@niaid.nih.gov](mailto:rmorris@niaid.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 13, 2012.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012-1112 Filed 1-19-12; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Initial Review Group; Biological Aging Review Committee.

*Date:* February 9, 2012.

*Time:* 9:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* DoubleTree by Hilton Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Bitu Nakhai, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 402-7701, [nakhaib@nia.nih.gov](mailto:nakhaib@nia.nih.gov).

*Name of Committee:* National Institute on Aging Initial Review Group; Neuroscience of Aging Review Committee.

*Date:* March 1-2, 2012.

*Time:* 8 a.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavillion, 4300 Military Rd. NW., Washington, DC 20015.

*Contact Person:* William Cruce, Ph.D., Scientific Review Administrator, National Institute on Aging, Scientific Review Office, Gateway Building 2C-212, 7201 Wisconsin Ave., Bethesda, MD 20814, (301) 402-7704, [crucew@nia.nih.gov](mailto:crucew@nia.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 12, 2012.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012-1099 Filed 1-19-12; 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:* Infectious Diseases and Microbiology Integrated Review Group, Bacterial Pathogenesis Study Section.

*Date:* February 14, 2012.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Palomar Hotel, 2121 P Street NW., Washington, DC 20037.

*Contact Person:* Richard G Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, (301) 402-4454, [kostrikr@csr.nih.gov](mailto:kostrikr@csr.nih.gov).

*Name of Committee:* Bioengineering Sciences & Technologies Integrated Review Group, Instrumentation and Systems Development Study Section.

*Date:* February 15–16, 2012.

*Time:* 8 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton San Francisco Fisherman's Wharf, 2620 Jones Street, San Francisco, CA 94133.

*Contact Person:* Kathryn Kalasinsky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158 MSC 7806, Bethesda, MD 20892, (301) 402-1074, [kalasinskyks@mail.nih.gov](mailto:kalasinskyks@mail.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, SBIB Pediatric and Fetal Applications.

*Date:* February 15, 2012.

*Time:* 2 p.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:* John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, (301) 435-2598, [firrellj@csr.nih.gov](mailto:firrellj@csr.nih.gov).

*Name of Committee:* Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurodifferentiation, Plasticity, Regeneration and Rhythmicity Study Section.

*Date:* February 16–17, 2012.

*Time:* 8 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

*Contact Person:* Carole L Jelsema, Ph.D., Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, (301) 435-1248, [jelsemac@csr.nih.gov](mailto:jelsemac@csr.nih.gov).

*Name of Committee:* Endocrinology, Metabolism, Nutrition and Reproductive Sciences, Integrated Review Group, Cellular Aspects of Diabetes and Obesity Study Section.

*Date:* February 16–17, 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:* Robert Garofalo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6156, MSC 7892, Bethesda, MD 20892, (301) 435-1043, [garofalors@csr.nih.gov](mailto:garofalors@csr.nih.gov).

*Name of Committee:* Biobehavioral and Behavioral Processes Integrated Review Group, Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

*Date:* February 16–17, 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:* Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 594-3163, [champoum@csr.nih.gov](mailto:champoum@csr.nih.gov).

*Name of Committee:* Brain Disorders and Clinical Neuroscience Integrated Review Group, Clinical Neuroimmunology and Brain Tumors Study Section.

*Date:* February 16–17, 2012.

*Time:* 8:30 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:* Jay Joshi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408-9135, [joshij@csr.nih.gov](mailto:joshij@csr.nih.gov).

*Name of Committee:* Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Musculoskeletal Tissue Engineering Study Section.

*Date:* February 16–17, 2012.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

*Contact Person:* Jean D. Sipe, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435-1743, [sipej@csr.nih.gov](mailto:sipej@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 12, 2012.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012-1098 Filed 1-19-12; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Peer Review Meeting.

*Date:* February 14, 2012.

*Time:* 12 p.m. to 5 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

*Contact Person:* Brandt R. Burgess, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, DHHS/NIH/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892-7616, (301) 451-2584, [bburgess@niaid.nih.gov](mailto:bburgess@niaid.nih.gov).

*Name of Committee:* Allergy, Immunology, and Transplantation Research Committee.

*Date:* February 21–22, 2012.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Renaissance Washington DC Downtown, 999 Ninth Street NW., Washington, DC 20001.

*Contact Person:* Zhuqing Li, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, DHHS/NIH/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 402-9523, [zhuqing.li@nih.gov](mailto:zhuqing.li@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 13, 2012.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012-1097 Filed 1-19-12; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review of R34 Clinical Trial Planning Grants.

*Date:* February 21, 2012.

*Time:* 1 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Jonathan Horsford, Ph.D., Scientific Review Officer, Natl Inst of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd., Room 664, Bethesda, MD 20892, (301) 594-4859, [horsforj@mail.nih.gov](mailto:horsforj@mail.nih.gov).

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review of R34 Clinical Trial Planning Grant Applications.

*Date:* February 28, 2012.

*Time:* 1 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Jonathan Horsford, Ph.D., Scientific Review Officer, Natl Inst of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd., Room 664, Bethesda, MD 20892, (301) 594-4859, [horsforj@mail.nih.gov](mailto:horsforj@mail.nih.gov).

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review LRP Applications.

*Date:* March 28, 2012.

*Time:* 10 p.m. to 11 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Democracy Blvd., Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Raj K. Krishnaraju, Ph.D., MS, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., Rm. 4AN 32J, Bethesda, MD 20892, (301) 594-4864, [krishna@nidcr.nih.gov](mailto:krishna@nidcr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 13, 2012.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012-1096 Filed 1-19-12; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

*Date:* February 23, 2012.

*Time:* 12 p.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, 242, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 959, Bethesda, MD 20892, (301) 451-3397, [sukharem@mail.nih.gov](mailto:sukharem@mail.nih.gov).

*Name of Committee:* National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel, NIBIB BTRC Review (2012/05).

*Date:* March 12-14, 2012.

*Time:* 6 p.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites Hotel—Piscataway/ Somerset, 121 Centennial Avenue, Piscataway, NJ 08854.

*Contact Person:* Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 959, Bethesda, MD 20892, (301) 451-3397, [sukharem@mail.nih.gov](mailto:sukharem@mail.nih.gov).

Dated: January 13, 2012.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012-1091 Filed 1-19-12; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; The NIDDK-KUH Fellowship Review Committee.

*Date:* February 17, 2012.

*Time:* 8 a.m. to 3 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:* Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-4719, [guox@extra.niddk.nih.gov](mailto:guox@extra.niddk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; R13 Conference Applications.

*Date:* February 24, 2012.

*Time:* 2 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* D.G. Patel, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-7682, [pateldg@niddk.nih.gov](mailto:pateldg@niddk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Informed Consent Ancillary Study.

*Date:* February 27, 2012.

*Time:* 3 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892-2542, (301) 594-8886, [sanoviche@mail.nih.gov](mailto:sanoviche@mail.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Metabolomic Predicators of Diabetes.

*Date:* February 29, 2012.

*Time:* 2 p.m. to 4:40 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* D.G. Patel, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-7682, [pateldg@niddk.nih.gov](mailto:pateldg@niddk.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 13, 2012.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012-1090 Filed 1-19-12; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG-2011-0619]

#### Extension of Public Comment Period; Mechanisms of Compliance With United States Citizenship Requirements for the Ownership of Vessels Eligible To Engage in Restricted Trades by Publicly Traded Companies

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of extension of public comment period.

**SUMMARY:** On November 3, 2011, the Coast Guard published a Notice and Request for Comments regarding the mechanisms of compliance with United States citizenship requirements for the ownership of vessels eligible to engage in restricted trades by publicly traded companies. In that notice, the public comment period was set to expire on February 1, 2012. In today's action, the Coast Guard is providing notice that the public comment period is extended until April 2, 2012. This extension will provide the public with additional time and opportunity to provide the Coast Guard with information regarding the relevant compliance mechanisms employed by companies with a wide variety of complex organizational structures and trading practices.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before April 2, 2012, or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG-2011-0619 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* (202) 493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except

Federal holidays. The telephone number is (202) 366-9329. To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or email Mr. Douglas Cameron, United States Coast Guard, National Vessel Documentation Center; telephone (304) 271-2506; e-mail [Douglas.G.Cameron@uscg.mil](mailto:Douglas.G.Cameron@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 your participation by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

*Submitting comments:* If you submit comments, please include the docket number for the notice (USCG-2011-0619), indicate the specific section of the document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. 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>, click on the "Submit a Comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Notices" and insert "USCG-2011-0619" in the "Keyword" box. Click "Search," and then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

*Viewing comments and documents:* To view comments and documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov>, click on the "Read Comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2011-0619" 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).

#### **Basis and Purpose**

On November 3, 2011, the Coast Guard published a Notice and Request for Comments regarding the mechanisms of compliance with United States citizenship requirements for the ownership of vessels eligible to engage in restricted trades by publicly traded companies. In that notice, the public comment period was set to expire on February 1, 2012.

On December 22, 2011, the Coast Guard received a public comment requesting an extension of the comment period due to the complex nature of the information requested in the notice. Specifically, the commenter noted the complexity associated with the compliance mechanisms employed by companies that utilize a wide variety of organizational structures, and the additional complexity of the stock trading industry.

The Coast Guard believes that an extension of the comment period will enable the public to provide more thorough and useful information. Accordingly, the Coast Guard is extending the deadline for public comments on the notice until April 2, 2012.

This notice is issued under authority of 5 U.S.C. 552(a) and 33 CFR 1.05-1.

Dated: January 10, 2012.

**Timothy V. Skuby,**  
*Director, National Vessel Documentation Center, U.S. Coast Guard.*

[FR Doc. 2012-1032 Filed 1-19-12; 8:45 am]

**BILLING CODE 9110-04-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Federal Emergency Management Agency**

**[Internal Agency Docket No. FEMA-4051-DR; Docket ID FEMA-2011-0001]**

### **Massachusetts; Major Disaster and Related Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Massachusetts (FEMA-4051-DR), dated January 6, 2012, and related determinations.

**DATES:** *Effective Date:* January 6, 2012.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3886.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated January 6, 2012, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the Commonwealth of Massachusetts resulting from a severe storm and snowstorm during the period of October 29-30, 2011, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the Commonwealth of Massachusetts.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the Commonwealth. You are further authorized to provide snow assistance under the Public Assistance program in the designated areas for any continuous 48-hour period during or proximate to the incident period. You may extend the period of assistance, as warranted. This assistance excludes regular time costs for the sub-grantees' regular employees.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Mark H. Landry, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Massachusetts have been designated as adversely affected by this major disaster:

Berkshire, Franklin, Hampden, Hampshire, Middlesex, and Worcester Counties for Public Assistance.

Berkshire, Franklin, Hampden, and Hampshire Counties for snow assistance under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

All counties within the Commonwealth of Massachusetts are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

#### **W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2012-1111 Filed 1-19-12; 8:45 am]

**BILLING CODE 9111-23-P**

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-4029-DR; Docket ID FEMA-2011-0001]

**Texas; Amendment No. 12 to Notice of a Major Disaster Declaration**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Texas (FEMA-4029-DR), dated September 9, 2011, and related determinations.

**DATES:** *Effective Date:* December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3886.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this disaster is closed effective December 31, 2011.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2012-1109 Filed 1-19-12; 8:45 am]

**BILLING CODE 9111-23-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; Correction**

**AGENCY:** U.S. Citizenship and Immigration Services (USCIS), DHS.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Homeland Security (DHS) corrects the notice published in the *Federal Register* on January 11, 2012, at 77 FR 1710. We are correcting the dates for the re-registration period to state that the period runs from January 9, 2012 through March 12, 2012.

**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 through March 12, 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 [www.uscis.gov/tps](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.

• 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:****Need for Correction**

On January 11, 2012, DHS published a notice in the *Federal Register* at 77 FR 1710, extending the designation of El Salvador for TPS and setting forth procedures 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 their new or renewed Employment Authorization Documents (EADs) (Forms I-766) with USCIS. The notice incorrectly stated the 60-day re-registration period would run from January 9, 2012 through March 9, 2012.

DHS is issuing this correction notice to extend the re-registration period through Monday, March 12, 2012. DHS will retain the January 9, 2012 start date for the re-registration period to avoid confusion. DHS will accept re-registration applications submitted from January 9, 2012 through March 12, 2012, provided they meet all filing and fee requirements as stated in the January 11, 2012 notice.

Specifically, DHS replaces the March 9, 2012 date with a new date, March 12, 2012, in the January 11, 2012 notice, within the section titled “**DATES**,” where the March 9, 2012 date appears in the second sentence relating to the re-registration period.

**Christina E. McDonald,**

*Associate General Counsel for Regulatory Affairs, Department of Homeland Security.*

[FR Doc. 2012-1169 Filed 1-19-12; 8:45 am]

**BILLING CODE 9111-97-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5477-C-52]

**Federal Property Suitable as Facilities To Assist the Homeless**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice; Corrections.

**SUMMARY:** On December 30, 2011, at 76 FR 82317, HUD published a notice announcing HUD's suitable properties. The South Carolina property previously published as Suitable/Available should be corrected to Unsuitable:

**Unsuitable/Available Properties Land**

*South Carolina*

Marine Corps Air Station

3481 TRASK Parkway  
 Beaufort SC 29904  
 Landholding Agency: GSA  
 Property Number: 54201140009  
 Status: Excess  
 GSA Number: 4-N-SC-0608AA  
 Reasons: Other—Swamp; Floodway

**FOR FURTHER INFORMATION CONTACT:**  
 Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at (800) 927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for unsuitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

Dated: January 13, 2012.

**Mark R. Johnston,**  
 Deputy Assistant Secretary for Special Needs.  
 [FR Doc. 2012-1029 Filed 1-19-12; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5601-N-03]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:**  
 Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at (800) 927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 12, 2012.

**Mark R. Johnston,**  
 Deputy Assistant Secretary for Special Needs.  
 [FR Doc. 2012-808 Filed 1-19-12; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

#### Gulf of Mexico (GOM), Outer Continental Shelf (OCS), Central Planning Area (CPA), Oil and Gas Lease Sale for the 2007-2012 5-Year OCS Program

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of Availability (NOA) of a Final Supplemental Environmental Impact Statement (EIS).

*Authority:* This NOA is published pursuant to the regulations (40 CFR part 1503) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.* (1988)).

**SUMMARY:** BOEM has prepared a Final Supplemental EIS for CPA Consolidated Lease Sale 216/222, an oil and gas lease sale that is tentatively scheduled for June 2012, which will be the final lease sale in the 2007-2012 5-Year OCS Oil and Gas Leasing Program. The proposed sale is in the GOM's CPA off the States of Louisiana, Mississippi, and Alabama. This Final Supplemental EIS updates, for CPA Lease Sale 216/222, environmental and socioeconomic analyses that were originally conducted in an EIS that was completed in April 2007 and entitled, Gulf of Mexico OCS Oil and Gas Lease Sales: 2007-2012; Western Planning Area (WPA) Sales 204, 207, 210, 215, and 218; Central Planning Area (CPA) Sales 205, 206, 208, 213, 216, and 222, Final EIS (OCS EIS/EA MMS 2007-018) (Multisale EIS). This Final Supplemental EIS also updates, for CPA Lease Sale 216/222, environmental and socioeconomic

analyses originally conducted in an EIS that was completed in September 2008 and entitled: GOM OCS Oil and Gas Lease Sales: 2009-2012; CPA Sales 208, 213, 216, and 222; WPA Sales 210, 215, and 218; Final Supplemental EIS (OCS EIS/EA MMS 2008-041) (2009-2012 Supplemental EIS).

**SUPPLEMENTARY INFORMATION:** BOEM developed the Final Supplemental EIS for CPA Lease Sale 216/222 in order to consider new circumstances and information arising from, among other things, the *Deepwater Horizon* event. This Final Supplemental EIS provides updates on the baseline conditions and potential environmental effects of oil and natural gas leasing, exploration, development, and production in the CPA. BOEM conducted an extensive search for new information made available since completion of the Multisale EIS and the 2009-2012 Supplemental EIS and in consideration of the *Deepwater Horizon* event, including scientific journals; interviews with personnel from academic institutions and Federal, State, and local government agencies; and available scientific data and information from academic institutions and Federal, State, and local government agencies. BOEM has reexamined the potential impacts associated with the proposed CPA lease sale and the proposed lease sale's incremental contribution to the cumulative impacts on environmental resources and socioeconomic factors. This analysis considers both routine activities and accidental events, and potentially large-scale, events. Like the Multisale EIS and the 2009-2012 Supplemental EIS, the oil and gas resource estimates and scenario information for this Final Supplemental EIS are presented as ranges that would likely be involved as a result of this proposed lease sale.

*Final Supplemental EIS Availability:* To obtain a single printed or CD-ROM copy of the Final Supplemental EIS for CPA Lease Sale 216/222, you may contact the BOEM, Gulf of Mexico OCS Region, Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123-2394 (1-(800) 200-GULF). An electronic copy of the Final Supplemental EIS (as well as links to the Multisale EIS and the 2009-2012 Supplemental EIS) is available at BOEM's Internet Web site at <http://www.boem.gov/Environmental-Stewardship/Environmental-Assessment/NEPA/nepaprocess.aspx>. The CD-ROM version of the Final Supplemental EIS also contains copies of the Multisale EIS and the 2009-2012

Supplemental EIS. Several libraries along the Gulf Coast have been sent copies of the Final Supplemental EIS. To find out the location of libraries that have copies of the Final Supplemental EIS, you may contact BOEM's Public Information Office or visit BOEM's Internet Web site at <http://www.gomr.boem.gov/homepg/regulate/enviro/libraries.html>.

**FOR FURTHER INFORMATION CONTACT:** For more information on the Final Supplemental EIS, you may contact Mr. Gary D. Goeke, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard (MS 5410), New Orleans, Louisiana 70123-2394, or by email at [CPASupplementalEIS@boem.gov](mailto:CPASupplementalEIS@boem.gov). You may also contact Mr. Goeke by telephone at (504) 736-3233.

Dated: January 3, 2012.

**Tommy P. Beaudreau,**  
Director, Bureau of Ocean Energy  
Management.

[FR Doc. 2012-1124 Filed 1-19-12; 8:45 am]

**BILLING CODE 4310-VH-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R1-R-2009-N231; 1265-0000-10137-53]

#### **Columbia National Wildlife Refuge, Adams and Grant Counties, WA; Final Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and a finding of no significant impact for the environmental assessment for Columbia National Wildlife Refuge (NWR/refuge). In this final CCP, we describe how we will manage this refuge for the next 15 years. Implementation of the CCP is subject to the availability of funding and any additional compliance requirements.

**ADDRESSES:** You may view or obtain copies of the final CCP and finding of no significant impact (FONSI) and environmental assessment (EA) by any of the following methods. You may request a hard copy or CD-ROM.

*Refuge Web Site:* Download a copy of the document(s) at [www.fws.gov/columbia/management.html](http://www.fws.gov/columbia/management.html).

*Email:* [mcriver@fws.gov](mailto:mcriver@fws.gov). Include "Columbia NWR Final CCP" in the subject line of the message.

*Mail:* U.S. Fish and Wildlife Service, Columbia NWR Final CCP, 64 Maple Street, Burbank, WA 99323.

*In-Person Viewing or Pickup:* Call (509) 546-8333 to make an appointment during regular business hours at the address above.

*Local Library:* The document is also available for review at the library listed under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Kelly Chase, Refuge Manager, (509) 488-2668 (phone); [mcriver@fws.gov](mailto:mcriver@fws.gov) (email).

#### **SUPPLEMENTARY INFORMATION:**

##### **Introduction**

With this notice, we announce the completion of the CCP process for Columbia NWR. We started this process through a notice in the **Federal Register** (74 FR 25576; May 28, 2009). We released the draft CCP/EA to the public, announcing and requesting comments in a notice of availability in the **Federal Register** (76 FR 45600; July 29, 2011).

We announce our CCP decision and the availability of a FONSI for Columbia NWR in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) (Refuge Administration Act) and National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We prepared an analysis of environmental impacts, which we included in the EA that accompanied the draft CCP.

The CCP will guide us in managing and administering Columbia NWR for the next 15 years. The selected alternative, as described in the final CCP, is a combination of actions from alternatives 2 and 3 in the draft CCP and is the basis for management direction.

##### **Background**

The Refuge 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 toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public,

including opportunities for compatible 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 Refuge Administration Act.

#### **Comments**

We solicited comments on the draft CCP/EA for the refuge from July 29, 2011, to August 29, 2011 (76 FR 45600). All letters and comments received were thoroughly evaluated and considered in the selection of a final alternative. The only change to the alternatives in the draft CCP was modifying the overnight closure of Morgan Lake Road to allow for access starting 1½ hours before legal hunting time and ending 1½ hours after legal hunting time during State hunting seasons.

#### **Selected Alternative**

All actions in the selected alternative are subject to available funding and any other compliance requirements. Under the selected alternative, refuge management will continue much as is, consistent with available funding and staffing, except that 175 acres of emergent marsh wetlands in Marsh Unit III will be converted to riparian habitat, with other wetlands to potentially follow based on the success of the first conversion. The Crab Creek channel will be restored, and stream restoration will be a priority to provide for steelhead and redband trout and improve riparian areas for migrating neotropical birds. Specialized habitats (e.g., rock outcroppings) will receive more planned attention. Grasslands will be maintained to provide for species like the long-billed curlew, and cooperative farming agreements will continue to provide green forage and grains for geese, waterfowl, and Sandhill cranes, while emphasizing low-impact techniques. Habitats will be maintained and protected for loggerhead shrikes, sagebrush lizards, and a variety of raptors. Management of State and Federal species of concern will be emphasized. Refuge lands will continue to be managed using a mix of natural processes and substantial management intervention. For example, many wetland areas are allowed to follow natural succession—although noxious weed control, prescribed fire, and other maintenance actions are undertaken—but several moist soil management areas require water level manipulation, dike maintenance, extensive soil preparation, planting, and other treatments. Land transfers will be pursued to provide continuous blocks of habitats and simplify management.

Public use will be a blend of active and passive. Horseback riding and bicycling will continue, but camping will be eliminated. The Soda Lake Campground will be converted to day-use facilities, and the area around the Bluebird Campground will be available by permit for day use as an educational site. Morgan Lake Road will be closed to overnight travel. Facilities with increased accessibility will be developed to promote compatible hunting and fishing. Waterfowl and big game hunting opportunities will be expanded by opening new areas; providing for additional hunting weapons; and implementing additional youth hunt days, areas, and seasons. The waterfowl hunting lottery will be discontinued in favor of first-come, first-served hunting. A new hiking and interpretive trail will be developed within the Drumheller Channel National Natural Landmark in cooperation with the National Park Service. Seasonal and permanent wildlife observation blinds will be provided. New interpretive and educational programs and brochures will be developed, with an emphasis on building the volunteer program to manage them. The Sandhill Crane Festival will remain a priority. Fish stocking by the Washington Department of Fish and Wildlife will continue, with an approved fisheries management plan, but will be discontinued in lakes where there is the highest likelihood of success for northern leopard frog recovery.

Step-down plans on informational and interpretive signs, cultural resource management, habitat management, and other management areas related to the goals and objectives in this CCP will be developed. Water rights and/or agreements will be pursued to ensure the availability of water for moist soil management.

#### Public Availability of Documents

In addition to the methods in **ADDRESSES**, you can view or obtain documents at the following locations:

- *Agency Web Site:* [www.fws.gov/pacific/planning/](http://www.fws.gov/pacific/planning/).
- *Public Library:* Othello Branch of Mid-Columbia Libraries, 101 East Main Street, Othello, WA 99344; (509) 488-9683.

Dated: November 17, 2011.

#### Michael Carrier,

Acting Regional Director, Pacific Region,  
Portland, Oregon.

[FR Doc. 2012-1113 Filed 1-19-12; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R2-ES-2011-N254;  
FXES1112020000F2-112-FF02ENEH00]

#### Final Environmental Impact Statement and Record of Decision on Oncor Electric Delivery Company's Habitat Conservation Plan for 100 Texas Counties

**AGENCY:** Fish and Wildlife Service, Department of the Interior.

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, make available the final environmental impact statement (EIS), and final record of decision under the National Environmental Policy Act of 1969 analyzing the impacts of the issuance of an incidental take permit for implementation of the final Oncor Electric Delivery LLC's Habitat Conservation Plan (HCP). Our decision is to issue a 30-year incidental take permit to Oncor for implementation of the preferred alternative (described below), which authorizes incidental take of animal species and impacts to plant species listed under the Endangered Species Act of 1973, as amended. Oncor has agreed to implement avoidance, minimization, and mitigation measures to offset impacts to these species, as described in their HCP.

**DATES:** We will issue a final permit no sooner than 30 days after publication of this notice. Comments on the final EIS and HCP will be accepted until February 21, 2012.

**ADDRESSES:** For where to review documents and submit comments, see Reviewing Documents and Submitting Comments in **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758 or (512) 490-0057.

**SUPPLEMENTARY INFORMATION:** We, the Service, announce the availability of the final environmental impact statement (EIS) and record of decision (ROD), which we developed in compliance with the agency decision-making requirements of the National Environmental Policy Act of 1969, as amended (NEPA), as well as the final Oncor Electric Delivery LLC (Oncor) Habitat Conservation Plan (HCP) as submitted by the applicant. All alternatives have been described in detail, evaluated, and analyzed in our December 2011 final EIS and Oncor's

HCP. The ROD documents the rationale for our decision.

Based on our review of the alternatives and their environmental consequences as described in our final EIS, we have selected Alternative 1, the proposed HCP. The proposed action is to issue Oncor an incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*) that authorizes incidental take of animal species and impacts to plant species. The term of the permit is 30 years (2012-2042), and it would include the following species that are endangered and threatened (also referred to as "covered species"):

#### Endangered

Large-fruited sand-verbena (*Abronia macrocarpa*)  
Texas poppy-mallow (*Callirhoe scabriuscula*)  
Navasota ladies'-tresses (*Spiranthes parksii*)  
American burying beetle (*Nicrophorus americanus*)  
Houston toad (*Bufo houstonensis*)  
Whooping crane (*Grus americana*)  
Golden-cheeked warbler (*Dendroica chrysoparia*)  
Black-capped vireo (*Vireo atricapilla*)  
Red-cockaded woodpecker (*Picoides borealis*)

#### Threatened

Pecos sunflower (*Helianthus paradoxus*)  
Louisiana black bear (*Ursus americanus luteolus*)

Take of listed plant species is not defined in the Act, although the Act does identify several prohibitions. However, because covered species in the Oncor HCP include both plants and animals, in the following discussion we use the term "incidental take" when discussing impacts to covered plants, as well as actual incidental take of covered animals.

Oncor will implement avoidance, minimization, and mitigation measures to offset impacts to covered species according to their HCP. For all but the whooping crane, impacts will be mitigated through purchase of mitigation credits from a Service-approved conservation bank, purchasing high-quality habitat near the impact area, or if purchase of land is not a viable mitigation option (e.g., mitigation necessary to offset impacts does not generate sufficient funds to purchase a reasonable amount of land to support the conservation of the species), additional options will be explored with the Service as described in the HCP. Within 1 mile of confirmed or potentially suitable stopover habitat for

the whooping crane, Oncor will (1) mark all new transmission lines with bird flight diverters, (2) place transmission or distribution lines underground, or (3) relocate or remove transmission or distribution lines. Additionally, existing transmission or distribution lines within 1 mile of confirmed or potentially suitable stopover habitat will also be marked with bird flight diverters, equal to the number of new lines constructed that require marking with bird flight diverters.

### Background

Oncor applied to the Service for an ITP. As part of the permit application, Oncor developed the HCP to meet the requirements of an ITP. Our issuance of an ITP and implementation of the HCP allow Oncor to incidentally take the covered species during construction, operation, and maintenance of various facilities (e.g., electric transmission and distribution lines), as well as during emergency response work (covered activities). The proposed plan area is 100 of Oncor's 102-county service area, excluding Travis and Williamson counties, where any impacts to listed species will be authorized under existing permits (see map 1–1 in the HCP). The proposed covered area includes any area within Oncor's service area where covered activities are expected to affect listed species during the 30-year ITP term.

The Secretary of the Interior has delegated to the Service the authority to approve or deny an ITP in accordance with the Act. To act on Oncor's permit application, we must determine that the HCP meets the issuance criteria specified in the Act and in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 17.32. The issuance of an ITP is a Federal action subject to NEPA compliance, including the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508).

On July 15, 2011, we issued a draft EIS and requested public comment on our evaluation of the potential impacts associated with issuance of an ITP for implementation of the HCP and to evaluate alternatives, along with the draft HCP (76 FR 41808). We included public comments and responses associated with the draft EIS and draft HCP in the final EIS.

### Purpose and Need

The purpose of the section 10(a)(1)(B) permit is to authorize incidental take associated with the covered activities described above. We identified key issues and relevant factors through

public scoping, working with other agencies and groups, and comments from the public. We received responses from three Federal agencies and one State agency. The National Park Service had no comment, the Environmental Protection Agency had “no objections” to implementation of the preferred alternative, and the Federal Aviation Administration encouraged Oncor to coordinate with them on any projects that would affect navigable airspace (Federal Aviation Regulations Part 77). Texas Parks and Wildlife Department (TPWD) had more substantive comments, including requesting clarification regarding how mitigation would be implemented, a request to be included on any committees formed to determine mitigation strategies, the control of invasive species, covering additional rare species within the action area, and obtaining any necessary permits from TPWD for State-listed species. The Service believes these comments are addressed and reasonably accommodated in the final documents. No new significant issues arose following publication of the draft documents.

### Alternatives

We considered three alternatives in the EIS.

*Alternative 1—Preferred Alternative:* Our selected alternative is the proposed HCP with a 30-year term, and the preferred alternative (Alternative 1) as described in the final EIS, which provides for the issuance of an ITP to Oncor for incidental take of the covered species that is anticipated to occur as a result of covered activities. This alternative includes the implementation of measures to avoid, minimize, and mitigate (mitigation measures described above) impacts from the potential incidental take to the maximum extent practicable. This alternative also provides conservation measures for covered species and the mechanism for streamlined compliance with the Act.

*No Action Alternative:* Under the No-Action Alternative, the Service would not issue an incidental take permit for a programmatic HCP. Instead, Oncor would seek an individual section 10(a)(1)(B) incidental take permit, or coverage under a section 7 consultation where a Federal nexus (authorized by a Federal agency [e.g., section 404 permit under the Clean Water Act]) exists, on a project-by-project basis over the next 30 years if activities could result in incidental take of any federally listed species within the proposed permit area.

*Alternative 2 (50-year permit duration):* Under this alternative the

permit duration would be 50 years, rather than 30. The covered activities, proposed permit area, and covered species would be the same as the preferred alternative. The avoidance and minimization discussed in the proposed HCP would be the same, but the additional 20-year duration would likely result in a greater amount of incidental take.

### Decision

We intend to issue an ITP allowing Oncor to implement the preferred alternative (Alternative 1), as it is described in the final EIS. Our decision is based on a thorough review of the alternatives and their environmental consequences. Implementation of this decision entails the issuance of the ITP, including all terms and conditions governing the permit. Implementation of this decision requires adherence to all of the minimization and mitigation measures specified in the HCP, as well as monitoring and adaptive management measures.

### Rationale for Decision

We have selected the preferred alternative (Alternative 1) for implementation based on multiple environmental and social factors, including potential impacts and benefits to covered species and their habitat, the extent and effectiveness of avoidance, minimization, and mitigation measures, and social and economic considerations. We did not choose the No Action Alternative because, as compared with the preferred alternative, a project-by-project approach for complying with the Act would be more time-consuming and less efficient, and would result in piecemeal mitigation incapable of providing comprehensive or comparable net benefits to covered species. While Alternative 2 would result in a greater amount of mitigation, it was not chosen because of the uncertainties associated with planning and implementation over such an extended duration, 50 years, which would likely result in the need to modify or amend the permit, resulting in inefficiencies and limiting the effectiveness of the HCP.

In order to issue an ITP, we must ascertain that the HCP meets the issuance criteria set forth in 16 U.S.C. 1539(a)(2)(A) and (B). We have made that determination based on the criteria summarized below:

1. *The taking will be incidental.* We find that the take will be incidental to otherwise lawful activities, including the proposed construction, operation, and maintenance of various facilities (e.g., electric transmission and distribution lines), as well as emergency

response work. The take of individuals of the covered species will be primarily due to the indirect impacts of habitat destruction and/or alteration.

2. *The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such takings.* Oncor has committed to a wide variety of conservation measures and other strategies designed to avoid and minimize harm to the covered species, including monitoring and adaptive management, and will mitigate for any unavoidable loss through purchase of conservation credits and/or land acquisition. The mitigation will be commensurate with the actual level of take. In addition, Oncor has included provisions for changed circumstances that are reasonably foreseeable during the term of the permit. These strategies will ensure that impacts from the proposed taking are minimized and mitigated to the maximum extent practicable. Mitigation will be in place prior to occurrence of the take (i.e., construction through habitat).

3. *The applicant will develop an HCP and ensure that adequate funding for the HCP will be provided.* Oncor has developed and will implement their HCP. Section 6 of the HCP describes avoidance and minimization measures, including conservation measures and best management practices that will be written into project descriptions and budgets. These are standard practices and expenses that Oncor funds on all of their existing projects. It also describes the mitigation Oncor has agreed to undertake for unavoidable impacts that will be provided prior to occurrence of anticipated take (i.e., construction through habitat).

The Service's no surprises assurances are discussed in the HCP and measures to address changed circumstances have been identified. Adaptive management will be used to direct changes to conservation, mitigation, or management measures and monitoring when needed. Unforeseen circumstances would be addressed through the Service's close coordination with Oncor in the implementation of the HCP, and Oncor has committed to a coordination process to address such circumstances. We have, therefore, determined that Oncor's financial commitment and plan, along with their willingness to address changed and unforeseen circumstances in a cooperative fashion, is sufficient to meet this criterion.

If needed, Oncor will arrange for an unconditional irrevocable stand-by letter of credit to be issued to the Service in the amount of the expected mitigation cost, as calculated in Section

6 of the HCP that will be issued by a nationally recognized banking institution acceptable to the Service with an expiration date that extends through the expected completion date of the mitigation measures.

4. *The taking will not appreciably reduce the likelihood of the survival and recovery of any listed species in the wild.* As the Federal action agency considering whether to issue an ITP to Oncor, we have reviewed the proposed action under section 7 of the Act. Our biological opinion, dated January 5, 2012, concluded that issuance of the ITP will not jeopardize the continued existence of the covered species in the wild. No areas designated as critical habitat for the Houston toad or whooping crane are expected to be affected. The biological opinion also analyzes other listed species within the planning area and concludes that the direct and indirect effect of the issuance of the ITP will not appreciably reduce the likelihood of survival and recovery of other listed species or adverse modification of any designated critical habitat within the permit area.

5. *The applicant agrees to implement other measures that the Service requires as being necessary or appropriate for the purposes of the HCP.* We have assisted Oncor in the development of the HCP. We commented on draft documents, participated in numerous meetings and conference calls, and worked closely with Oncor during every step of plan and document preparation, so that conservation of the covered species would be assured and recovery would not be precluded by the covered activities. The HCP incorporates our recommendations for minimization and mitigation of impacts, as well as steps to monitor the effects of the HCP and ensure success. Annual monitoring, as well as coordination and reporting mechanisms, have been designed to ensure that changes in conservation measures can be implemented if proposed measures prove ineffective (adaptive management) or impacts exceed estimates (changed circumstances). It is our position that no additional measures are required to implement the intent and purpose of the HCP to those detailed in the HCP and its associated ITP.

We have determined that the preferred alternative best balances the protection and management of habitat for covered species, while allowing and providing a streamlined process for compliance with the Act for continued construction, operation, and maintenance of electric facilities within Oncor's service area. Considerations used in this decision include whether

(1) mitigation will benefit the covered species; (2) mitigation lands will be managed for the species in perpetuity; (3) other conservation measures will protect and enhance habitat; (4) mitigation measures for the covered species will fully offset anticipated impacts to the species and provide recovery opportunities; and (5) the HCP is consistent with the covered species' recovery plans.

A final permit decision will be made no sooner than 30 days after the publication of this notice of availability and completion of the record of decision.

#### Reviewing Documents and Submitting Comments

You may obtain copies of the final EIS, final ROD, and final HCP by going to <http://www.fws.gov/southwest/es/AustinTexas/>. Alternatively, you may obtain compact disks with electronic copies of these documents by writing to Mr. Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, 10711 Burnet Road Suite 200, Austin, TX 78758; calling (512) 490-0057; or faxing (512) 490-0974. A limited number of printed copies of the final EIS and final HCP are also available, by request, from Mr. Zerrenner. Copies of the final EIS and final HCP are also available for public inspection and review at the following locations (by appointment only):

- Department of the Interior, Natural Resources Library, 1849 C. St. NW., Washington, DC 20240.
- U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 6034, Albuquerque, NM 87102.
- U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758.

Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103. Written comments may be submitted to Mr. Adam Zerrenner (see above).

#### Public Availability of Comments

Written comments we receive become part of the public record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

#### Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: December 28, 2011.

**David C. Mendias,**

*Acting Regional Director, Region 2,  
Albuquerque, New Mexico.*

[FR Doc. 2012-830 Filed 1-19-12; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R9-SATD-2011-N263;  
FXSC14200900009A-123-FF09S0000]

### National Fish, Wildlife, and Plants Climate Adaptation Strategy

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments; announcement of public workshops.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), along with the National Oceanic and Atmospheric Administration (NOAA, Department of Commerce) and other Federal, State, and tribal partners, announce that we are seeking public comments and input regarding the draft National Fish, Wildlife, and Plants Climate Adaptation Strategy (Strategy). The purpose of the Strategy will be to inspire and enable natural resource professionals and other decision makers to take action to conserve the nation's fish, wildlife, plants, and ecosystem functions, as well as the human uses and values these natural systems provide, in a changing climate. In addition to this request for written comments, several public workshops will be conducted in order to provide additional opportunities for public involvement and discussion of the draft. The draft Strategy is available at the following link: <http://www.wildlifeadaptationstrategy.gov/public-review-draft.php>.

**DATES:** *Submitting Comments:* To ensure that we are able to consider your

comments, we must receive them by March 5, 2012 (see **ADDRESSES**).

**Public Workshops:** Five workshops are being planned for the public. One workshop will be held in Washington, DC, and four additional workshops will be held at various regional venues around the country (Albany, NY; Charleston, SC; Madison, WI; and Sacramento, CA). Dates and addresses of the public workshops will be posted on the Strategy Web site ([www.wildlifeadaptationstrategy.gov](http://www.wildlifeadaptationstrategy.gov)) as they become available. For more details, see **ADDRESSES**.

There will be two additional public workshops held as online web conferences or "webinars," during which interested members of the public will be able to participate remotely. These web conferences will be held on January 26, 2012, and February 22, 2012.

We request that all persons planning to attend a workshop in person or participate via a webinar register at <http://www.wildlifeadaptationstrategy.gov/public-workshops.php> prior to the event. For more information or to register, please see "IV., Meeting Participation Information," under **SUPPLEMENTARY INFORMATION**.

**Tribal Consultation Sessions:** Eight Tribal consultation sessions are being planned for January and February 2012. These consultation sessions will be held in Anchorage, AK; Albany, NY; Albuquerque, NM; Charleston, SC; Madison, WI; Oklahoma City, OK; Sacramento, CA; and Shelton, WA. Dates and addresses for the tribal consultation sessions will be posted on the strategy Web site ([www.wildlifeadaptationstrategy.gov](http://www.wildlifeadaptationstrategy.gov)) as they become available.

**ADDRESSES:** *Public Comments:* To provide comments and feedback on the draft Strategy, please visit <http://www.wildlifeadaptationstrategy.gov/public-comments.php>. Alternatively, you may send comments by U.S. mail to the Office of the Science Advisor, Attn: National Fish, Wildlife, and Plants Climate Adaptation Strategy, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203.

**FOR FURTHER INFORMATION CONTACT:** Mark Shaffer, Office of the Science Advisor, at (703) 358-2603 (telephone) or [wildlifeadaptationstrategy@fws.gov](mailto:wildlifeadaptationstrategy@fws.gov) (email), or via the Strategy Web site at <http://www.wildlifeadaptationstrategy.gov/contact-us.php>. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** In cooperation with NOAA and other Federal, State, and tribal partners, we are soliciting public comments on the draft National Fish, Wildlife, and Plants Climate Adaptation Strategy (Strategy).

The adverse impacts of climate change transcend political and administrative boundaries. No single entity or level of government can safeguard wildlife and society against the effects of climate change. When finalized, this draft Strategy will present a unified approach—reflecting shared principles and science-based practices—for reducing the negative impacts of climate change on fish, wildlife, plants, habitats, and our natural resource heritage. The Strategy will provide a basis for sensible actions that can be taken now, in spite of the uncertainties that exist about precise impacts of climate change. It also will provide guidance about what further actions are most likely to promote natural resource adaptation to climate change, and will describe mechanisms that will foster collaboration among all levels of government, conservation organizations, and private landowners.

#### I. Background

Climate change affects more than temperature. According to the U.S. Global Change Research Program, impacts include shifts in rainfall and storm patterns, increasing wildfires, and more frequent water shortages, as well as rising sea levels, loss of sea ice, ocean acidification, and coastal flooding and erosion. Given the magnitude of the observed changes in climate, it is not surprising that fish, wildlife, and plant resources in the United States and around the world are already being affected. The impacts can be seen everywhere, from working landscapes like tree farms and pastures to wilderness areas far from human habitation. As the climate continues to change over the next century, so too will the effects on species, ecosystems, and their functions. Furthermore, climate-induced changes are also likely to exacerbate existing stresses like habitat loss and fragmentation, putting additional pressure on our nation's valued living resources.

Rapid warming may also begin to threaten the benefits that natural systems provide to people and communities, creating new challenges for human health, infrastructure, agriculture, transportation, and energy supplies. At risk are clean air and water; flood and erosion control; natural resource jobs and income; hunting, fishing, and wildlife-related recreation; and, ultimately, our quality of life.

Most simply, climate adaptation means helping people and natural systems prepare for and cope with the effects of a changing climate. Climate adaptation is an essential complement to climate change mitigation, or efforts to decrease the rate and extent of climate change through reducing greenhouse gas emissions or enhancing carbon uptake and storage. Coordinated adaptation planning can help limit the damage climate change causes to our natural resources and communities, and will require new approaches, additional resources, and a coordinated approach across Federal, State, Tribal and local partners.

## II. Strategy Development

Over the past decade, there have been an increasing number of calls for action by government and nongovernmental entities to better understand, prepare for, and address the impacts of climate change on natural resources and the communities that depend on those resources. For example, in 2007 the U.S. Government Accountability Office (GAO) released a study entitled "Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources," recommending that guidance and tools be developed to help Federal natural resource managers incorporate and address climate change in their resource management efforts. In 2008, the U.S. Global Change Research Program released the report "Preliminary Review of Adaptation Options for Climate-Sensitive Ecosystems and Resources," which called for and identified a variety of new approaches to natural resource management to increase resiliency and adaptation of ecosystems and resources.

In 2009, Congress asked the Department of the Interior (DOI) and the White House Council on Council of Environmental Quality (CEQ) to develop a national, government-wide climate adaptation strategy for fish, wildlife, plants, and related ecological processes. Language in the Conference Report for the Fiscal Year (FY) 2010 Interior, Environment and Related Agencies Appropriations Act (House Report 111–316, pages 76–77) urged CEQ and DOI to "develop a national, government-wide strategy to address climate impacts on fish, wildlife, plants, and associated ecological processes" and "provide that there is integration, coordination, and public accountability to ensure efficiency and avoid duplication." In addition, CEQ's Interagency Climate Change Adaptation Task Force supported this request and called for the development of a climate adaptation

strategy for fish, wildlife, and plants in its 2010 Progress Report to the President.

In the fall of 2010, the U.S. Fish and Wildlife Service and CEQ invited NOAA and State wildlife agencies (with the New York Division of Fish, Wildlife and Marine Resources as the State agencies' lead representative) to co-lead the development of the strategy. The Association of Fish and Wildlife Agencies is also providing support through a cooperative agreement with the Service.

Initial public outreach during 2009 and 2010 contributed toward developing the following set of key principles to help guide this effort as it moves forward:

- Build a national framework for cooperative climate response.
- Respect jurisdictional authorities.
- Provide a blueprint for collective action that promotes collaboration and communication across government and non-government entities.
- Adopt a landscape/seascape-based approach that integrates best-available science and adaptive management.
- Focus actions and investments on natural resources of the United States and its Territories.
- Identify critical scientific and management needs.
- Engage the public.
- Integrate strategies for natural resources adaptation with those of other sectors such as transportation and agriculture.
- Identify opportunities to integrate climate adaptation and mitigation efforts.
- Act now: Time is of the essence.

In late 2010, a diverse group of Federal, State, and tribal agencies were asked to participate as members of an intergovernmental Steering Committee, to provide advice and support for development of the Strategy. The Steering Committee includes representatives from 16 Federal agencies with management authorities for fish, wildlife, plants, or habitat, as well as representatives from 5 State fish and wildlife agencies and two intertribal fish and wildlife commissions. The Steering Committee charged a small Management Team, made up of representatives of the FWS, NOAA, Association of Fish and Wildlife Agencies (on behalf of the States), the Great Lakes Indian Fish and Wildlife Commission, and the Bureau of Indian Affairs, to oversee the day-to-day development of the Strategy. The Management Team was asked to engage with a diverse group of stakeholders, as well as to coordinate and communicate across agencies and departments.

In March of 2011, the Management Team invited more than 90 natural resource professionals (both researchers and managers) from Federal, State, and tribal agencies to form five Technical Teams based around major U.S. ecosystems (marine, coastal, inland waters, forest, and combined grasslands/shrublands/deserts/tundra systems). These Teams, which were co-chaired by Federal, State, and tribal representatives, worked approximately 7 months to provide technical information on climate change impacts and to collectively develop strategies and actions for adapting to climate change.

We initially requested public comments and input on the development of the Strategy in a May 24, 2011, notice of intent in the **Federal Register** (76 FR 30193). After we incorporated initial input, in November 2011 we requested comments on a preliminary draft of the Strategy from selected Federal, State, and Tribal agencies.

We now open the public comment period (see **DATES**). After considering and incorporating comments from the public, we anticipate releasing a revised, final Strategy by early summer 2012.

Key milestones are shown below:

- Outreach and Engagement Sessions—2009/2010
- Steering Committee Formed—December 2010
- Technical Teams Established—February 2011
- Agency Review Draft Circulated—November 2011
- Public Review Draft Announced—January 2012
- Release Final Strategy—May/June 2012

Ultimately, the Strategy will be a blueprint for common action that outlines needed scientific support, policy, and legal frameworks; recommended management practices; processes for integration and communication; and a framework for implementing these approaches. It will enable national and international conservation communities to harness collective expertise, authority, and skills in order to define and prioritize a shared set of conservation goals and objectives.

## III. Request for Public Comments

Public involvement is critical for the development of a robust and relevant response to the impacts of climate change. Particularly valuable to the effort are public guidance on priorities, recommendations for approaches, and suggestions based on local knowledge and experience.

Initial outreach and planning for the Strategy began in 2009 and early 2010, with a number of listening and engagement sessions, as well as several Conservation Leadership Forums. More information about past engagement efforts, as well as upcoming meetings and engagement opportunities, is available at <http://www.wildlifeadaptationstrategy.gov/participate.php>.

We will be accepting public comments through our Web site until the date specified in **DATES**. We will also accept verbal and written comments at upcoming public review workshops (see **ADDRESSES**).

We encourage the public to submit comments and input on the draft Strategy. The comments that are most useful are those that you support by quantitative information or studies and those that include citations and analyses of applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials by one of the methods listed above in the **ADDRESSES** section. We will not accept comments sent to an address not listed in **ADDRESSES**.

We are committed to transparency in developing and implementing the National Fish, Wildlife, and Plants Climate Adaptation Strategy. The Service, NOAA, and other partners will also actively engage interested parties, including, as appropriate, State, Tribal, and local authorities; regional governance structures; academic institutions; nongovernmental organizations; recreational interests; and private enterprise.

#### IV. Meeting Participation Information

Several public workshops will be held around the country, as described in **ADDRESSES**. These workshops will provide interested members of the public the opportunity to learn more about the development and goals of the Strategy, ask questions, and provide their public comments verbally or in writing. If you wish to attend one of these workshops in person, please register online prior to the workshop through our Web site at <http://www.wildlifeadaptationstrategy.gov/public-workshops.php>.

There will also be two additional public workshops that will be held as an online web conference or "webinar" (see **DATES**). Interested members of the public will be able to participate

remotely, including viewing a presentation and contributing questions and comments. For more information or to register for the web conference, please visit our Web site at <http://www.wildlifeadaptationstrategy.gov/public-workshops.php>.

Please visit the Strategy Web site at <http://www.wildlifeadaptationstrategy.gov> for additional background on the Strategy.

#### V. 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.

#### VI. Authority

Conference Report for the Interior, Environment and Related Agencies Appropriations Act, 2010.

#### Gabriela Chavarria,

*Science Advisor to the Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2012-1179 Filed 1-19-12; 8:45 am]

**BILLING CODE 4310-55-P**

---

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[F-14866-A; LLAk965000-L14100000-KC0000-P]

#### Alaska Native Claims Selection

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Decision Approving Lands for Conveyance.

**SUMMARY:** As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management (BLM) will issue an appealable decision to Sea Lion Corporation. The decision approves the surface estate in the lands described below for conveyance pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*). These lands lie entirely within the Clarence Rhode National Wildlife Refuge established December 6, 1960, and January 20, 1969. The subsurface estate will be reserved to the United States in the conveyance to Sea Lion Corporation. The lands are in the vicinity of Hooper Bay, Alaska, and are described as: Lands *Within* the Clarence Rhode National Wildlife Refuge Public

Land Order Nos. 2213 And 4584, Now Known as the Yukon Delta National Wildlife Refuge.

#### Seward Meridian, Alaska

T. 17 N, R. 91 E.,

Sec. 26;

Sec. 35.

Containing approximately 85 acres.

Notice of the decision will also be published four times in the *Delta Discovery*.

**DATES:** Any party claiming a property interest in the lands affected by the decision may appeal the decision within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until February 21, 2012 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

3. Notices of appeal transmitted by electronic means, such as facsimile or email, will not be accepted as timely filed.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

**ADDRESSES:** A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7504.

**FOR FURTHER INFORMATION CONTACT:** The BLM by phone at (907) 271-5960 or by email at [ak.blm.conveyance@blm.gov](mailto:ak.blm.conveyance@blm.gov). Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800) 877-8339 to contact the BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

#### Jennifer Noe,

*Land Law Examiner, Land Transfer Adjudication II Branch.*

[FR Doc. 2012-1044 Filed 1-19-12; 8:45 am]

**BILLING CODE 4310-JA-P**

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

[LLNVS03100 L51010000 ER0000  
LVRWF09F8740.241A; 12-08807; MO#  
4500027523; TAS: 14X5017]

**Notice of Availability of the Draft  
Environmental Impact Statement and  
Notice of Segregation for the  
Searchlight Wind Energy Project, Clark  
County, NV**

**AGENCY:** Bureau of Land Management,  
Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for the Searchlight Wind Energy Project and by this notice is announcing the opening of the comment period. Publication of this notice also serves to segregate the identified lands from appropriation under the public land laws for a period of 2 years, including location under the Mining Law, but not the Mineral Leasing Act or the Materials Act, subject to valid existing rights.

**DATES:** To ensure comments will be considered, the BLM must receive written comments on the Searchlight Wind Energy Project Draft EIS within 90 days following the date the Environmental Protection Agency publishes this Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

**ADDRESSES:** You may submit comments related to the Searchlight Wind Energy Project by any of the following methods:

- *Web site:* [http://www.blm.gov/nv/st/en/fo/lvfo/blm\\_programs/energy/search\\_light\\_wind\\_energy.html](http://www.blm.gov/nv/st/en/fo/lvfo/blm_programs/energy/search_light_wind_energy.html)
- *Email:* [BLM\\_NV\\_SNDO\\_SearchlightWindEnergyEIS@blm.gov](mailto:BLM_NV_SNDO_SearchlightWindEnergyEIS@blm.gov).
- *Fax:* (702) 515-5010, attention Gregory Helseth.

• *Mail:* BLM Las Vegas Field Office, Attn: Gregory Helseth, 4701 North Torrey Pines Drive, Las Vegas, NV 89130-2301.

Copies of the Searchlight Wind Energy Project are available in the Las Vegas Field Office at the above address.

**FOR FURTHER INFORMATION CONTACT:** Gregory Helseth, Renewable Energy Project Manager, (702) 515-5173; 4701 North Torrey Pines Drive, Las Vegas, NV 89130-2301; email: [BLM\\_NV\\_SNDO\\_SearchlightWindEnergyEIS@blm.gov](mailto:BLM_NV_SNDO_SearchlightWindEnergyEIS@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:** Searchlight Wind Energy, LLC (SWE), a wholly owned subsidiary of Duke Energy, applied to the BLM for a right-of-way (ROW) grant on public lands to develop a 200-megawatt (MW) wind energy facility. The ROW application area encompasses approximately 18,789.71 acres of BLM-administered public lands adjacent to Searchlight, located approximately 60 miles southeast of Las Vegas, in Clark County, Nevada. The project is in conformance with the 1998 Las Vegas Resource Management Plan.

The proposed wind turbines would be up to 262-foot-tall from the ground to the hub with blades extending up to an additional 153 feet. The total height of each turbine would be up to 415 feet. In addition to the wind turbines, the proposed project would require the construction of new access roads, two electrical substations, an overhead transmission line connecting the two substations, an electrical interconnection facility/switchyard owned and operated by Western Area Power Administration (Western), an operations and maintenance building, and temporary and permanent laydown areas. Three permanent meteorological masts would remain on the site to measure the wind speed and direction across the site over the life of the project.

SWE has requested to interconnect its proposed project to the electrical transmission grid via Western's Davis-Mead 230-kilovolt (kV) transmission line. Western, a Federal agency, is participating in the EIS process as a cooperating agency and may use the EIS to support its decision to approve or deny SWE's interconnection request. Western has also submitted a ROW application to the BLM for construction and operation of the electrical interconnection facility/switchyard, which is analyzed as part of this EIS.

The proposed action analyzed in the Draft EIS is to approve the project in response to the applications received from SWE and Western. Three alternatives are analyzed in the Draft EIS—an 87 wind turbine layout, a 96 wind turbine alternative, and a no-action alternative. The 87 wind turbine

alternative is the BLM's preferred alternative and has a smaller footprint than the 96 wind turbine alternative. The Draft EIS describes and analyzes the project's site-specific impacts on air quality, biological resources, cultural resources, environmental justice, geological resources, human health, and hazardous materials, lands and realty, noise, noxious weeds, paleontological resources, recreation, socioeconomic resources, transportation, visual resources and water resources.

A Notice of Intent was published in the **Federal Register** on December 16, 2008 (73 FR 76377). The BLM held three public scoping meetings in Searchlight, Laughlin, and Boulder City, Nevada, on January 27, 28, and 29, 2009, respectively. The formal scoping period ended on February 17, 2009. Sixty-six comment submissions were received, which identified 384 issues. The issues are grouped into 14 main issue categories: Process, project alternatives, project description, project need, air quality, cultural, hazardous materials, land use, noise, socioeconomic, vegetation, visual, water, and cumulative impacts.

Maps of the proposed project area and the alternatives analyzed in the Draft EIS are available at the Las Vegas Field Office. Please note that public comments and information submitted will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays. 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.

In connection with its processing of SWE's and Western's application, the BLM is also segregating the public lands within the project application area for the project from appropriation under public land laws, including the Mineral Law of 1872, as amended, but not the Mineral Leasing or the Material Sales Acts, for a period of 2 years from the date of publication of this notice. This is done under the authority contained in 43 CFR 2091.3-1(e) and 43 CFR 2804.25(e), and is subject to valid existing rights. The public lands contained within this temporary segregation total approximately 18,789.71 acres and are described as follows:

**Mount Diablo Meridian**

T. 28 S., R. 63 E.,

Sec. 22, that portion of the E $\frac{1}{2}$ SE $\frac{1}{4}$  lying east of the easterly right-of-way of S.R. 95 NVCC-020733;

Sec. 23, that portion lying east of the easterly right-of-way of S.R. 95 NVCC-020733, excepting Patent No. 27-72-0013, and patented mineral surveys;

Sec. 24, excepting patented mineral surveys;

Sec. 25, excepting patented mineral surveys;

Sec. 26, excepting patented mineral surveys;

Sec. 27, those portions of lots 1, 8, 9, 10, 14, and 15 lying east of the easterly right-of-way of S.R. 95 NVCC-020733.

T. 29 S., R. 63 E.,

Sec. 1;

Sec. 11, that portion lying east of airport leases NEV-065340 and N-81843;

Sec. 12, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;

Sec. 13;

Sec. 14, that portion lying east of the easterly right-of-way of S.R. 95 NVCC-020845, excepting airport lease NEV-065340;

Sec. 24, that portion lying east of the easterly right-of-way of S.R. 95 NVCC-020845;

Sec. 25, that portion lying east of the easterly right-of-way of S.R. 95 NVCC-020845.

T. 28 S., R. 64 E.,

Secs. 19 and 20;

Sec. 26, those portions of the N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , and W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , lying north of the northerly right-of-way of Cottonwood Cove Road;

Secs. 27 and 28;

Sec. 29, excepting patented mineral surveys;

Sec. 30, excepting patented mineral surveys;

Sec. 31, excepting patented mineral surveys;

Sec. 32, excepting patented mineral surveys;

Secs. 33 and 34.

T. 29 S., R. 64 E.,

Sec. 4;

Sec. 5, excepting patented mineral surveys;

Secs. 6 to 8 inclusive, 17 to 20 inclusive, and 29 and 30.

The area described contains 18,789.71 acres, more or less, in Clark County, Nevada.

The BLM has determined that this temporary segregation is necessary to ensure the orderly administration of the public lands by maintaining the status quo while it processes SWE's and Western's ROW applications for the above described lands. The temporary segregation period will terminate and the lands will automatically reopen to appropriation under the public land laws, including the Mining Law, if one of the following events occurs: (1) The BLM issues a decision granting, granting with modifications, or denying SWE's

and Western's ROW authorization request; (2) Publication in the **Federal Register** of a notice terminating this segregation; or (3) No further administrative action occurs at the end of this segregation. Any segregation made under this authority is effective only for a period of up to 2 years.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.10.

**Vanessa Hice,**

*Assistant Field Manager, Division of Lands.*

[FR Doc. 2012-940 Filed 1-19-12; 8:45 am]

**BILLING CODE 4310-HC-P**

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

[LLIDB00100 LF100000.HT0000 LXSS024D0000 4500031313]

**Notice of Public Meeting: Resource Advisory Council to the Boise District, Bureau of Land Management, U.S. Department of the Interior**

**AGENCY:** Bureau of Land Management, U.S. Department of the Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Boise District Resource Advisory Council (RAC), will hold a meeting as indicated below.

**DATES:** The meeting will be held March 21, 2012, at the Boise District Office, located at 3948 S. Development Avenue, Boise, Idaho, beginning at 9 a.m. and adjourning at 4:30 p.m. Members of the public are invited to attend. A public comment period will be held.

**FOR FURTHER INFORMATION CONTACT:** MJ Byrne, Public Affairs Officer and RAC Coordinator, BLM Boise District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384-3393.

**SUPPLEMENTARY INFORMATION:** The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in southwestern Idaho. Items on the agenda include reports by the RAC's Resource Management Plan Subgroup on its collaboration with the development of the Four Rivers Field Office Resource Management Plan. A progress report on the Paradigm Project will be provided by the District's Fuels Program, and the environmental impact statement for renewal of 25 grazing permits in western Owyhee County. An update will also be given on

accomplishments during FY 2011 and plans for FY2012, related to implementation of the Omnibus Public Lands Management Act of 2009, Subpart F—Owyhee Public Land Management. Each field manager will discuss progress being made on priority actions in their offices. Agenda items and location may change due to changing circumstances. The public may present written or oral comments to members of the Council. At each full RAC meeting, time is provided in the agenda for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance should contact the BLM Coordinator as provided above. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800) 877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

Dated: January 12, 2012.

**Aden L. Seidlitz,**

*District Manager.*

[FR Doc. 2012-1119 Filed 1-19-12; 8:45 am]

**BILLING CODE 4310-GG-P**

**INTERNATIONAL TRADE COMMISSION**

[DN 2871]

**Certain Video Displays and Products Using and Containing Same; Receipt of Complaint; Solicitation of Comments Relating to the Public Interest**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Video Displays and Products Using and Containing Same*, DN 2871; the Commission is soliciting comments on any public interest issues raised by the complaint.

**FOR FURTHER INFORMATION CONTACT:** James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS)

at <http://edis.usitc.gov>, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint filed on behalf of Mondis Technology, Ltd. on January 13, 2012. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain video displays and products using and containing same. The complaint names Chimei Innolux Corporation of Taiwan; and Innolux Corporation of Austin, TX, as respondents.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the orders are used in the United States;
- (ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;
- (iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and
- (iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles

potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, eight business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number ("Docket No. 2871") in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/documents/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf)). Persons with questions regarding electronic filing should contact the Secretary (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: January 17, 2012.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012-1093 Filed 1-19-12; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-487 (Second Remand)]

### Certain Agricultural Vehicles and Components Thereof Final Determination; Reinstatement of General Exclusion Order and Cease and Desist Orders; Termination of the Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), by respondents Bourdeau Bros., Inc., Sunova Implement Co., and OK Enterprises in the above-captioned remand investigation. The Commission has reinstated the general exclusion order with respect to subject self-propelled forage harvesters and the cease and desist orders against Bourdeau and OK Enterprises and certain other firms that it had issued in the original investigation, and has terminated the investigation.

**FOR FURTHER INFORMATION CONTACT:** Mark B. Rees, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-3116. 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 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>. 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 remand of this investigation involves the gray market claims of Deere & Co. ("Deere") that Bourdeau Bros., Inc., Sunova Implement Co., and OK Enterprises (collectively, "the Bourdeau respondents") violated section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the

United States after importation of Deere's European version ("EV") self-propelled forage harvesters ("SPFHs") by reason of infringement of U.S. Registered Trademarks Nos. 1,254,339; 1,502,103; 1,503,576; 91,860; and 2,729,766. In the original investigation, the Commission determined that there was a violation of section 337 and issued, in relevant part, a general exclusion order covering EVSPFHs and cease and desist orders directed to certain of the Bourdeau respondents and other respondents.

On appeal to the United States Court of Appeals for the Federal Circuit, the Court vacated the determination of violation against the Bourdeau respondents and remanded for findings on whether domestic sales of EVSPFHs by official Deere dealers were authorized by Deere and whether all or substantially all of the SPFH's authorized by Deere for sale in the domestic market were of its North American version ("NA") SPFHs. *Bourdeau Bros., Inc. v. Int'l Trade Comm'n*, 444 F.3d 1317 (Fed. Cir. 2006).

Following receipt of the mandate, the Commission rescinded its remedial orders with respect to EVSPFHs and referred the investigation to the original presiding administrative law judge ("ALJ"). The ALJ considered and denied cross-motions for summary determination on the remanded issues, conducted an evidentiary hearing, and issued an initial determination on remand ("RID") of violation of section 337. The Bourdeau respondents petitioned for review. The Commission determined to review the ALJ's summary determination order and the RID. Based on additional rounds of briefing and its review of the entire record, the Commission issued a final determination that there was no violation of section 337. The Commission found that Deere failed to prove that sales of EVSPFHs in the United States by its official dealers were not authorized and also failed to prove that substantially all of the authorized sales of Deere SPFHs in the United States were NASPFHs.

Deere appealed. On appeal, the Court vacated and remanded for further proceedings. *Deere & Co. v. Int'l Trade Comm'n*, 605 F.3d 1350 (Fed. Cir. 2010). The Court upheld the Commission's consideration of official Deere dealer sales and found that substantial evidence supported the determination that sales of EVSPFHs in the United States by official U.S. and European Deere dealers were authorized. *Id.* at 1355–58. The Court further ruled, however, that the Commission misapplied the "all or substantially all"

test by using the wrong denominator and taking into consideration the ratio of authorized sales of EVSPFHs to the total number of EVSPFHs sold in the United States. *Id.* at 1358–62. The Court remanded for consideration, based on its instructions, of whether Deere satisfied the requirement that substantially all of its SPFH sales in the United States were of NASPFHs. *Id.* at 1362. The Court's mandate, issued July 19, 2010, was received by the Commission on July 23, 2010.

On October 14, 2010, the Commission requested briefing by the parties on the merits of the remand. Deere and the Bourdeau respondents completed briefing on December 10, 2010.

Based on the record of this investigation, including the Court's instructions on remand and the parties' briefing on remand, the Commission determined that Deere has established that substantially all of its U.S. SPFH sales were of NASPFHs and therefore has met its burden of proof on remand to satisfy the "all or substantially all" test for gray market trademark infringement and, accordingly, is entitled to a determination of violation of section 337 and the reinstatement of the exclusion order and cease and desist orders with respect to EVSPFHs issued by the Commission in the original investigation.

The Commission has terminated the investigation in accordance with the above findings on remand. 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 Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Issued: January 13, 2012.

By order of the Commission.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012-1028 Filed 1-19-12; 8:45 am]

**BILLING CODE 7020-02-P**

## **INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 337-TA-773]**

### **Certain Motion-Sensitive Sound Effects Devices and Image Display Devices and Components and Products Containing Same; Termination of Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade

Commission has determined not to review an initial determination ("ID") (Order No. 61) granting a joint motion to terminate the above-captioned investigation as to respondents Toshiba Corporation of Tokyo, Japan, and Toshiba America Information Systems, Inc., of Irvine, California (collectively, "Toshiba") based on a settlement agreement. Because the Toshiba entities were the last remaining entities in the investigation, the consolidated 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 May 19, 2011, based on a complaint filed by Ogma, LLC ("Ogma"). 76 FR 29006 (May 19, 2011). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain motion-sensitive sound effects devices and image display devices and components and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 5,825,427 ("the '427 patent") and 6,150,947 ("the '947 patent").

The Commission instituted Inv. No. 337-TA-787 on July 18, 2011, based on another complaint filed by Ogma. 76 FR 42136 (July 18, 2011). The complaint in the latter investigation alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) by reason of infringement of the same patents asserted in the earlier 773 investigation, namely the '427 patent and the '947 patent. The complaint in the 787

investigation named numerous respondents, including Toshiba.

On July 19, 2011, the ALJ issued an order (Inv. No. 337-TA-787, Order No. 1) consolidating the 787 investigation with the 773 investigation. The consolidated investigation proceeded under the caption of the 773 investigation.

On December 13, 2011, Ogma and Toshiba filed a joint motion to terminate the investigation as to Toshiba based on a settlement agreement. On December 21, 2011, the ALJ issued the subject ID (Order No. 61) granting the motion to terminate the investigation as to Toshiba. Because the Toshiba entities were the last remaining respondents in the investigation, the ALJ also determined that the investigation should be terminated. No petitions for review of the ID were filed.

The Commission has determined not to review the ID. The consolidated 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).

By order of the Commission.

Issued: January 13, 2012.

**James R. Holbein,**

Secretary to the Commission.

[FR Doc. 2012-1030 Filed 1-19-12; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

[OMB Number 1125-0002]

### Agency Information Collection Activities: Proposed Collection; Comments Requested: Notice of Appeal From a Decision of an Immigration Judge

**ACTION:** 30-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 76 Number 220, pages 70754-70755, on November 15, 2011, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 21, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530.

Additionally, comments may also be submitted to OMB via facsimile to (202) 395-5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice of Appeal from a Decision of an Immigration Judge.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form EOIR 26, Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* A party (either the U.S. Immigration and Customs Enforcement of the Department of Homeland Security or the respondent/applicant) who appeals a decision of an Immigration Judge to the Board of Immigration Appeals (Board). *Other:*

None. *Abstract:* A party affected by a decision of an Immigration Judge may appeal that decision to the Board, provided the Board has jurisdiction pursuant to 8 CFR 1003.1(b). An appeal from an Immigration Judge's decision is taken by completing the Form EOIR-26 and submitting it to the Board.

(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 19,201 respondents will complete the form annually with an average of thirty minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 9,600.5 total burden hours associated with this collection annually.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E-508, Washington, DC 20530.

**Jerri Murray,**

Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2012-1055 Filed 1-19-12; 8:45 am]

BILLING CODE 4410-30-P

## DEPARTMENT OF JUSTICE

[OMB Number 1123-0009]

### Agency Information Collection Activities: Information Collection Renewal; Comments Requested: Inspection of Records Relating to Visual Depictions of Simulated Sexually Explicit Performances

**ACTION:** 60-Day notice of information collection.

The Department of Justice (DOJ), Criminal Division, Child Exploitation and Obscenity Section (CEOS) will submit the following information collection renewal to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection renewal is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until March 20, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated number of respondents, estimated public burden or associated response time, suggestions, or need

additional information, please contact Andrew G. Oosterbaan, Chief, Child Exploitation and Obscenity Section, Criminal Division, United States Department of Justice, Washington, DC 20530, email: [admin.ceos@usdoj.gov](mailto:admin.ceos@usdoj.gov), phone: (202) 514-5780. This is not a toll-free number.

Written comments and suggestions from the public and affected agencies concerning the collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) How to enhance the quality, utility, and clarity of the information to be collected; and

(4) How to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Summary of Information Collection

(1) *Type of Information Collection:* Renewal of a currently approved collection.

(2) *Title:* Inspection of Records Relating to Visual Depictions of Simulated Sexually Explicit Performances.

(3) *Agency form number, if any:* None.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None.

Abstract: This is a renewal of an existing information collection implementing the record-keeping, labeling, and inspection requirements of 28 CFR part 75, accounting for changes in the underlying statute made by Congress in enacting the Adam Walsh Child Protection and Safety Act of 2006.

#### Need for Collection

The information collection documents the record-keeping, labeling, and inspection requirements for producers of visual depictions of actual and simulated sexually explicit conduct, and the certification regime for the exemption from these requirements, in certain circumstances, for producers of visual depictions of simulated sexually explicit conduct and visual depictions

of actual sexually explicit conduct constituting the lascivious exhibition of the genitals or pubic area of a person. These statutory requirements of 28 CFR part 75, codified at 18 U.S.C. 2257 and 2257A, are designed to ensure that visual depictions of sexually explicit conduct are produced in accordance with laws and regulations, and without the involvement of minors under 18 years of age.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The Department is unable to estimate with any precision the number of entities producing visual depictions of simulated sexually explicit conduct. As a partial indication, the Department's 2008 regulatory review, including the information collection request and PRA Supporting Statement (RIN 1105-AB19), cited data collected by the U.S. Census Bureau in 2002. Employing the same method of analysis, according to data collected by the U.S. Census Bureau in 2007, there were 11,974 establishments engaged in motion picture and video production in the United States. Based on a rough assumption that 10% of the establishments are engaged in the production of visual depictions of simulated sexually explicit conduct, the Department estimates that approximately 1,974 motion picture and video producing establishments are required to comply with these statutory requirements. (The Department does not certify this estimate.)

Additionally, the statute provides an exemption from these requirements applicable in certain circumstances, and it requires producers to submit certifications to qualify for this exemption. From March 18, 2009, the effective date of the certification regime, to the present, the Department has received approximately 865 certification letters. For the entities that qualify for the exemption, the Department estimates that it would take less than 20 hours per year to prepare the biennial certification required for the exemption.

(6) An estimate of the total public burden (in hours) associated with the collection: If OMB were to assume that 3,000,000 visual depictions of simulated sexually explicit conduct are created each year and that it requires 6 minutes to complete the record-keeping requirement for each depiction, the record-keeping requirements would impose a burden of 300,000 hours. If, however, OMB were to assume that producers of 90% of these depictions qualify for the statutory exemption from these requirements, the requirements would only impose a burden of 30,000 hours (These estimates were included in

the Department's 2008 regulatory review, including the information collection request and PRA Supporting Statement (RIN 1105-AB19). The Department does not certify the accuracy of these numbers.)

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, Room 2E-508, 145 Street NE., Washington, DC 20530.

**Jerri Murray,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2012-1058 Filed 1-19-12; 8:45 am]

**BILLING CODE 4410-14-P**

## DEPARTMENT OF JUSTICE

[OMB Number 1125-0001]

### Agency Information Collection Activities: Proposed Collection; Comments Requested: Application for Cancellation of Removal for Certain Permanent Residents (42A) and Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents (42B)

**ACTION:** 30-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 76, Number 220, page 70754 on November 15, 2011, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 21, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments also may be submitted to OMB via facsimile to (202) 395-5806. Written comments and

suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Cancellation of Removal (42A) for Certain Permanent Residents; (42B) and Adjustment of Status for Certain Nonpermanent Residents.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Numbers: EOIR-42A, EOIR-42B. Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual aliens determined to be removable from the United States. Other: None. Abstract: This information collection is necessary to determine the statutory eligibility of individual aliens who have been determined to be removable from the United States for cancellation of their removal, as well as to provide information relevant to a favorable exercise of discretion.

(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 26,627 respondents will complete the form annually with an average of 5 hours, 50 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 149,405 total annual burden hours associated with this collection annually.

*If additional information is required contact:* Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E-508, Washington, DC 20530.

**Jerri Murray,**

*Department Clearance Officer, PRA, United States Department of Justice.*

[FR Doc. 2012-1056 Filed 1-19-12; 8:45 am]

**BILLING CODE 4410-30-P**

#### DEPARTMENT OF JUSTICE

#### Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-0031]

#### Agency Information Collection Activities: Proposed Collection; Comments Requested; Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition and Implements of War on the U.S. Munitions Imports List

**ACTION:** 30-Day notice of information collection.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 76, Number 220, Page 70758, on Tuesday, November 15, 2011, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 21, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or fax them to (202) 395-7285. All comments should reference the eight digit OMB

number for the collection or the title of the collection. If you have questions concerning the collection, please contact William Majors, [William.Majors@atf.gov](mailto:William.Majors@atf.gov), Firearms and Explosives Import Branch, 244 Needy Road, Martinsburg, West Virginia 25405.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition and Implements of War on the U.S. Munitions Imports List.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None.

#### Need for Collection

The records are of imported items that are on the United States Munitions Import List. The importers must register with ATF and file an intent to import specific items as well as certify to the Bureau that the items were in fact received. The records are maintained at the registrant's business premises where they are available for inspection by ATF officers during compliance inspections or criminal investigations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 50 respondents will take 5 hours to maintain the records.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 250 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, Room 2E-508, 145 Street NE., Washington, DC 20530.

**Jerri Murray,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2012-1054 Filed 1-19-12; 8:45 am]

**BILLING CODE 4410-FY-P**

---

## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-0060]

#### Agency Information Collection Activities: Proposed Collection; Comments Requested: Firearms Disabilities for Nonimmigrant Aliens

**ACTION:** 30-Day notice of information collection.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 76, Number 220, Page 70757 on Tuesday, November 15, 2011 allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until [insert the date 30 days from the date this notice is published in the **Federal Register**]. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn.: DOJ Desk Officer. The best way to ensure your comments are

received is to email them to [aira\\_submission@omb.eop.gov](mailto:aira_submission@omb.eop.gov) or fax them to (202) 395-7285. All comments should reference the eight digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please contact, Nicholas O'Leary, [nicholas.oleary@atf.gov](mailto:nicholas.oleary@atf.gov) Firearms Industry Programs Branch, 99 New York Avenue NE., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Firearms Disabilities for Nonimmigrant Aliens.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None.

#### Need for Collection

The nonimmigrant alien information will be used to determine if a nonimmigrant alien is eligible to purchase, obtain, possess, or import a firearm. Nonimmigrant aliens also must maintain the documents while in possession of firearms or ammunition in the United States for verification purposes.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that 12,100 respondents will take an estimated 6 minutes to report the information.

(6) An estimate of the total public burden (in hours) associated with the collection: There are an estimated 1,210 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, Room 2E-508, 145 N Street NE., Washington, DC 20530.

**Jerri Murray,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2012-1057 Filed 1-19-12; 8:45 am]

**BILLING CODE 4410-FY-P**

---

## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-0067]

#### Agency Information Collection Activities: Proposed Collection; Comments Requested; Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data

**ACTION:** 30-Day notice of information collection.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 76, Number 220, Page 70756, on Tuesday, November 15, 2011, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 21, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are

received is to email them to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or fax to (202) 395-7285. All comments should reference the eight digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please contact Nicholas O'Leary, [nicholas.oleary@atf.gov](mailto:nicholas.oleary@atf.gov) phone: (202) 648-7264 or the DOJ Desk Officer at (202) 395-3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Licensed Firearms Manufacturers Records of Production, Disposition, and Supporting Data.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection, Form Number:* None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None.

#### Need for Collection

Firearms manufacturers records are permanent records of all firearms manufactured and records of their disposition. These records are vital to support ATF's mission to inquire into

the disposition of any firearm in the course of a criminal investigation.

(5) *An estimate of the total number of respondents and the amount of time for an average respondent to respond:* It is estimated that 1,694 respondents will take 3 minutes to maintain the records.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 76,611 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, Room 2E-508, 145 N Street NE., Washington, DC 20530.

**Jerri Murray,**

*Department Clearance Officer, PRA U.S. Department of Justice.*

[FR Doc. 2012-1062 Filed 1-19-12; 8:45 am]

**BILLING CODE 4410-FY-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Shipbuilding Research Program

Notice is hereby given that, on December 20, 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"), National Shipbuilding Research Program ("NSRP") 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, the following members have changed their names: Northrop Grumman Shipbuilding, Inc.—Gulf Coast Operations (encompassing the Pascagoula and Avondale shipyards) to Ingalls Shipbuilding, a division of Huntington Ingalls Incorporated, Pascagoula, MS, and Avondale, LA; Northrop Shipbuilding, Inc.—Newport News Building to Newport News Building, a division of Huntington Ingalls Incorporated, Newport News, VA; and Todd Pacific Shipyards Corporation to Vigor Shipyards, Inc, Seattle, WA.

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 NSRP intends to file additional written notifications disclosing all changes in membership.

On March 13, 1998, NSRP 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 January 29, 1099 (64 FR 4708).

The last notification was filed with the Department on November 29, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 17, 2010 (75 FR 79025).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2012-1052 Filed 1-19-12; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, 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"), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cineflix Productions, Inc., Toronto, CANADA; Cognizant, Teaneck, NJ; Globecomm, Hauppauge, NY; Terry Harvey (individual member), Carbondale, IL; and Al Kovalick (individual member), Santa Clara, CA, have been added as parties to this venture.

Also, Hula Media, Long Island City, NY; John A. Hoehn (individual member), Pennsville, NJ; Peter Humphrey (individual member), San Francisco, CA; Isak Johnsson (individual member), Sollentuna, SWEDEN; George Luff (individual member), Sewickley, PA; Matt Pearcey (individual member), Wells, UNITED KINGDOM; and Jason Schwartz (individual member), Las Vegas, NV, have withdrawn as parties 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 Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. 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 June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on September 26, 2011. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 26, 2011 (76 FR 66324).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2012-1059 Filed 1-19-12; 8:45 am]

**BILLING CODE 4410-11-P**

## DEPARTMENT OF LABOR

### Office of the Secretary

#### **Agency Information Collection Activities; Submission for OMB Review; Comment Request; Evaluation of the Reintegration of Ex-Offenders—Adult Program**

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) proposal titled, "Evaluation of the Reintegration of Ex-Offenders—Adult Program," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

**DATES:** Submit comments on or before February 21, 2012.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, <http://www.reginfo.gov/public/do/PRAMain>, on the day following publication of this notice or by contacting Michel Smyth by telephone at (202) 693-4129 (this is not a toll-free number) or sending an email to [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request to the Office of Information and

Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: (202) 395-6929/Fax: (202) 395-6881 (these are not toll-free numbers), email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at (202) 693-4129 (this is not a toll-free number) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** The ETA seeks to collect information from program participants and staff in the random assignment evaluation of the Reintegration of Ex-Offenders-Adult Program (RExO). This evaluation will examine the impact of comprehensive employment-centered services on newly released prisoners' employment, earnings, and recidivism. The evaluation team will compare the outcomes of interest for RExO service recipients with those of eligible individuals who are randomly assigned to the control group and do not receive RExO services. The ETA requests approval to conduct two rounds of participant surveys to learn about participant characteristics and outcomes of RExO, a joint initiative launched in 2005 of the DOL, the Department of Justice (DOJ), and several other federal agencies. The purpose of the RExO, formerly known as the Prisoner Re-Entry Initiative (PRI), is to provide employment-centered services as well as case management, mentoring and a range of other supportive services to nonviolent offenders newly released from prison. The initiative builds on several earlier and ongoing federal reentry programs; including Weed and Seed, the Serious and Violent Offender Reentry Initiative, the Reentry Partnership Initiative, and, most directly, Ready4Work. RExO grantee programs follow a three-stage reentry framework that begins with pre-release services, progresses through structured reentry, and culminates in community reintegration.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the

collection of information does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on March 8, 2011 (76 FR 12758).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB ICR Reference Number 201105-1205-003. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

*Agency:* Employment and Training Administration (ETA).

*Title of Collection:* Evaluation of the Reintegration of Ex-Offenders—Adult Program.

*OMB ICR Reference Number:* 201105-1205-003.

*Affected Public:* Individuals or households; and State, Local, and Tribal Governments.

*Total Estimated Number of Respondents:* 3,286.

*Total Estimated Number of Responses:* 7,182.

*Total Estimated Annual Burden Hours:* 3,879.

*Total Estimated Annual Other Costs Burden:* \$0.

Dated: January 5, 2012.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2012-1050 Filed 1-19-12; 8:45 am]

**BILLING CODE 4510-FT-P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee

**AGENCY:** The National Endowment for the Humanities.

**ACTION:** Notice of meeting.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue NW., Washington, DC 20506, in Room 730, from 9 a.m. to 5 p.m., on Monday, February 6, 2012.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after April 1, 2012.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemption (4) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact Advisory Committee Management Officer, Lisette Voyatzis, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 606-8322.

**Lisette Voyatzis,**

*Advisory Committee Management Officer.*

[FR Doc. 2012-1101 Filed 1-19-12; 8:45 am]

**BILLING CODE 7536-01-P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Intent To Extend an Information Collection

**AGENCY:** National Science Foundation.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the

National Science Foundation (NSF) will publish periodic summaries of proposed projects.

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

**DATES:** Written comments on this notice must be received by March 20, 2012 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

#### FOR ADDITIONAL INFORMATION OR

**COMMENTS:** Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292-7556; or send email to [splimpto@nsf.gov](mailto:splimpto@nsf.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800) 877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

#### SUPPLEMENTARY INFORMATION:

*Title of Collection:* Request for Proposals.

*OMB Approval Number:* 3145-0080.

*Expiration Date of Approval:* July 31, 2012.

*Type of Request:* Intent to seek approval to extend an information collection for three years.

*Proposed Project:* The Federal Acquisition Regulations (FAR) Subpart 15.2—"Solicitation and Receipt of Proposals and Information" prescribes policies and procedures for preparing and issuing Requests for Proposals. The FAR System has been developed in accordance with the requirement of the Office of Federal Procurement Policy Act of 1974, as amended. The NSF Act of 1950, as amended, 42 U.S.C. 1870, Sec. II, states that NSF has the authority to:

(c) Enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other

government agencies of the United States and of foreign countries, of such scientific or engineering activities as the Foundation deems necessary to carry out the purposes of this Act, and, at the request of the Secretary of Defense, specific scientific or engineering activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements or modifications thereof, may be entered into without legal consideration, without performance or other bonds and without regard to section 5 of title 41, U.S.C.

*Use of the Information:* Request for Proposals (RFP) is used to competitively solicit proposals in response to NSF need for services. Impact will be on those individuals or organizations who elect to submit proposals in response to the RFP. Information gathered will be evaluated in light of NSF procurement requirements to determine who will be awarded a contract.

*Estimate of Burden:* The Foundation estimates that, on average, 558 hours per respondent will be required to complete the RFP.

*Respondents:* Individuals; business or other for-profit; not-for-profit institutions; Federal government; state, local, or tribal governments.

*Estimated Number of Responses:* 75.

*Estimated Total Annual Burden on Respondents:* 41,850 hours.

Dated: January 17, 2012.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2012-1134 Filed 1-19-12; 8:45 am]

**BILLING CODE 7555-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2012-0010]

### Knowledge and Abilities Catalog for Nuclear Power Plant Operators: Advanced Boiling Water Reactors

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft NUREG; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft NUREG, NUREG-2104, Revision 0, "Knowledge and Abilities Catalog for Nuclear Power Plant Operators: Advanced Boiling Water Reactors."

**DATES:** Submit comments by December 31, 2018. Comments received after this

date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Please include Docket ID NRC-2012-0010 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 of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2012-0010. Address questions about NRC dockets to Carol Gallagher (301) 492-3668; email [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* 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, or by fax to RADB at (301) 492-3446.

- *Fax comments to:* RADB at (301) 492-3446.

**FOR FURTHER INFORMATION CONTACT:**

Richard Pelton, Division of Construction Inspection and Operational Programs, Office of New Reactors, TWFN Mail Stop 07-D24, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Phone: (301) 415-1028, email: [Rick.Pelton@nrc.gov](mailto:Rick.Pelton@nrc.gov) or James Kellum, Division of Construction Inspection and Operational Programs, Office of New Reactors, TWFN Mail Stop 07-D24, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; Phone: (301) 415-5305, email: [Jim.Kellum@nrc.gov](mailto:Jim.Kellum@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](mailto:pdr.resource@nrc.gov). The draft NUREG is available electronically under ADAMS Accession No. ML11354A280. The draft NUREG will also be accessible through the NRC's public site under draft NUREGs for comment.

- *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-2012-0010.

**Discussion**

The draft NUREG provides the basis for the development of content-valid licensing examinations for reactor operators (ROs) and senior reactor operators (SROs). The examinations developed using this Catalog along with the Operator Licensing Examination Standards for Power Reactors (NUREG-1021) will sample the topics listed under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 55.

Dated at Rockville, Maryland, this 9th day of January 2012.

For the Nuclear Regulatory Commission,

**Veronica Rodriguez,**

*Acting Chief, Operator Licensing and Human Performance Branch, Division of Construction Inspection and Operational Programs, Office of New Reactors.*

[FR Doc. 2012-1063 Filed 1-19-12; 8:45 am]

**BILLING CODE 7590-01-P**

**NUCLEAR REGULATORY COMMISSION**

[NRC-2012-0005; IA-11-032]

**In the Matter of Mr. Francis Guilbeau; Order Prohibiting Involvement in NRC-Licensed Activities**

**I**

Mr. Francis Guilbeau was employed as a Radiographer at Accurate NDE & Inspection, LLC, (Accurate NDE or Licensee) located in Broussard, Louisiana, in March 2010. Accurate NDE is the holder of a general license issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 150.20. This general license was granted to Accurate NDE at various times during calendar years between 2005 through 2011.

**II**

On May 26, 2010, the NRC conducted a special inspection of licensed activities involving the use of byproduct material for industrial radiography conducted under a general license pursuant to the provisions of 10 CFR 150.20. The inspection was conducted in response to an event that occurred on March 15, 2010, involving the loss of a sealed source of iridium-192 while performing licensed activities in offshore Federal waters. On June 28, 2010, the NRC's Office of Investigations, Region IV, began an investigation (Case No. 4-2010-062) to determine, in part, whether Mr. Guilbeau: (1) Willfully failed to follow operating procedures by attempting to retrieve a disconnected source without making the proper notifications and obtaining authorization from the Accurate NDE radiation safety officer (RSO); and (2) willfully recorded an inaccurate number for a pocket dosimeter reading on the Accurate NDE Daily Radiation Report dated March 14, 2010. By letter dated July 28, 2011 (ML11209B637), the NRC informed Mr. Guilbeau that the NRC was considering escalated enforcement action for two apparent violations of NRC's deliberate misconduct rule, 10 CFR 30.10. The NRC offered Mr. Guilbeau the opportunity to request a predecisional enforcement conference or request alternative dispute resolution (ADR) with the NRC in an attempt to resolve issues associated with this matter. In response, Mr. Guilbeau requested a predecisional enforcement conference. A predecisional enforcement conference was held with Mr. Guilbeau on August 25, 2011, in an

effort to obtain Mr. Guilbeau's point of view on the violations.

Based on the NRC review of the information obtained during the predecisional enforcement conference, the inspection and the investigation, two violations of the NRC's rule prohibiting deliberate misconduct, 10 CFR 30.10, were identified. First, Mr. Guilbeau engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1) by causing Accurate NDE to be in violation of 10 CFR 150.20(b)(5), which requires Accurate NDE to comply with the terms of its State license. Paragraph 21A of the Louisiana State license required Accurate NDE to follow its operating procedures. Accurate NDE's operating procedures prohibit a radiographer from retrieving a disconnected source unless he contacts the radiation safety officer (RSO) first and obtains authorization. Mr. Guilbeau did not contact the RSO or obtain authorization from the RSO prior to attempting retrieval of the source. Therefore, Mr. Guilbeau's actions caused Accurate NDE to be in violation of its Louisiana State license, and 10 CFR 150.20. During an interview with the Office of Investigations, Mr. Guilbeau admitted that he tried to retrieve the source without first contacting the RSO. Mr. Guilbeau also stated in this interview that he knew radiographers were not supposed to retrieve a source. In a written test on Accurate NDE's procedures taken on March 10, 2010, four days prior to going out on this job, Mr. Guilbeau chose the correct response to a question asking what to do in the event of a source disconnect—a further indication that he knew it was necessary to contact the RSO and that he was not supposed to attempt to put the source back in the camera.

This incident occurred on Mr. Guilbeau's first job back with Accurate NDE after several years working elsewhere. During his previous tenure with Accurate NDE in 2004–2006, Mr. Guilbeau was involved in a similar incident and in that case, he immediately called the office. At the predecisional enforcement conference held on August 25, 2011, Mr. Guilbeau stated repeatedly that his primary aim was to get the “pill” hooked back up so he could start X-raying again. He also indicated that he should have contacted the office first, but it was his first job back with Accurate NDE, and he just wanted to get the work done without any complications.

Because Mr. Guilbeau knew that he was supposed to contact the RSO before attempting to retrieve a source but did not do so, and because his actions

caused the license to be in violation of 10 CFR 150.20(b)(5), Mr. Guilbeau's actions constitute deliberate misconduct pursuant to 10 CFR 30.10(a)(1). During the attempted source retrieval, the licensee's conclusion was that the source fell through the grating on the deck of the platform into the Gulf of Mexico. Therefore, as a result of Mr. Guilbeau's actions, the source was lost.

Second, Mr. Guilbeau engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(2) by deliberately submitting to Accurate NDE, an NRC general licensee, information that he knew was inaccurate in some material respect. Specifically, Mr. Guilbeau recorded a number for a pocket dosimeter reading associated with work performed by another radiographer on March 14, 2010, on the Daily Radiation Report, that Mr. Guilbeau knew was inaccurate. During an interview by the Office of Investigations, Mr. Guilbeau admitted he did not know what the other radiographer's true radiographic dose exposure was for March 14, 2010, and estimated a number on the licensee's Daily Radiation Report for that shift. During the predecisional enforcement conference, Mr. Guilbeau stated that he could not remember receiving the other radiographer's radiographic dose exposure that would have been recorded at the end of the shift. This would indicate that Mr. Guilbeau did not enter the correct dose exposure reading for the other radiographer on the Daily Radiation Report. As a result, Mr. Guilbeau deliberately submitted information to Accurate NDE, an NRC general licensee, information that he knew to be inaccurate in some respect material to the NRC. This was a violation of 10 CFR 30.10(a)(2). In addition, because the Daily Radiation Report is a record that Accurate NDE is required to keep pursuant to 10 CFR 34.83 and 34.47(b), Mr. Guilbeau's actions caused Accurate NDE to be in violation of 10 CFR 30.9(a), which requires that information required by regulation to be maintained by a licensee must be accurate in all material respects.

### III

Based on the above, the NRC has concluded that Mr. Francis Guilbeau, a former employee of Accurate NDE, violated 10 CFR 30.10(a)(1) by engaging in deliberate misconduct that caused Accurate NDE to be in violation of 10 CFR 150.20(b)(5) and 30.9. Further, Mr. Guilbeau deliberately provided to Accurate NDE information that he knew to be incomplete or inaccurate in some respect material to the NRC, in violation of 10 CFR 30.10(a)(2).

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement that general licensees operating under the reciprocity provisions of 10 CFR 150.20 comply with the terms and conditions of their Agreement State licenses and the requirement to provide information and maintain records that are complete and accurate in all material respects. Mr. Guilbeau's actions caused the Licensee to violate 10 CFR 150.20(b)(5) and 10 CFR 30.9 and have raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Guilbeau were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Guilbeau be prohibited from any involvement in NRC-licensed activities for a period of 1 year from the effective date of this Order, as defined in Section V. Additionally Mr. Guilbeau is required to notify the NRC of his first employment in NRC-licensed activities for a period of 1 year following the prohibition period.

### IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, 10 CFR parts 20, 34, and 10 CFR 150.20, *It is hereby ordered that:*

1. Mr. Francis Guilbeau is prohibited for 1 year from the effective date of this Order, as defined in Section V, from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. Specifically, Mr. Guilbeau is prohibited from performing, supervising, assisting or otherwise engaging in (1) Industrial radiography for an Agreement State licensee that is conducted in non-Agreement States, in areas of exclusive federal jurisdiction within Agreement States, or in offshore waters under an NRC general license granted pursuant to 10 CFR 150.20, (2) industrial radiography for an NRC licensee, including, but not limited to,

radiography conducted under the authority of a license issued pursuant to 10 CFR Part 34, and (3) any other licensed activity under NRC jurisdiction.

2. As of the effective date of this Order, if Mr. Guilbeau is currently involved in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of 1 year after the 1-year period of prohibition has expired, Mr. Guilbeau shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Guilbeau shall include a statement of his commitment to compliance with NRC regulatory requirements and the basis for why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Guilbeau of good cause.

## V

In accordance with 10 CFR 2.202, Mr. Francis Guilbeau must, and any other person adversely affected by this Order may, submit an answer to this Order within 30 days of its issuance date. In addition, Mr. Guilbeau and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its issuance date. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

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](mailto:hearing.docket@nrc.gov), or by telephone at (301) 415-1677, to request (1) a digital 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 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 NRC's "Guidance for Electronic Submission," which is available on the agency'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 NRC's Electronic Information Exchange (EIE), 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 (PDF) in accordance with 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 timestamps 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](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at (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 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.

If a person other than Mr. Francis Guilbeau requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by Mr. Guilbeau or any other person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings.

If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing or ADR, or written approval of an extension of time in which to request a hearing, the effective date of this Order (the date that the provisions specified in Section IV above become final and effective) shall be 30 days from the issuance date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the effective date of this Order shall be when the extension expires if a hearing request has not been received. If a hearing or ADR is requested, the effective date of this Order shall be determined in

accordance with the hearing or ADR process.

Dated this 5th day of January 2012.

For the Nuclear Regulatory Commission.

**Roy P. Zimmerman,**

*Director, Office of Enforcement.*

[FR Doc. 2012-1060 Filed 1-19-12; 8:45 am]

**BILLING CODE 7590-01-P**

## PEACE CORPS

### Submission for OMB Review; Request for Comments

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. 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 (44 U.S.C. chapter 35).

**DATES:** Comments must be submitted on or before March 20, 2012.

**ADDRESSES:** Comments should be addressed to Denora Miller, FOIA Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526. Denora Miller can be contacted by telephone at (202) 692-1236 or email at [pcfr@peacecorps.gov](mailto:pcfr@peacecorps.gov). Email comments must be made in text and not in attachments.

**FOR FURTHER INFORMATION CONTACT:** Denora Miller at Peace Corps address above.

**SUPPLEMENTARY INFORMATION:** The Peace Corps Act states that “[t]he President may enroll in the Peace Corps for service abroad qualified citizens and nationals of the United States (referred to in this Act as “volunteers”). The terms and conditions of the enrollment \* \* \* of volunteers shall be exclusively those set forth in this Act and those consistent therewith which the President may prescribe \* \* \*” 22 U.S.C. 2504(a). Eligibility requirements for the Peace Corps have been prescribed in 22 CFR part 305. Among those eligibility requirements is one relating to medical status. An Applicant “must, with reasonable accommodation, have the physical and mental capacity required of a Volunteer to perform the essential functions of the Peace Corps Volunteer assignment for which he or she is otherwise eligible and be able to complete an agreed upon tour of service, ordinarily two years, without undue

disruption due to health problems.” 22 CFR 305.2(c). All applicants for service must undergo a physical examination and a dental evaluation prior to Volunteer service to determine if they meet this medical status eligibility requirement. In addition, under 22 U.S.C. 2504(e), the Peace Corps provides medical care to Volunteers during their service and the information collected will also be used in connection with medical care and treatment during Peace Corps service for applicants who become Volunteers. Finally, the information collected may serve as a point of reference for any potential future Volunteer worker's compensation claims.

Volunteers serve in 67 developing countries where western-style healthcare is often not available. Volunteers are placed in remote locations where they may suffer hardship because they have no access to running water and/or electricity. They also may be placed in locations with extreme environmental conditions related to cold, heat or high altitude and they may be exposed to diseases not generally found in the U.S. Volunteers may be placed many hours from the Peace Corps medical office and not have easy access to any health care provider. Therefore, a thorough review of an Applicant's past medical history is an essential first step to determine their suitability for service in Peace Corps.

The current process requires almost all Applicants to undergo a costly and time consuming full medical evaluation. Under the current process, it sometimes happens that after an Applicant has spent large amounts of time and money, the Peace Corps finds that the Applicant is not medically qualified to serve. In 2012, the Peace Corps will change the current process in order to reduce the time and expense of Applicants and to ensure that only those who accept an invitation to serve undergo a complete medical evaluation. However, Applicants who have certain particularly difficult to accommodate conditions will be evaluated early in the process. This will reduce the time and expense for those Applicants who would, even with reasonable accommodation, not be likely to be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems.

Under the new system, the Applicant will begin the medical part of the application process by completing a comprehensive health history form called the “Health History Form”. After completion of the Health History Form and after passing preliminary non-

health-related assessments, the Applicant will be “nominated” to a program. This nomination does not guarantee an invitation to serve, but it does hold a place so the Applicant may proceed with the process. After a review by the Peace Corps pre-service medical staff of the Health History Form and any supplemental forms that the Applicant is required to submit following nomination, the Applicant may be medically pre-cleared. An Applicant who is medically pre-cleared and who accepts an invitation to serve as a Peace Corps Volunteer undergoes a final medical clearance. Final medical clearance is on the basis of a complete physical examination, as documented in a Report of Physical Examination.

The forms listed below may be sent to an individual Applicant at one of the following times in the medical review process: (1) After the Applicant completes the Health History Form and receives a nomination; (2) after a Peace Corps nurse reviews the Applicant's Health History Form and any completed forms previously requested; or (3) at the time of the Applicant's physical examination. The results of the physical examination and the information contained in the specific evaluation forms covered by this Supporting Statement will be used to make an individualized determination as to whether an Applicant for Volunteer service will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems.

If, based on the Applicant's responses on the Health History Form, additional information is required in order to make an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems, then one or more of the forms listed below may be sent to the Applicant.

*Method:* The Peace Corps will introduce these forms electronically as part of a larger business process improvement project. Applicants will gain access to the forms via a secure online portal. As described below, in most instances, Applicants will have to download the forms for their health care providers to complete. Completed forms can be scanned and uploaded back into the Applicant's secure Peace Corps online portal or they can be faxed or mailed to the Peace Corps Office of Medical Services. The Peace Corps anticipates that most Applicants will

submit the forms electronically and that only those with no electronic access will submit a paper version.

*Title:* Individual Specific Medical Evaluation Forms (16).

*OMB Control Number:* 0420-pending.

*Type of Review:* New.

*Respondents:* Individuals/Physicians.

*Respondents' Obligation to Reply:*

Required for Volunteer service.

*Burden to the Public:*

- Allergy Treatment Form
  - (a) Estimated number of Applicants/physicians—100/100
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—20 minutes/10 minutes
  - (d) Estimated total reporting burden—33.3 hours/16.7 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:*

When an Applicant reports that he or she is currently receiving allergy shot treatments, Peace Corps provides the Applicant with an Allergy Treatment Form for his or her treating physician to complete. The Peace Corps is not able to arrange for Volunteers to receive allergy shots during their Peace Corps service. Peace Corps Volunteers generally serve in areas that are isolated and have limited access to Western-trained providers and health care systems. The Applicant completes the form after discussing with his or her physician whether the Applicant will be able to live overseas for 27 months of Peace Corps service without receiving allergy shots. The Applicant is required to certify that the Applicant has discussed stopping allergy shots with his or her physician and that the physician agrees that the allergy shots can be stopped without unreasonable risk of substantial harm to the Applicant's health.

- Asthma Evaluation Form
  - (a) Estimated number of Applicants/physicians—500/500
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—75 minutes/30 minutes
  - (d) Estimated total reporting burden—625 hours/250 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:*

When an Applicant reports on the Health History Form symptoms of moderate persistent or severe persistent asthma in the past two years, he or she will be provided an Asthma Evaluation Form for the treating physician to complete. The determination of whether the reported symptoms indicate moderate persistent or severe persistent asthma is based on recognized

classifications of asthma severity. The Asthma Evaluation Form asks for the physician to document the Applicant's condition of asthma, including any asthma symptoms, triggers, treatments, or limitations or restrictions due to the condition, as well as to certify that the Applicant can safely serve 27 months overseas. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of the Applicant within reasonable proximity to a hospital in case treatment is needed for a severe asthma attack.

- Diabetes Diagnosis Form
  - (a) Estimated number of Applicants/physicians—36/36
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—75 minutes/30 minutes
  - (d) Estimated total reporting burden—45 hours/18 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:*

When an Applicant reports the condition of diabetes Type 1 on the Health History Form, the Applicant will be provided a Diabetes Diagnosis Form for the treating physician to complete. In certain cases, the Applicant may also be asked to have the treating physician complete a Diabetes Diagnosis Form if the Applicant reports the condition of diabetes Type 2 on the Health History Form. The Diabetes Diagnosis Form asks the physician to document the diabetes diagnosis, etiology, possible complications, and treatment, as well as to certify that the Applicant can safely serve 27 months overseas. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of an Applicant who requires the use of insulin in order to ensure that adequate insulin storage facilities are available at the Applicant's site.

- Disease Diagnosis Form
  - (a) Estimated number of Applicants/physicians—400/400
  - (b) Frequency of response—one time

- (c) Estimated average burden per response—75 minutes/30 minutes
- (d) Estimated total reporting burden—500 hours/200 hours
- (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:*

When an Applicant reports on the Health History Form a medical condition of significant severity (other than one covered by another form), he or she may be provided a Disease Diagnosis Form for the treating physician to complete. The Disease Diagnosis Form may also be provided to an Applicant whose responses on the Health History Form indicate that the Applicant may have an unstable medical condition that requires ongoing treatment. The Disease Diagnosis Form asks the physician to document the diagnosis, etiology, possible complications and treatment, as well as to certify that the Applicant can safely serve 27 months overseas. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of an Applicant to take account of the Applicant's medical condition (e.g., avoidance of high altitudes or proximity to a hospital).

- Low Body Mass Index Evaluation Form
  - (a) Estimated number of Applicants/physicians—50/50
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—105 minutes/60 minutes
  - (d) Estimated total reporting burden—87.5 hours/50 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:*

When an Applicant reports a height and weight on the Health History Form consistent with a body mass index (BMI) that is below 17 for women and 18 for men, the Applicant will be provided a Low Body Mass Index Evaluation Form for a physician to complete. The Low Body Mass Index Evaluation Form asks the physician to indicate whether the Applicant's low BMI is indicative of any condition which could be exacerbated during Peace Corps service. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable

accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems. Based on the information on the completed form, the Peace Corps may determine that further medical assessments are required.

- Mental Health Treatment Summary Form
  - (a) Estimated number of Applicants/physicians—150/150
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—105 minutes/60 minutes
  - (d) Estimated total reporting burden—262.5 hours/150 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The Mental Health Treatment Form will be used when an Applicant reports on the Health History Form a history of certain serious mental health conditions, such as bipolar disorder, schizophrenia, mental health hospitalization, attempted suicide or cutting, or treatments or medications related to these conditions. In these cases, an Applicant will be provided a Mental Health Treatment Summary Form for a licensed mental health counselor, psychiatrist or psychologist to complete. The Mental Health Treatment Summary Form asks the counselor, psychiatrist or psychologist to document the dates and frequency of therapy sessions, clinical diagnoses, symptoms, course of treatment, psychotropic medications, mental health history, level of functioning, prognosis, risk of exacerbation or recurrence while overseas, recommendations for follow up and any concerns that would prevent the Applicant from completing 27 months of service without undue disruption. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of the Applicant in a country with appropriate mental health support.

- Eating Disorder Treatment Summary Form
  - (a) Estimated number of Applicants/physicians—232/232
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—105 minutes/60 minutes
  - (d) Estimated total reporting burden—406 hours/232 hours

- (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The Eating Disorder Treatment Summary Form will be used when an Applicant reports a past or current eating disorder diagnosis in the Health History Form. In these cases the Applicant is provided an Eating Disorder Treatment Summary Form for a mental health specialist, preferably with eating disorder training, to complete. The Eating Disorder Treatment Summary Form asks the mental health specialist to document the dates and frequency of therapy sessions, clinical diagnoses, presenting problems and precipitating factors, symptoms, Applicant's weight over the past three years, relevant family history, course of treatment, psychotropic medications, mental health history inclusive of eating disorder behaviors, level of functioning, prognosis, risk of recurrence in a stressful overseas environment, recommendations for follow up, and any concerns that would prevent the Applicant from completing 27 months of service without undue disruption due to the diagnosis. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of the Applicant in a country with appropriate mental health support.

- Mental Health Current Evaluation Form
  - (a) Estimated number of Applicants/professional—439/439
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—265 minutes/180 minutes
  - (d) Estimated total reporting burden—1,939 hours/1,317 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The Mental Health Current Evaluation Form is used when an Applicant reports a mental health condition in the Health History Form and it is determined that a current mental health evaluation is needed. A current mental health evaluation might be needed if information on the condition is outdated or previous reports on the condition do not provide enough information to adequately assess the current status of the condition. In these cases, the Applicant will be provided a

Mental Health Current Evaluation Form for a licensed mental health counselor, psychiatrist or psychologist to complete over one to three evaluation sessions. The Mental Health Current Evaluation Form asks the mental health professional to document the clinical diagnoses, presenting symptoms, risk of recurrence in a stressful overseas environment, coping strategies, evaluation of overall functioning, psychotropic medications, current psychological tests administered, recommendations for follow up, and any concerns that would prevent the Applicant from completing 27 months of service without undue disruption due to the diagnosis. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of the Applicant in a country with appropriate mental health support.

- Alcohol/Substance Abuse Evaluation Form
  - (a) Estimated number of Applicants/specialist—100/100
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—165 minutes/60 minutes
  - (d) Estimated total reporting burden—275 hours/100 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The Alcohol/Substance Abuse Current Evaluation Form is used when an Applicant reports in the Health History Form a history of substance abuse (*i.e.*, alcohol or drug related problems such as blackouts, daily or heavy drinking patterns or the misuse of illegal or prescription drugs) and that this substance abuse affects the Applicant's daily living or that the Applicant has ongoing symptoms of substance abuse. In these cases, the Applicant is provided an Alcohol/Substance Abuse Current Evaluation Form for a substance abuse specialist to complete. The Alcohol/Substance Abuse Current Evaluation Form asks the substance abuse specialist to document the history of alcohol/substance abuse, dates and frequency of any therapy sessions, which alcohol/substance abuse assessment tools were administered, mental health diagnoses, psychotropic medications, self harm behavior, current clinical assessment of alcohol/substance use, clinical observations, risk of recurrence in a

stressful overseas environment, recommendations for follow up, and any concerns that would prevent the Applicant from completing 27 months of service without undue disruption due to the diagnosis. This form will be used as the basis for an individualized determination as to whether the Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems. This form will also be used to determine the type of accommodation that may be needed, such as placement of the Applicant in a country with appropriate sobriety support or counseling support.

- Mammogram Form
  - (a) Estimated number of Applicants—224
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—105 minutes
  - (d) Estimated total reporting burden—392 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The Mammogram Form is used with all female Applicants who will be 50 years of age or older, who have received invitations to serve as Volunteers. The purpose of the form is to provide the Peace Corps with results of the Applicant's latest mammogram and to record the wishes of the Applicant regarding routine mammogram screening during service. The Peace Corps uses the information in the Mammogram Form to determine if the Applicant currently has breast cancer and to ascertain whether the Applicant wishes to receive routine mammogram screening while in service. A female Applicant who wishes to receive routine mammogram screening during service will be limited to being placed in a country with mammogram screening capabilities. If the Applicant waives routine mammogram screening during service, the Applicant's physician also completes this form in order to confirm that the physician has reviewed the Applicant's risk factor assessment and discussed the results with the Applicant and concurs that foregoing screening mammography represents an acceptable risk.

- Pap Screening Form
  - (a) Estimated number of Applicants/physicians—2,695/2,695
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—25 minutes/15 minutes
  - (d) Estimated total reporting burden—1,123 hours/674 hours

- (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The Pap Screening Form is used with all female Applicants who have received invitations to serve as Volunteers. They are required to obtain a Pap examination within four months prior to their departure. This form assists the Peace Corps in determining whether a female Applicant with mildly abnormal Pap results will need to be placed in a country with appropriate Pap follow-up capabilities.

- Colon Cancer Screening Form
  - (a) Estimated number of Applicants—354
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—60 minutes–165 minutes
  - (d) Estimated total reporting burden—354 hours–973.5 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The Colon Cancer Screening Form is used with all Applicants who are 50 years of age or older who have received invitations to serve as Volunteers. The purpose of the form is to provide the Peace Corps with the results of the Applicant's latest colon cancer screening. Any testing deemed appropriate by the American Cancer Society is accepted. The Peace Corps uses the information in the Colon Cancer Screening Form to determine if the Applicant currently has colon cancer. Additional instructions are included pertaining to abnormal test results.

- ECG Form
  - (a) Estimated number of Applicants/physicians—354/354
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—25 minutes/15 minutes
  - (d) Estimated total reporting burden—147.5 hours/88.5 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The ECG Form is used with all Applicants who are 50 years of age or older, who have received invitations to serve as Volunteers. The purpose of the form is to provide the Peace Corps with the results of an electrocardiogram. The Peace Corps uses the information in the electrocardiogram to assess whether the Applicant has any cardiac abnormalities that might affect the Applicant's service. Additional instructions are included pertaining to abnormal test results. The electrocardiogram is performed as part of the Applicant's physical examination.

- Reactive Tuberculin Test Evaluation Form

- (a) Estimated number of Applicants/physicians—352/352
- (b) Frequency of response—one time
- (c) Estimated average burden per response—75–105 minutes/30 minutes
- (d) Estimated total reporting burden—440–616 hours/176 hours
- (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The *Reactive Tuberculin Test Evaluation Form* is used when an Applicant, who has received an invitation to serve as Volunteer, reports a history of reactivity to tuberculosis skin testing or a history of BCG vaccination in the Health History Form or if a reactivity is discovered as part of the Applicant's physical examination. In these cases, the Applicant is provided a Reactive Tuberculin Test Evaluation Form for the treating physician to complete. The treating physician is asked to document the type and date of a current TB test, TB test history, diagnostic tests if indicated, treatment history, risk assessment for developing active TB, current TB symptoms, and recommendations for further evaluation and treatment. In the case of a positive result on the TB test, a chest x-ray is also required, along with treatment for latent TB.

- Insulin Dependent Supplemental Documentation Form
  - (a) Estimated number of Applicants/physicians—8/8
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—70 minutes/60 minutes
  - (d) Estimated total reporting burden—9.3 hours/8 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The Insulin Dependent Supplemental Documentation Form is used with Applicants, who have received invitations to serve as Volunteers, and who have reported on the Health History Form that they have insulin dependent diabetes. In these cases, the Applicant is provided an Insulin Dependent Supplemental Documentation Form for the treating physician to complete. The Insulin Dependent Supplemental Documentation Form asks the treating physician to document that he or she has discussed with the Applicant medication (insulin) management, including whether an insulin pump is required, as well as the care and maintenance of all required diabetes related monitors and equipment. This form assists the Peace Corps in determining whether the Applicant will

be in need of insulin storage while in service and, if so, will assist the Peace Corps in determining an appropriate placement for the Applicant.

- Prescription for Eyeglasses Form
  - (a) Estimated number of Applicants/physicians—2,432/2,432
  - (b) Frequency of response—one time
  - (c) Estimated average burden per response—105 minutes/15 minutes
  - (d) Estimated total reporting burden—4,256 hours/608 hours
  - (e) Estimated annual cost to respondents—Indeterminate

*General description of collection:* The *Prescription for Eyeglasses Form* is used with Applicants, who have received invitations to serve as Volunteers, and who have reported on the Health History Form that they use corrective lenses or otherwise have uncorrected vision that is worse than 20/40. In these cases, Applicants are provided a Prescription for Eyeglasses Form for their prescriber to indicate eyeglasses frame measurements, lens instructions, type of lens, gross vision and any special instructions. This form is used in order to enable the Peace Corps to obtain replacement eyeglasses for a Volunteer during service.

*Request for Comment:* Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on January 13, 2012.

**Garry W. Stanberry,**

*Acting Associate Director, Management.*

[FR Doc. 2012-1040 Filed 1-19-12; 8:45 am]

**BILLING CODE 6051-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66148; File No. SR-C2-2012-001]

### Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

January 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 5, 2012, the C2 Options Exchange, Incorporated (the "Exchange" or "C2") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary, and at the Commission.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 its Fees Schedule to state that CMI and FIX connectivity charges will be charged on a per-Login ID basis. Firms may access C2 via either a CMI Client Application

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Server or a FIX Port, depending on how their systems are configured. Currently, the Exchange assesses a fee for each CMI Client Application Server or FIX Port. However, a firm may have many users, using different Login IDs, accessing the same CMI Client Application Server or FIX Port, allowing the firm to only pay the monthly fee once. Alternatively, a firm may use the same Login ID to access different CMI Client Application Servers or FIX Ports, thereby paying multiple times for the same Login ID.

On December 20, 2011, the Exchange filed to amend its connectivity fees (among other fees) in order to recoup some of the costs from recent investments made to upgrade the CMI Client Application Servers and FIX Ports.<sup>3</sup> In that filing, the Exchange amended such connectivity fees to amounts that kept them equivalent to those offered on the Chicago Board Options Exchange, Incorporated ("CBOE"). CBOE, however, assesses CMI and FIX fees on a per-Login ID basis.<sup>4</sup> The Exchange had intended to ensure that C2's CMI and FIX fees were to be assessed on a per-Login ID basis as well, but inadvertently failed to make such modifications. Without assessing such fees on a per-Login ID basis, the situations described above, wherein a firm may have many users, using different Login IDs, accessing the same CMI Client Application Server or FIX Port, allowing the firm to only pay the monthly fee once, and another firm may use the same Login ID to access different CMI Client Application Servers or FIX Ports, thereby paying multiple times for the same Login ID, may occur. Further, without assessing such fees on a per-Login ID basis, the Exchange will not be able to recoup the costs of the investments to upgrade the CMI Client Application Servers and FIX Ports. As such, the Exchange now proposes to assess CMI Client Application Server and FIX Port costs on a per-Login ID basis.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>6</sup> of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among C2 Trading Permit Holders and other persons using Exchange facilities. Amending the connectivity fees so that

they are assessed on a per-Login ID basis is reasonable because this will allow the Exchange to recoup expenditures to upgrade the connectivity equipment, and because this eliminates circumstances wherein a firm may have many users, using different Login IDs, accessing the same CMI Client Application Server or FIX Port, allowing the firm to only pay the monthly fee once, and another firm may use the same Login ID to access different CMI Client Application Servers or FIX Ports, thereby paying multiple times for the same Login ID. Amending the connectivity fees so that they are assessed on a per-Login ID basis is equitable and not unfairly discriminatory because such fees will be assessed equally to all who use the CMI Client Application Servers or FIX Ports, and because CBOE currently assesses such connectivity fees on a per-Login ID basis, and in the same amounts as the C2 connectivity fees.<sup>7</sup>

### B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition 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 proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4<sup>9</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-C2-2012-001 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-C2-2012-001. 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-C2-2012-001 and should be submitted on or before February 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2012-1025 Filed 1-19-12; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>3</sup> See Securities Exchange Act Release No. 66082 (January 3, 2012) (SR-C2-2011-041).

<sup>4</sup> See CBOE Fees Schedule, Section 16.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> See CBOE Fees Schedule, Section 16.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-66149; File No. SR-FINRA-2011-069]

**Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to Post-Trade Transparency for Agency Pass-Through Mortgage-Backed Securities Traded TBA**

January 13, 2012.

On November 22, 2011, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change related to post-trade transparency for agency pass-through mortgage-backed securities traded "to be announced" ("MBS TBA Transactions"). The proposed rule change was published for comment in the *Federal Register* on December 8, 2011.<sup>3</sup> The Commission received one comment letter on the proposal.<sup>4</sup>

Section 19(b)(2) of the Act<sup>5</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is January 22, 2012. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, the comment received, and any response to the comment submitted by FINRA. The proposed rule change would, among other things, provide for post-trade transparency of MBS TBA Transactions that are reported to the

Trade Reporting and Compliance Engine ("TRACE").

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> designates March 7, 2012, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-1026 Filed 1-19-12; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-66153; File No. SR-NASDAQ-2012-009]

**Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules 4613(a)(2)(F) and (G) To Allow Exchange Market Makers To Opt Out of the Automated Quote Management Service**

January 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on January 11, 2012, The NASDAQ Stock Market LLC (the "Exchange" or "NASDAQ") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by NASDAQ. 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 Rules 4613(a)(2)(F) and (G) to reflect changes to the Automated Quote Management service that will allow market makers to opt out of the service.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

**4613. Market Maker Obligations**

A member registered as a Market Maker shall engage in a course of dealings for its own account to assist in the maintenance, insofar as reasonably practicable, of fair and orderly markets in accordance with this Rule.

(a) Quotation Requirements and Obligations

(1) No change.

(2) Pricing Obligations. For NMS stocks (as defined in Rule 600 under Regulation NMS) a Market Maker shall adhere to the pricing obligations established by this Rule during Regular Trading Hours; provided, however, that such pricing obligations (i) shall not commence during any trading day until after the first regular way transaction on the primary listing market in the security, as reported by the responsible single plan processor, and (ii) shall be suspended during a trading halt, suspension, or pause, and shall not recommence until after the first regular way transaction on the primary listing market in the security following such halt, suspension, or pause, as reported by the responsible single plan processor

(A)-(E) No change.

(F) Quotation Creation and Adjustment. For each Issue in which a Market Maker is registered, the System shall, in the absence of a quotation that complies with this Rule entered by that Market Maker, automatically create a quotation for display to comply with this Rule. System-created compliant displayed quotations will thereafter be allowed to rest and not be further adjusted by the System unless the relationship between the quotation and its related National Best Bid or National Best Offer, as appropriate, shrinks to the greater of: (a) 4 percentage points, or, (b) one-quarter the applicable percentage necessary to trigger an individual stock trading pause as described in NASDAQ Rule 4120(a)(11), or expands to within that same percentage less 0.5%, whereupon the System will immediately re-adjust and display the Market Maker's quote to the appropriate Designated Percentage set forth in section (D) above. Quotations originally entered by Market Makers which have not been modified by the System upon entry or after resting on the book shall be allowed to move freely towards the National Best Bid or National Best Offer, as appropriate, for potential execution. *A Market Maker may opt out of this service at any time by informing Nasdaq of its desire to cease the service. Nasdaq will reinstate service upon a Market Maker's request.*

(G) Quotation Refresh After Execution. In the event of an execution

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 65877 (December 2, 2011), 76 FR 76777.

<sup>4</sup> See letter from Chris Killian, Managing Director, Securitization, Securities Industry and Financial Markets Association, to Elizabeth M. Murphy, Secretary, Commission, dated December 22, 2011.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

against a System created compliant quotation, the Market Maker shall have its quote refreshed by the System on the executed side of the market at the applicable Designated Percentage away from the then National Best Bid (Offer) (or if no National Best Bid (Offer), the last reported sale). *A Market Maker may opt out of this service at any time by informing Nasdaq of its desire to cease the service. Nasdaq will reinitiate service upon a Market Maker's request.*

(H)–(K) No change.

(b)–(e) No change.

\* \* \* \* \*

## 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 [sic]

#### 1. Purpose

NASDAQ proposes to amend Rules 4613(a)(2)(F) and (G) to allow Exchange market makers to opt out of the Automated Quote Management

#### Automated Quote Management

On November 5, 2010, the Commission approved all new Rule 4613, which included the Exchange's Automated Quote Management service provided under Rules 4613(a)(2)(F) and (G).<sup>3</sup> The Automated Quote Management service assists market makers in meeting their enhanced quotation obligations. For each issue in which a market maker is registered, the Exchange automatically creates a quotation for display to comply with the quoting requirements of Rule 4613(a). Compliant displayed quotations are thereafter allowed to rest and not be further adjusted by the Exchange unless the relationship between the quotation and its related national best bid or national best offer, as appropriate, shrinks to the greater of: (a) 4 percentage points, or, (b) one-quarter the applicable

percentage necessary to trigger an individual stock trading pause as described in Rule 4120(a)(11), or expands to within that same percentage less 0.5%, whereupon the Exchange will immediately re-adjust and display the market maker's quote to the appropriate designated percentage. Quotations originally entered by market makers are allowed to move freely towards the national best bid or national best offer, as appropriate, for potential execution.

In the event of an execution against an Exchange-created compliant quotation, the market maker has its quote refreshed by the Exchange on the executed side of the market at the applicable designated percentage away from the then national best bid (offer), or if no national best bid (offer), the last reported sale.

#### New Functionality

As initially adopted, the Automated Quote Management service is currently applied to all Exchange market makers, with no provision for such member firms to opt out of the service. The Exchange is proposing to make the Automated Quote Management service voluntary and is adding functionality to allow Exchange market makers to opt out of the service. An Exchange market maker must inform the Exchange of its desire to opt out of the Automated Quote Management service, otherwise the service will continue to apply to the market maker's quotes. An Exchange market maker that has opted out of the Automated Quote Management service may opt back into the service by likewise informing the Exchange. To provide notice to the Exchange, a market maker must inform the NASDAQ Trade Desk in writing via *tradedesk@nasdaqomx.com* of its desire to opt in or out of the service. The NASDAQ Trade Desk will process the request once received and confirm the market maker's change in Automated Quote Management service status. An Exchange market maker may request that the Exchange change its status intraday. The Exchange will process such requests as they are received and the processing time may vary based on factors such as the number of requests received.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>5</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of

trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Allowing Exchange market makers to opt out of AQR will provide such firms the option to control their quote in all instances. A market maker that opts out of Automated Quote Management service may develop its own system to manage its quote, individually tailored to the firm's operations and which may be superior to the Automated Quote Management service. Accordingly, the Exchange believes that the proposed changes to Rule 4613(a)(2) meet the requirements of Section 6(b)(5) of the Act<sup>6</sup> in that they will allow Exchange market makers to develop individual solutions to their market making quoting obligations, potentially superior to that of the Automated Quote Management service.

### 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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

<sup>6</sup> *Id.*

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>3</sup> See Securities Exchange Act Release No. 63255 (November 5, 2010), 75 FR 69484 (November 12, 2010) (SR-NASDAQ-2010-115, *et al.*).

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal only allows Exchange market makers to opt out of the Automated Quote Management service which will enable market makers to manage their own quotes if they so choose. Therefore, the Commission designates the proposed rule change to be operative upon filing with the Commission.<sup>9</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2012-009 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2012-009. 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-NASDAQ-2012-009 and should be submitted on or before February 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-1034 Filed 1-19-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66159; File No. SR-NASDAQ-2012-002]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Adopt an Alternative to the \$4 Initial Listing Bid Price Requirement for the Nasdaq Capital Market of Either \$2 or \$3, if Certain Other Listing Requirements Are Met

January 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 3, 2012, The NASDAQ Stock Market LLC ("Nasdaq") 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 Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to adopt an alternative to the \$4 initial listing bid price requirement for the Nasdaq Capital Market. The text of the proposed rule change is available on the Nasdaq's Web site at <http://www.nasdaq.cchwallstreet.com>, at Nasdaq's principal office, and at the Commission's Public Reference Room. Nasdaq will implement the proposed rule change upon approval.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq proposes to adopt an alternative to the minimum \$4 price requirement for companies seeking to list on the Capital Market which meet the express exclusion from the definition of a "penny stock" contained in Exchange Act Rule 3a51-1(g).<sup>3</sup>

Nasdaq is seeking to make this change to enhance the competition among exchanges for companies with securities priced between \$2 and \$4. While Section 11A of the Act<sup>4</sup> reflects a Congressional 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 \* \* \* fair competition \* \* \* among exchange markets," currently the only exchange listing alternative available to these companies is NYSE Amex, which has listing standards permitting the listing of companies at either \$2 or \$3.<sup>5</sup> Nasdaq is unable to adopt an identical requirement for the Capital Market because of changes the Commission made to the Penny Stock

<sup>9</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.3a51-1(g).

<sup>4</sup> 15 U.S.C. 78k-1.

<sup>5</sup> Section 102(b) of the NYSE Amex Company Guide.

Rules in 2005,<sup>6</sup> which would treat securities listed on the Capital Market as “penny stocks” if Nasdaq adopted the identical requirement.

A number of companies have indicated a preference to initially list on the Capital Market instead of NYSE Amex and have expressed frustration at their inability to do so without reverse splitting their stock.<sup>7</sup> Nasdaq has previously requested that the Commission modify its rules to eliminate this arbitrary regulatory disparity. In fact, as early as 2004, Nasdaq noted that the then proposed changes to the penny stock rules—which created a “grandfather” for Amex stocks and which were ultimately adopted by the Commission—would memorialize an unfair competitive advantage for Amex that is not available to other exchanges.<sup>8</sup> The Commission rejected Nasdaq’s call for a uniform approach to all exchanges.<sup>9</sup>

In a petition filed in May 2010, Nasdaq again requested that the Commission act to eliminate the competitive advantage provided NYSE Amex by the grandfather provision, including, if it felt appropriate, by abrogating the NYSE Amex rule and requiring NYSE Amex to adopt the same minimum \$4 initial listing price currently applicable to Nasdaq.<sup>10</sup> The Commission has not acted on this request and has not provided any rationale for its delay.

The proposed rule change fits within another express exclusion to the Commission’s penny stock definition and would allow a company that currently meets NYSE Amex’s price requirement to instead list on the Capital Market at the same initial listing

price requirement.<sup>11</sup> However, companies listing on the Capital Market under the proposed \$2 or \$3 price requirement would also have to satisfy the proposed net tangible assets or revenue test,<sup>12</sup> which is not a requirement of the NYSE Amex rules, but which satisfies the requirements of Rule 3a51–1(g).<sup>13</sup> Specifically, as revised, a company would be eligible to list on the Capital Market if it satisfies all existing listing standards except for the \$4 price requirement. Such a company must instead have a minimum \$3 price if it qualifies under the \$5 million equity or \$750,000 net income alternatives<sup>14</sup> or a minimum \$2 price if it qualifies under the \$50 million market value of listed securities alternative.<sup>15</sup> [sic] In addition, a company qualifying under the proposed standard must have either: (a) Net tangible assets in excess of \$2 million, if the issuer has been in continuous operation for at least three years; or (b) net tangible assets in excess of \$5 million, if the issuer has been in continuous operation for less than three years; or (c) average revenue of at least \$6 million for the last three years. For this purpose, net tangible assets or revenue must be demonstrated on the Company’s most recently filed audited financial statements, satisfying the requirements of the Commission, and which are dated less than 15 months prior to the date of listing.<sup>16</sup>

Unlike the relief Nasdaq requested in 2004 and 2010, the proposed rule change will require companies to meet an additional net tangible assets or revenue test, which NYSE Amex does

not require, thus assuring that securities listed under the proposed rule change would not be considered “penny stocks” under the Act at the time of their listing. In that regard, Rule 3a51–1<sup>17</sup> provides that “penny stock” means any equity security other than securities that meet certain exclusions. Rule 3a51–1(g) provides an exclusion for a security if its issuer has either “[n]et tangible assets (i.e., total assets less intangible assets and liabilities) in excess of \$2,000,000, if the issuer has been in continuous operation for at least three years, or \$5,000,000, if the issuer has been in continuous operation for less than three years” or “[a]verage revenue of at least \$6,000,000 for the last three years.” When the Commission made changes to Rule 3a51–1 concerning exchange-listed securities, it specifically noted that it did not intend to foreclose reliance on the other exclusions available in Rule 3a51–1, including the exclusion available in Rule 3a51–1(g).<sup>18</sup> Proposed Rule 5505(a)(1)(B) would only permit a company to list with a \$2 or \$3 price if it satisfies the net tangible assets or revenue test of Rule 3a51–1(g) and, as such, securities listing under the proposed rule would not be penny stocks at the time of their listing.<sup>19</sup>

A company that qualifies for initial listing only under the proposed requirement could become a “penny stock” if it fails the net tangible assets and revenue tests after listing and does not satisfy any of the other exclusions from being a penny stock. In order to assist brokers’ and dealers’ compliance with the requirements of the Penny Stock Rules, Nasdaq will monitor companies listed under the proposed alternative and publish a list of any company that initially listed under that requirement, which does not then meet the requirements of Rule 3a51–1(g), described above, or any of the other exclusions from being a penny stock contained in Rule 3a51–1.<sup>20</sup>

<sup>6</sup> Securities Exchange Act Release No. 51983 (July 7, 2005) 70 FR 40614 (July 13, 2005).

<sup>7</sup> Some companies have indicated that they would not consider a reverse stock split unless there was an underlying business rationale to support it. Other companies are unable to reverse split their stock and maintain qualification with the public float requirement for listing.

<sup>8</sup> See Comment of Edward S. Knight, Nasdaq (March 18, 2004) regarding Proposed Amendments to the Penny Stock Rules, Securities Exchange Act Release No. 49037 (January 8, 2004), 69 FR 2531 (January 16, 2004) (available at <http://www.sec.gov/rules/proposed/s70204/s70704-5.pdf>).

<sup>9</sup> Securities Exchange Act Release No. 51983, *supra*. In rejecting Nasdaq’s comment, the Commission stated its belief that the rule would maintain the status quo. This conclusion was incorrect, however, as the status quo would have permitted Nasdaq to maintain its penny stock exclusion if it modified its listing standards to adopt the same requirements as NYSE Amex, whereas the new Commission rule did not.

<sup>10</sup> See Request for Rulemaking to Allow the Nasdaq Capital Market to Adopt Initial Listing Price Requirements Identical to NYSE Amex, File No. 4–604 (May 25, 2010), available at <http://www.sec.gov/rules/petitions/2010/petn4-604.pdf> (the “2010 Petition”).

<sup>11</sup> All other requirements for listing on the Capital Market are the same or higher than those of NYSE Amex. Nasdaq included a table comparing its listing standards with NYSE Amex’s as an attachment to the 2010 Petition. In addition, the Commission previously concluded that the initial listing standards for common stock on the Capital Market were substantially similar to those of NYSE Amex, allowing it to designate Capital Market securities as “covered securities” under Section 18 of the 1933 Act, 15 U.S.C. 77r(b). Securities Act Release No. 8791 (April 18, 2007), 72 FR 20410 (April 24, 2007).

<sup>12</sup> The net tangible asset or revenue requirements would not apply to a company whose securities satisfy the existing \$4 price requirement.

<sup>13</sup> 17 CFR 240.3a51–1(g).

<sup>14</sup> Rules 5505(b)(1) or (b)(3).

<sup>15</sup> Rule 5505(b)(2).

<sup>16</sup> Nasdaq notes that under Rule 5210(a)(1), any newly listing company, including a foreign private issuer, must be registered under Section 12(b) of the Act, which requires filing audited financial statements. Nasdaq believes that in all cases those financial statements must be more recent than 15 months old. See Rule 3–01 and 3–12, 17 CFR 210.3–01 and 210.3–12, with respect to domestic companies, and Item 8.A(4) of Form 20–F, with respect to foreign private issuers. However, the proposed rule adopts the 15 month requirement to assure consistency with the timing requirements contained in Rule 3a51–1(g).

<sup>17</sup> 17 CFR 240.3a51–1.

<sup>18</sup> Release No. 49037, 69 FR at 2535 (text at footnote 41) (“In addition, we note that any security that satisfies one of the other exclusions in Rule 3a51–1 will not be a penny stock even if it fails to satisfy any of the proposed conditions for reported securities or for other exchange registered securities discussed above.”).

<sup>19</sup> Furthermore, the Commission has already concluded that companies that satisfy the NYSE Amex listing standards, including price, are not penny stocks. There is no reason to draw a different conclusion about these same companies if they were to list instead on the Nasdaq Capital Market under the proposed standard. See *Indep. Petroleum Ass’n of Am. v. Babbitt*, 92 F.3d 1248, 1258 (DC Cir. 1996) (“An agency must treat similar cases in a similar manner unless it can provide a legitimate reason for failing to do so.”).

<sup>20</sup> Nasdaq believes that the other exclusion most likely to be implicated would be Rule 3a51–1(d), 17

Nasdaq notes that the adoption of the proposed rule change should not alter the Commission's prior designation of securities listed on the Capital Market as "covered securities" under Section 18 of the Securities Act of 1933.<sup>21</sup> In 2007, the Commission concluded that Capital Market securities were covered securities, exempt from State law registration requirements, because the Capital Market has listing standards that are substantially similar to the listing standards of the Nasdaq Global Market, New York Stock Exchange, or NYSE Amex (the "Named Markets").<sup>22</sup> The Commission has held that an exchange's listing requirements will be considered substantially similar if the listing standards are "at least as comprehensive as those of the Named Markets" and that if "listing standards are higher than the Named Markets, then the Commission still determined that the petitioner's listing standards are substantially similar to the Named Markets."<sup>23</sup> As described above, following approval of the proposed rule change, the Capital Market listing requirements for common stock will continue to be the same as, or higher than, those of NYSE Amex, which permit the listing of companies at \$2 and \$3 without the proposed additional net tangible asset or revenue test. Indeed, all other requirements for listing on the Capital Market meet or exceed the requirements for listing on NYSE Amex. The proposed rule change, therefore, should not disturb the Commission's designation of Capital Market securities as covered securities.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>24</sup> in general and with Sections 6(b)(5) and (8) of the Act,<sup>25</sup> in particular. Section 6(b)(5) requires, among other things, that a national securities exchange's 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. The proposed rule change would adopt a \$2 and \$3 initial listing price alternative for the NASDAQ Capital

Market that is substantially similar to the requirements of NYSE Amex, which the Commission has already determined is consistent with these requirements.<sup>26</sup> However, the proposed rule change would require companies to also satisfy an additional net tangible asset or revenue test, which is not a requirement of the NYSE Amex listing requirements and which is consistent with the requirements for a security to avoid being a "penny stock" set forth in Rule 3a51-1(g).<sup>27</sup> Nasdaq believes that the proposed price requirement is sufficient to protect investors and would exercise its discretionary authority to deny initial listing if Nasdaq was concerned about the ability of the company to maintain compliance with the continued listing price or believed there were public interest concerns leading to the company's low stock price.<sup>28</sup> Moreover, given that these companies have an exchange-listing available to them, prohibiting listing on Nasdaq does not serve to protect investors and Nasdaq believes that investors would be at least as well protected by having these companies instead listed on the Capital Market, where they would be subject to oversight by Nasdaq's regulatory staff.

Section 6(b)(8) of the Act requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In addition, Section 11A of the Act<sup>29</sup> requires that there be fair competition among exchange markets to further the public interest and protection of investors. The Department of Justice recently noted the importance of a competitive environment for exchange listings.<sup>30</sup>

<sup>26</sup> Securities Exchange Act Release No. 53050 (January 3, 2006), 71 FR 1580 (January 10, 2006) (approving the NYSE Amex \$2 price requirement). The Commission notes that, prior to the adoption of the \$2 price requirement, the applicable NYSE Amex standard did not require a minimum market price per share.

<sup>27</sup> 17 CFR 240.3a51-1(g).

<sup>28</sup> Nasdaq notes that NYSE Amex does not have a continued listing price requirement, although NYSE Amex will "consider suspending dealings" in a "common stock selling for a substantial period of time at a low price per share." NYSE Amex Company Guide Section 1003(f)(v). As such, companies listing at \$2 or \$3 on NYSE Amex could quickly fall to a very low price and nonetheless remain listed indefinitely. On the other hand, Nasdaq requires a \$1 price for continued listing. Nasdaq Listing Rule 5550(a)(2). See also Exchange Act Release No. 53050 (January 3, 2006), 71 FR 1580 at 1581 (note 11) (January 10, 2006) (encouraging NYSE Amex to adopt a minimum price requirement for continued listing while approving SR-AMEX-2005-114).

<sup>29</sup> 15 U.S.C. 78k-1.

<sup>30</sup> See "NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandon Their Proposed Acquisition of NYSE Euronext After Justice Department Threatens Lawsuit" (May 16,

Nasdaq believes that the existing situation, whereby NYSE Amex is permitted to list companies that no other market can, is an unfair burden on competition in violation of Sections 6(b)(8) and 11A. Since 2008, NYSE Amex listed approximately 50 companies for which no other market could compete. The proposed rule change would enhance the competition between exchanges, and benefit companies and their investors, by providing companies that today are forced to list on NYSE Amex an alternative exchange listing venue. As such, the proposed rule change is consistent with Sections 6(b)(8) and 11A.

Finally, as noted above, the proposed rule change would adopt the identical initial listing price requirement contained in the NYSE Amex Company Guide. As such, Nasdaq believes that its listing requirements would remain substantially similar to those of NYSE Amex, as required for covered securities under Section 18 of the Securities Act.<sup>31</sup> In addition, as noted, the proposed rule change would require that any company qualifying under this new price alternative also meet the requirements of Rule 3a51-1(g)<sup>32</sup> and that these securities therefore would not be considered "penny stocks" under the Act at the time of their listing. To the extent that a company no longer qualified for the exclusion under Rule 3a51-1(g), or any of the other exclusions in Rule 3a51-1, Nasdaq would notify the public by including the company in a list published on Nasdaq's Web site.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

Nasdaq 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. Instead, the proposed rule change would enhance the competition between exchanges, and benefit companies and their investors, by allowing companies that today are forced to list on NYSE Amex an alternative listing venue.

### *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.

2011), available at [http://www.justice.gov/atr/public/press\\_releases/2011/271214.htm](http://www.justice.gov/atr/public/press_releases/2011/271214.htm).

<sup>31</sup> 15 U.S.C. 77r.

<sup>32</sup> 17 CFR 240.3a51-1(g).

CFR 240.3a51-1(d), which provides an exclusion from the definition of a penny stock for a security with a minimum bid price of \$5. Note, however, that if a company obtains a \$4 minimum bid price at a time when it meets all other initial listing requirements, Nasdaq would no longer consider the company as having listed under the proposed alternative standard.

<sup>21</sup> 15 U.S.C. 77r.

<sup>22</sup> Securities Act Release No. 8791, *supra*.

<sup>23</sup> *Id.*, 72 FR at 20411.

<sup>24</sup> 15 U.S.C. 78f.

<sup>25</sup> 15 U.S.C. 78f(b)(5) and (8).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2012-002 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NASDAQ-2012-002. 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 Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2012-002 and should be submitted on or before February 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>33</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-1045 Filed 1-19-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66158; File No. SR-NASDAQ-2012-006]

### Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Options Fees

January 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 6, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or "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 NASDAQ. 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 NASDAQ Stock Market LLC proposes to relocate certain rules in the NASDAQ Rulebook. Specifically, the Exchange proposes to relocate the following Rules: (i) Rule 7007, Collection of Exchange Fees and Other Claims—NASDAQ Options Market; (ii)

Rule 7046, Nasdaq Options Maintenance Tool, (iii) Rule 7050, NASDAQ Options Market—Fees; (iv) Rule 7053, NASDAQ Options Market—Access Services; (v) Rule 7054, NASDAQ Options Market Data Distributor Fees; (vi) Rule 7056, NASDAQ Options Fee Disputes; and (vii) Rule 7059, NASDAQ Options Regulatory Fee. The Exchange is also proposing to relocate a portion of Rule 7002, Sales Fee, which applies to options, by replicating that fee in the new "Options Fees" Chapter. The Exchange is proposing to relocate these Rules to a new Chapter under the Options Rules.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.nasdaq.cchwallstreet.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 Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

NASDAQ proposes to create a new Chapter in the NASDAQ Rulebook and relocate certain options fees, which apply only to Options Participants, to this new Chapter to further clarify its fees. Specifically, the Exchange proposes to create a new "Chapter XV," entitled "Options Fees" under the Options Rules portion of the Rulebook. The Exchange proposes to relocate the below listed Rules, currently in the 7000 Series of the Rulebook, to this new Chapter under the Options Rules.<sup>3</sup> This is not a substantive change, but rather merely a relocation of Rule text within the Rulebook.

The Exchange proposes to specifically relocate the following Rules to the

replicate the Sales Fee Rule, specifically relocating paragraphs 7002(b) and (d), applicable to options. Rule 7002(a) and (c) would remain in Rule 7002, as those paragraphs apply to equities.

<sup>33</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Exchange is proposing to create two Sales Fee Rules, one for equities and one for options. Rule 7002 will be relocated in part. The Exchange proposes to create a new "Sales Fee—Options" Rule in Section 8 of Chapter XV which Rule would

corresponding Sections of new Chapter XV as follows:

Rule 7007. Collection of Exchange Fees and Other Claims—NASDAQ Options Market .....	Section 1.
Rule 7050. NASDAQ Options Market—Fees .....	Section 2.
Rule 7053. NASDAQ Options Market—Access Services .....	Section 3.
Rule 7054. NASDAQ Options Market Data Distributor Fees .....	Section 4.
Rule 7059. Options Regulatory Fee .....	Section 5.
Rule 7046. NASDAQ Options Maintenance Tool .....	Section 6.
Rule 7056. NASDAQ Options Fee Disputes .....	Section 7.
Rule 7002. Sales Fee, excluding paragraphs (a) and (c) .....	Section 8—renamed “Sales Fees—Options”.

Options Participants are required, pursuant to Exchange Rules, to become members of the NASDAQ Stock Market LLC.<sup>4</sup> An entity desiring to transact options may apply to become an Options Participant, in addition to a NASDAQ Stock Market member.<sup>5</sup> Because participation in NOM requires Options Participants to also be members of the NASDAQ Stock Market, Options Participants are subject to the charges for membership, services and equipment in the Rule 7000 Series. Certain fees in the Rule 7000 Series apply only to NASDAQ Stock Market members that are Options Participants. In order to distinguish fees applicable to members transacting equities from fees applicable to members transacting options, the Exchange is proposing to relocate the aforementioned Rules to the Options Rules section of the Rulebook. With respect to Rule 7002, the Exchange is proposing to create a new Sales Fee Rule titled “Sales Fee—Options” which would be applicable only to options and which replicates the language in Rule 7002(b) and (d) specifically in new Section 8. Current Rule 7002 will remain in the Rulebook without paragraphs 7002(b) and (d) and the lettering will be changed to (a) and (b) only.

In addition, the Exchange proposes to add the following language at the beginning of the Chapter to clarify that certain fees in the Rule 7000 series may also be applicable to Options Participants: “NASDAQ Options Market Participants may be subject to the Charges for Membership, Services and Equipment in the Rule 7000 Series as well as the fees in this Chapter XV.” The Exchange also proposes to make corresponding changes to Rules 1002, Qualifications of Nasdaq Members and Associated Persons, 7015, Access Services, and 8320, Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay, to provide updated cross-references to relocated Rules.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>7</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by organizing its Rules in such a way as to distinguish charges applicable to equity members from fees applicable to Options Participants.

The Exchange believes that its proposal to relocate fees applicable only to Options Participants, and not applicable to NASDAQ members transacting equities, to a new Chapter in the Rulebook specific to Options will assist members in locating fees. The Exchange believes that creating a new section and relocating the fees will add greater clarity to NASDAQ's Rules and provide members further guidance on the applicability of those Rules. The Exchange also believes that adding a clarifying sentence to the new Chapter to indicate that the Rule 7000 Series may also be applicable to Options Participants provides a cross-reference for Options Participants to readily locate other charges applicable to them as NASDAQ Stock Market members.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(1)<sup>9</sup> thereunder, the Exchange has designated this proposal as one that constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the SRO, and therefore has become effective.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2012-006 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2012-006. This file number should be included on the

<sup>4</sup> See Chapter II, Section 1(b)(iii) of Options Rules.

<sup>5</sup> See Chapter II, Section 1 of Options Rules.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(1).

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-NASDAQ-2012-006 and should be submitted on or before February 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2012-1068 Filed 1-19-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66062; File No. SR-NYSEArca-2011-98]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Deleting NYSE Arca Equities Rule 7.31(w)(1) To Remove the PNP Plus Order Type

December 28, 2011.

#### Correction

In notice document 2011-33715 appearing on pages 313 through 315 in the issue of Wednesday, January 4, 2012, make the following correction:

On page 315, in the second column, in the first paragraph, in the last line

<sup>10</sup> 17 CFR 200.30-3(a)(12).

“January 25, 2011” should read “January 25, 2012”.

[FR Doc. C1-2011-33715 Filed 1-19-12; 8:45 am]

**BILLING CODE 8011-01-D**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66155; File No. SR-Phlx-2012-01]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

January 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 3, 2012, NASDAQ OMX PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Customer and Professional Routing Fees governing pricing for Exchange members using the Phlx XL II system,<sup>3</sup> for routing standardized equity and index option Customer and Professional orders to the BATS Exchange, Inc. (“BATS”) for execution.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, at the principal office of the Exchange, on the Commission's Web site at <http://www.sec.gov>, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> For a complete description of Phlx XL II, see Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). The instant proposed fees will apply only to option orders entered into, and routed by, the Phlx XL II system.

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to recoup costs that the Exchange incurs for routing and executing Customer and Professional orders in equity and index options to BATS. The Exchange's Fee Schedule includes Routing Fees for routing and executing Customer and Professional orders to away markets. The Exchange currently assesses a Customer Routing Fee of \$0.36 per contract and a Professional Routing Fee of \$0.48 per contract for option orders that are routed to BATS. Recently, BATS announced that it would amend its customer and professional fees to remove liquidity to \$0.44 per contract on January 3, 2012.<sup>4</sup> The Exchange is proposing to amend its Customer and Professional Routing Fees to BATS to \$0.50 per contract to recoup this fee.

In May 2009, the Exchange adopted Rule 1080(m)(iii)(A) to establish Nasdaq Options Services LLC (“NOS”), a member of the Exchange, as the Exchange's exclusive order router.<sup>5</sup> NOS is utilized by the Phlx XL II system solely to route orders in options listed and open for trading on the Phlx XL II system to destination markets. Each time NOS routes to away markets NOS is charged a \$0.06 clearing fee and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange is proposing this amendment in order to recoup clearing and transaction charges incurred by the Exchange when Customer and Professional orders are routed to BATS. The Exchange proposes to recoup the \$0.44 per contract customer and professional taker fee for option orders that are routed to BATS along with the \$0.06 clearing fee which

<sup>4</sup> See BATS (BZX) Exchange Fee Schedule. See also BATS Options Exchange Pricing Update Effective January 3, 2012 (dated December 15, 2011).

<sup>5</sup> See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32).

is incurred by the Exchange, as explained herein.

As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

## 2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>7</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that this fee is reasonable because it seeks to recoup costs that are incurred by the Exchange when routing Customer and Professional orders to BATS on behalf of its members. Each destination market's transaction charge varies and there is a standard clearing charge for each transaction incurred by the Exchange. The Exchange believes that the proposed Routing Fee would enable the Exchange to recover the customer and professional taker fees assessed by BATS, plus clearing fees for the execution of Customer and Professional orders. The Exchange also believes that the proposed Routing Fee is equitable and not unfairly discriminatory because it would be uniformly applied to all Customers and Professionals.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>8</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-Phlx-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 No. SR-Phlx-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 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-2012-

01 and should be submitted on or before February 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2012-1035 Filed 1-19-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66156; File No. SR-FINRA-2012-004]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend to January 17, 2013 the Implementation of FINRA Rule 0180 (Application of Rules to Security-Based Swaps)

January 13, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 13, 2012, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend to January 17, 2013 the implementation of FINRA Rule 0180 (Application of Rules to Security-Based Swaps). FINRA Rule 0180, filed for immediate effectiveness by FINRA on July 8, 2011, will expire on January 17, 2012. FINRA Rule 0180 temporarily limits, with certain exceptions, the application of FINRA rules with respect to security-based swaps.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"),<sup>4</sup> Title VII of which established a comprehensive new regulatory framework for swaps and security-based swaps. The new legislation was intended among other things to enhance the authority of regulators to implement new rules designed to reduce risk, increase transparency, and promote market integrity with respect to such products. Generally, the Dodd-Frank Act provides that the Commodity Futures Trading Commission ("CFTC") will regulate "swaps" and the SEC will regulate "security-based swaps."<sup>5</sup> The Dodd-Frank Act contemplates certain self-regulatory organization responsibilities in this area as well.<sup>6</sup>

Title VII of the Dodd-Frank Act generally became effective on July 16, 2011 (360 days after the enactment of the Dodd-Frank Act, *i.e.* the "Effective Date"), unless a provision requires a

rulemaking.<sup>7</sup> The Commission has taken a number of actions in furtherance of Title VII, including the issuance of a release to provide guidance in connection with the effectiveness of Exchange Act provisions related to security-based swaps added by subtitle B of Title VII (which generally creates, and relates to, the regulatory regime for security-based swaps), and to provide temporary exemptions in connection with certain of those provisions.<sup>8</sup> Among these actions, the Commission has provided certain temporary exemptions<sup>9</sup> to address the expansion, pursuant to Title VII, of the Act's definition of "security" to expressly encompass security-based swaps.<sup>10</sup> FINRA noted that in this Exemptive Release, the Commission stated that the expansion of the Act's definition of "security" raises certain complex issues of interpretation, including issues as to the application of those provisions to registered broker-dealers. The Commission further stated that, absent additional time to analyze those issues, and to consider whether to provide interpretive or operational guidance, these changes may lead to unnecessary market uncertainty. The Commission also determined that it is appropriate to provide market participants with additional time to consider the potential impact on their businesses and the interpretive questions raised, and to provide the Commission with any related requests for guidance or relief, along with the underlying analysis.

Because the Act's expanded definition of "security" has similar implications for numerous provisions under FINRA rules,<sup>11</sup> on July 8, 2011, FINRA filed for immediate effectiveness FINRA Rule

0180,<sup>12</sup> which, with certain exceptions, is intended to temporarily limit the application of FINRA rules with respect to security-based swaps.<sup>13</sup>

FINRA believes it is appropriate to extend FINRA Rule 0180 for a limited period, to January 17, 2013, pending the final implementation of new rules and guidance that would provide greater regulatory clarity in relation to security-based swap activities, so as to provide relief from certain FINRA requirements and thereby help avoid undue market disruptions resulting from the change to the definition of "security" under the Act.

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive both the requirement that the proposed rule be filed at least five (5) days in advance and the requirement that any change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately and prevent FINRA Rule 0180 from lapsing. The proposed rule change will expire on January 17, 2013. FINRA will amend the expiration date of FINRA Rule 0180 in subsequent filings as necessary such that the expiration date will be coterminous with the termination of relevant provisions of the SEC's Exemptive Release.

#### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>14</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change would further the purposes of the Act because, consistent with the goals set forth by the Commission when it issued the Exemptive Release, the proposed rule

<sup>7</sup> The Dodd-Frank Act provides that if a Title VII provision requires a rulemaking, the provision will go into effect "not less than" 60 days after the publication of the related final rule or on July 16, 2011, whichever is later. See Sections 754 and 774 of the Dodd-Frank Act.

<sup>8</sup> See, e.g., Securities Exchange Act Release No. 64678 (June 15, 2011), 76 FR 36287 (June 22, 2011).

<sup>9</sup> See Securities Exchange Act Release No. 64795 (July 1, 2011) (Order Granting Temporary Exemptions) (the "Exemptive Release").

<sup>10</sup> See Exchange Act Section 3(a)(10) (15 U.S.C. 78c(a)(10)), as revised by Section 761 of the Dodd-Frank Act.

<sup>11</sup> The current FINRA rulebook consists of: (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

<sup>12</sup> See Securities Exchange Act Release No. 64884 (July 14, 2011), 76 FR 42755 (July 19, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2011-033).

<sup>13</sup> FINRA noted that in the Exemptive Release, the Commission stated that the relief it is granting is targeted and does not include, for instance, relief from the Act's antifraud and anti-manipulation provisions. FINRA also has noted that FINRA Rule 0180 is similarly targeted. For instance, paragraph (a) of FINRA Rule 0180 provides that FINRA rules shall not apply to members' activities and positions with respect to security-based swaps, except for FINRA Rules 2010, 2020, 3310 and 4240. See also paragraphs (b) and (c) of FINRA Rule 0180 (addressing the applicability of additional rules) and SR-FINRA-2011-033.

<sup>14</sup> 15 U.S.C. 78o-3(b)(6).

<sup>4</sup> Public Law 111-203, 124 Stat. 1376 (2010).

<sup>5</sup> The terms "swap" and "security-based swap" are defined in Sections 721 and 761 of the Dodd-Frank Act. The Commission and the CFTC jointly have proposed to further define these terms. See Securities Exchange Act Release No. 64372 (Apr. 29, 2011), 76 FR 29818 (May 23, 2011) (Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping); Securities Exchange Act Release No. 63452 (Dec. 7, 2010), 75 FR 80174 (Dec. 21, 2010) (Further Definition of "Swap Dealer," "Security-Based Swap Dealer," "Major Swap Participant," "Major Security-Based Swap Participant" and "Eligible Contract Participant").

<sup>6</sup> See, e.g., Sections 712 and 763 of the Dodd-Frank Act.

change will help to avoid undue market disruption resulting from the change to the definition of "security" under the Act.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>17</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

FINRA has requested that the Commission waive both the 5-day advance filing requirement<sup>18</sup> and the 30-day operative delay requirement so that the proposal may become operative upon filing. The Commission hereby grants both of those requests. The proposed rule is consistent with the goals set forth by the Commission when it issued the Exemptive Release and will help avoid undue market interruption resulting from the change to the definition of "security" under the Act, and it is consistent with the protection of investors and the public interest. Therefore, the Commission believes it is

consistent with the protection of investors and the public interest to waive both the requirement that the proposed rule be filed at least five (5) days in advance and the 30-day operative delay requirement and designates the proposal as operative upon filing.<sup>19</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2012-004 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-2012-004. 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-2012-004 and should be submitted on or before February 10, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-1036 Filed 1-19-12; 8:45 am]

**BILLING CODE 8011-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Twentieth Meeting: RTCA Special Committee 203, Unmanned Aircraft Systems

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

**ACTION:** Notice of RTCA Special Committee 203, Unmanned Aircraft Systems.

**SUMMARY:** The FAA is issuing this notice to advise the public of the twentieth meeting of RTCA Special Committee 203, Unmanned Aircraft Systems.

**DATES:** The meeting will be held February 21-23, 2012, from 9 a.m.-5 p.m.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833-9339, fax at (202) 833-9434, or Web site at <http://www.rtca.org>.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App.), notice is hereby given for a meeting of Special

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

<sup>19</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

<sup>20</sup> 17 CFR 200.30-3(a)(12).

Committee 203, Unmanned Aircraft Systems. The agenda will include the following:

#### February 21, 2012

- Welcome, Introductions, and Administrative Remarks
- Review and approve summary from nineteenth plenary meeting
- Chairperson/Leadership Updates
- Designated Federal Official (DFO) Update
- Work Plan Status
- Workgroup Updates
- Plenary Adjourns
- Workgroup Breakout Sessions
  - Systems Engineering Workgroup
  - Command & Control Workgroup
  - Sense & Avoid Workgroup
  - Safety Workgroup

#### February 22, 2012

- Workgroup Break-out sessions

#### February 23, 2012

- Workgroup Break-out sessions
- 1 p.m. Plenary session
- Workgroup Back Briefs
- Other Business
- Closing Plenary Session
- Other Business
- Date, Place, and Time for Plenary 21
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 12, 2012.

**John Raper,**

*Manager, Business Operations Branch,  
Federal Aviation Administration.*

[FR Doc. 2012-1049 Filed 1-19-12; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Twenty-Eighth Meeting: RTCA Special Committee 206: Aeronautical Information and Meteorological Data Link Services

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

**ACTION:** Notice of RTCA Special Committee 206: Aeronautical Information and Meteorological Data Link Services.

**SUMMARY:** The FAA is issuing this notice to advise the public of the twenty-eighth meeting of RTCA Special Committee 206: Aeronautical Information and Meteorological Data Link Services

**DATES:** The meeting will be held February 6–10, 2012, from 8 a.m.–5 p.m.

**ADDRESSES:** The meeting will be held at the Doubletree Suites by Hilton Melbourne Beach Oceanfront, 1665 N. Highway A1A, Melbourne, Florida 32903

**FOR FURTHER INFORMATION CONTACT:** The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833-9339, fax at (202) 833-9434, or Web site at <http://www.rtca.org>.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 206, Aeronautical Information and Meteorological data Link Services. The agenda will include the following:

#### February 6, 2012

- Welcome, Introductions, and Administrative Remarks
- Approval of Previous Meeting Minutes
- Review and approve meeting agenda
- Introduce advisory and normal definitions
- Review proposed TOR changes
- ConUse Review

#### February 7, 2012

- ConUse Review

#### February 8, 2012

- SG1, SG2, and SG3 Meetings

#### February 9, 2012

- SG1, SG2, and SG3 Meetings

#### February 10, 2012

- Plenary Session
- Sub-Group 1 Report
- Sub-Group 2 Report
- Sub-Group 3 Report
- Action item review
- Future meeting plans and dates
- Plenary presentation selection process
- Approve advisory and normal definitions
- Approve proposed TOR changes and new or modified Sub-groups' roles and responsibilities
- Decision to release ConUse document for FRAC process
- Other business
- Adjourn

Attendance is open to the interested public but limited to space availability.

With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 12, 2012.

**John Raper,**

*Manager, Business Operations Branch,  
Federal Aviation Administration.*

[FR Doc. 2012-1048 Filed 1-19-12; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Membership in the National Parks Overflights Advisory Group Aviation Rulemaking Committee

**ACTION:** Notice.

**SUMMARY:** By **Federal Register** notice (See 76 FR 65319; October 20, 2011) the National Park Service (NPS) and the Federal Aviation Administration (FAA) invited interested persons to apply to fill a vacant position on the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). That previous notice invited interested persons to apply to fill the vacancy representing Native American tribal concerns due to the incumbent member's completion of a three-year term appointment on April 2, 2012. This notice informs the public of the person selected to fill the vacancy on the NPOAG ARC.

**FOR FURTHER INFORMATION CONTACT:** Barry Brayer, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009-2007, telephone: (310) 725-3800, email: [Barry.Brayer@faa.gov](mailto:Barry.Brayer@faa.gov).

**SUPPLEMENTARY INFORMATION:**

#### Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106-181. The Act required the establishment of the advisory group within 1 year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees)

serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides "advice, information, and recommendations to the Administrator and the Director-

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands."

#### Membership

The current NPOAG ARC is made up of one member representing general aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American interests. Current members of the NPOAG ARC are as follows:

Heidi Williams representing general aviation; Alan Stephen, Elling Halvorson, and Matthew Zuccaro representing commercial air tour concerns; Chip Dennerlein, Greg Miller, Dick Hingson, and Bryan Faehner representing environmental interests; and Rory Majenty and Ray Russell representing Native American tribes.

#### Selection

Selected to fill this vacancy, for an additional term, is returning member Rory Majenty. Mr. Majenty's term begins on April 3, 2012. The term of service for NPOAG ARC members is 3 years.

Issued in Hawthorne, CA, on January 10, 2012.

**Barry Brayer,**

*Manager, Special Programs Staff, Western-Pacific Region.*

[FR Doc. 2012-1051 Filed 1-19-12; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Release of Airport Property: Tampa International Airport, Tampa, FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and Request for Public Comment.

**SUMMARY:** The FAA hereby provides notice of intent to release certain airport properties, approximately 3.407 acres, at the Tampa International Airport, Tampa, FL from the conditions, reservations, and restrictions as contained in federal grant assurances. The release of property will allow the Hillsborough County Aviation Authority to dispose of the property for other than aeronautical purposes. The property is located southwest corner airport property, adjacent to Highway 60. The parcel is currently designated as non-aeronautical use. The property will be released of its federal obligations to grant a perpetual utility easement to the Tampa Electric Company (TECO) for relocation of transmission lines serving the Skyway Substation located off airport. The fair market value of the parcel has been determined by appraisal to be \$695,000.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Tampa International Airport and the FAA Airports District Office.

**SUPPLEMENTARY INFORMATION:** Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) requires the FAA to provide an opportunity for public notice and comment prior to the "waiver" or "modification" of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

**DATES:** Comments are due on or before *February 21, 2012.*

**ADDRESSES:** Documents are available for review at the Tampa International Airport, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822-5024.

#### FOR FURTHER INFORMATION CONTACT:

Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950

Hazeltine National Drive, Suite 400, Orlando, FL 32822-5024.

**Bart Vernace,**

*Acting Manager, Orlando Airports District Office, Southern Region.*

[FR Doc. 2012-1047 Filed 1-19-12; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0174; Notice 2]

#### The Goodyear Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of petition grant.

**SUMMARY:** The Goodyear Tire & Rubber Company (Goodyear)<sup>1</sup> has determined that certain Goodyear commercial truck tires manufactured between April 2007 and July 2010 did not fully comply with paragraph S6.5(f) of Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of more than 4,536 Kilograms (10,000 Pounds) and Motorcycles*. Goodyear has filed an appropriate report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports* (dated August 12, 2010).

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Goodyear has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of Goodyear's petition was published with a 30-day public comment period, on December 28, 2010, in the **Federal Register** (75 FR 81712). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2010-0174."

**Contact Information:** For further information on this decision, contact Mr. George Gillespie, Office of Vehicle Safety Compliance, the National

<sup>1</sup> The Goodyear Tire & Rubber Company (Goodyear) is a State of Ohio corporation that manufactures replacement motor vehicle equipment.

Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5299, facsimile (202) 366-7002.

*Summary of Goodyear's Petition:*

Affected are approximately 43,887 Goodyear G622 LR-F commercial truck tires manufactured from April 2007 to July 2010. A total of approximately 38,991 of these tires have been delivered to Goodyear's customers in the United States.

Goodyear explains that the noncompliance is that, due to a mold labeling error, the sidewall marking on the tires incorrectly identifies the number of plies as "Tread 5 Plies Steel" when in fact it should be identified as "Tread 4 Plies Steel" on the sidewall of the tires as required by paragraph S6.5(f) of FMVSS No. 119.

Goodyear also explains that while the non-compliant tires are mislabeled, all of the tires included in this petition meet or exceed the performance requirements of FMVSS No. 119.

Goodyear argues that this noncompliance is inconsequential to motor vehicle safety because the noncompliant sidewall marking does not create an unsafe condition and all other labeling requirements have been met.

Goodyear also points out that NHTSA has previously granted similar petitions for non-compliances in sidewall marking.

Goodyear additionally states that it has corrected the affected tire molds and all future production will have the correct material shown on the sidewall.

In summation, Goodyear believes that the described noncompliance of its tires to meet the requirements of FMVSS No. 119 is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, and should be granted.

*NHTSA Decision:* The agency agrees with Goodyear that the noncompliances are inconsequential to motor vehicle safety. The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliances on the operational safety of vehicles on which these tires are mounted. The safety of people working in the tire retread, repair and recycling industries must also be considered. Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread and sidewall. Therefore, tire dealers and customers

should consider the tire construction information along with other information such as load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires.

In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the ply material in a tire.

The agency also believes the noncompliance will have no measureable effect on the safety of the tire retread, repair, and recycling industries. The use of steel cord construction in the sidewall and tread is the primary safety concern of these industries. In this case, because the sidewall markings indicate that some steel plies exist in the tire sidewall, this potential safety concern does not exist.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the 38,991<sup>2</sup> tires that Goodyear no longer controlled at the time that it determined that a noncompliance existed in the subject tires.

In consideration of the foregoing, NHTSA has decided that Goodyear has met its burden of persuasion that the subject FMVSS No. 119 labeling noncompliances are inconsequential to motor vehicle safety. Accordingly, Goodyear's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

**Authority:** 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8.

<sup>2</sup> Goodyear's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt Goodyear as a manufacturer from the notification and recall responsibilities of 49 CFR 573 for 38,991 of the affected tires. However, a decision on this petition cannot relieve distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Goodyear notified them that the subject noncompliance existed.

Issued on: January 12, 2012.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2012-938 Filed 1-19-12; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Proposed Information Collection; Comment Request

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "International Regulation—Part 28."

**DATES:** Comments must be received by March 20, 2012.

**ADDRESSES:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 2-3, Attention: 1557-0102, 250 E Street SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-5274, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You can inspect and photocopy the comments at the OCC, 250 E Street SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-4700.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557-0102, by mail to U.S. Office of Management and Budget, 725, 17th Street NW., #10235, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** You can request additional information or a copy of the collection from Mary H. Gottlieb, or Ira L. Mills, OCC Clearance Officers, (202) 874-5090, or (202) 874-6055, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** The OCC is proposing to extend OMB approval of the following information collection without change:

*Title:* International Regulation—Part 28.

*OMB Number:* 1557–0102.

*Description:* This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend its approval of the information collection.

*12 CFR Part 28 contains the following collections of information:*

*12 CFR 28.3 Filing Requirements for Foreign Operations of a National Bank—Notice Requirement* A national bank shall notify the OCC when it:

- Files an application, notice, or report with the FRB to establish or open a foreign branch, or acquire or divest of an interest in, or close, an Edge corporation, Agreement corporation, foreign bank, or other foreign organization.

- Opens a foreign branch, and no application or notice is required by the FRB for such transaction.

In practice, the OCC has also required an application pursuant to section 28.3(c) from a national bank to join a foreign exchange, clearinghouse, or similar type of organization. In lieu of a notice, the OCC may accept a copy of an application, notice, or report submitted to another Federal agency that covers the proposed action and contains substantially the same information required by the OCC. A national bank shall furnish the OCC with any additional information the OCC may require in connection with the national bank's foreign operations.

*12 CFR 28.12(a) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Approval of a Federal branch or agency—Approval and Licensing Requirements* A foreign bank shall submit an application to, and obtain prior approval from the OCC before it establishes a Federal branch or agency, or exercises fiduciary powers at a Federal branch.

*12 CFR 28.12(e)(2) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Approval of a Federal branch or agency—Written Notice for Additional Intrastate Branches or Agencies* A foreign bank shall provide written notice to the OCC 30 days in advance of the establishment of an intrastate branch or agency.

*12 CFR 28.12(h) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual)*

*Approval of a Federal Branch or Agency—After-the-fact Notice for Eligible Foreign Banks* A foreign bank proposing to establish a Federal branch or agency through the acquisition of, or merger or consolidation with, a foreign bank that has an existing bank subsidiary, branch, or agency, may proceed with the transaction and provide after-the-fact notice within 14 days of the transaction to the OCC if (1) the resulting bank is an “eligible foreign bank” within the meaning of § 28.12(f) and (2) no Federal branch established by the transaction accepts deposits insured by the FDIC.

*12 CFR 28.12(i) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Approval of a Federal Branch or Agency—Contraction of Operations* A foreign bank shall provide written notice to the OCC within 10 days after converting a Federal branch into a limited Federal branch or Federal agency.

*12 CFR 28.14(c) Limitations Based upon Capital of a Foreign Bank—Aggregation* The foreign bank shall aggregate business transacted by all Federal branches and agencies with the business transacted by all state branches and agencies controlled by the foreign bank in determining its compliance with limitations based upon the capital of the foreign bank. A foreign bank shall designate one Federal branch or agency office in the United States to maintain consolidated information so that the OCC can monitor compliance.

*12 CFR 28.15(d), (d)(1), (d)(2), and (f) Capital Equivalency Deposits* Deposit arrangements:

- A foreign bank should require its depository bank to segregate its capital equivalency deposits on the depository bank's books and records.

- The instruments making up the capital equivalency deposit that are placed in safekeeping at a depository bank to satisfy a foreign bank's capital equivalency deposit requirement must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC.

- Each Federal branch or agency shall maintain a capital equivalency account and keep records of the amount of liabilities requiring capital equivalency coverage in a manner and form prescribed by the OCC.

- A foreign bank's capital equivalency deposits may not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC, but in no event below the statutory minimum.

*12 CFR 28.16(c) Deposit-taking by an Uninsured Federal branch—Application for an Exemption* A foreign bank may apply to the OCC for an exemption to permit an uninsured Federal branch to accept or maintain deposit accounts that are not listed in paragraph (b) of this section. The request should describe:

- The types, sources, and estimated amount of such deposits and explain why the OCC should grant an exemption;
- How the exemption maintains and furthers the policies described in paragraph (a) of this section.

*12 CFR 28.16(d) Deposit taking by an uninsured Federal branch—Aggregation of deposits* A foreign bank that has more than one Federal branch in the same state may aggregate deposits in all of its Federal branches in that state, but exclude deposits of other branches, agencies or wholly owned subsidiaries of the bank. The Federal branch shall compute the average amount by using the sum of deposits as of the close of business of the last 30 calendar days ending with and including the last day of the calendar quarter, divided by 30. The Federal branch shall maintain records of the calculation until its next examination by the OCC.

*12 CFR 28.17 Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Notice of Change in Activity or Operations* A Federal branch or agency shall notify the OCC if it changes its corporate title; changes its mailing address; converts to a state branch, state agency, or representative office; or the parent foreign bank changes the designation of its home state.

*12 CFR 28.18(c)(1) Recordkeeping and Reporting—Maintenance of Accounts, Books, and Records* Each Federal branch or agency shall maintain a set of accounts and records reflecting its transactions that are separate from those of the foreign bank and any other branch or agency. The Federal branch or agency shall keep a set of accounts and records in English sufficient to permit the OCC to examine the condition of the Federal branch or agency and its compliance with applicable laws and regulations.

*28.20(a)(1) Maintenance of Assets—General Rule* The OCC may require a foreign bank to hold certain assets in the state in which its Federal branch or agency is located.

*12 CFR 28.22(b) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Voluntary Liquidation Notice to customers and creditors*—A foreign bank shall publish notice of the impending closure of each Federal branch or agency for a period of two

months in every issue of a local newspaper where the Federal branch or agency is located. If only weekly publication is available, the notice must be published for nine consecutive weeks.

*12 CFR 28.22(e) Reports of Examination* The Federal branch or agency shall send the OCC certification that all of its Reports of Examination have been destroyed or return its Reports of Examination to the OCC.

*12 CFR 28.25(a) Covered under Information Collection 1557-0014 (Comptroller's Licensing Manual) Change in Control—After-the-fact Notice* In cases where no other filing is required, a foreign bank that operates a Federal branch or agency shall inform the OCC in writing of the direct or indirect acquisition of control of the foreign bank by any person or entity, or group of persons or entities acting in concert, within 14 calendar days after the foreign bank becomes aware of a change in control.

*12 CFR 28.52 Covered under Information Collection 1557-0081 (MA)—Reports of Condition and Income (Interagency Call Report), FFIEC 031, FFIEC 041 Allocated Transfer Risk Reserve* A banking institution shall establish an allocated transfer risk reserve for specified international assets when required by the OCC in accordance with the requirements of the section.

*12 CFR 28.54 Covered under Information Collection 1557-0100 Country Exposure Report and Country Exposure Information Report (FFIEC 009, FFIEC 009a) Reporting and Disclosure of International Assets* A banking institution shall submit to the OCC, at least quarterly, information regarding the amounts and composition of its holdings of international assets. A banking institution shall submit to the OCC information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals; Businesses or other for-profit.

*Estimated Number of Respondents:* 79.

*Estimated Total Annual Responses:* 117.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 3,661.5

Comments submitted in response to this notice will be summarized, included in the request for OMB approval, and become a matter of public record. Comments are invited on:

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

(b) The accuracy of the agency's estimate of the burden of the collection of information;

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

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 13, 2012.

**Michele Meyer,**

*Assistant Director, Legislative and Regulatory Activities Division.*

[FR Doc. 2012-1017 Filed 1-19-12; 8:45 am]

**BILLING CODE 4810-33-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Proposed Information Collection; Comment Request

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "Recordkeeping Requirements for Securities Transactions—12 CFR parts 12 and 151."

**DATES:** You should submit comments by March 20, 2012.

**ADDRESSES:** Communications Division, Office of the Comptroller of the Currency, Mailstop 2-3, Attention: 1557-0142, 250 E Street SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-5274 or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You may

personally inspect and photocopy comments at the OCC, 250 E Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874-4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557-0142, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** You can request additional information or a copy of the collection from Ira L. Mills or Mary H. Gottlieb, OCC Clearance Officer, (202) 874-6055, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** The OCC is proposing to extend OMB approval of the following information collection:

*Title:* Recordkeeping Requirements for Securities Transactions—12 CFR parts 12 and 151.

*OMB Number:* 1557-0142.

*Description:* This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The only revisions to the submission are the revised estimates, which have been updated.

The information collection requirements in 12 CFR parts 12 and 151 are required to ensure that national banks and savings associations comply with securities laws and to improve the protection afforded persons who purchase and sell securities through these financial institutions. The transaction confirmation information provides customers with a record regarding the transaction and provides both financial institutions and the OCC with records to ensure compliance with these institutions and securities laws and regulations. The OCC uses the required information in its examinations to evaluate, among other things, an institution's compliance with the antifraud provisions of the Federal securities laws.

The information collection requirements contained in 12 CFR parts 12 and 151 are as follows:

- 12 CFR 12.3 requires a national bank effecting securities transactions for customers to maintain records for at least three years. The records required by this section must clearly and

accurately reflect the information required and provide an adequate basis for the audit of the information.

- 12 CFR 151.50 establishes the minimum recordkeeping requirements for savings associations concerning securities transactions with their customers. Savings associations must maintain essential records to track their activity in securities transactions.
- 12 CFR 12.4 requires a national bank to give or send to the customer a written notification of the transaction or a copy of the registered broker/dealer confirmation relating to the transaction.
- 12 CFR 151.70–151.100 establish the minimum disclosures needed for confirmation of a customer’s security transaction.
- 12 CFR 12.5(a), (b), (c), and (e) describe procedures a national bank may use as an alternative to complying with § 12.4, to notify customers of transactions in which the bank does not exercise investment discretion, trust transactions, agency transactions, and certain periodic plan transactions.
- 12 CFR 151.90 requires savings associations to provide the customer a written notice, which must give or send the written notice at or before the completion of the securities transactions.
- 12 CFR 12.7(a)(1) through (a)(3) require a national bank to maintain and adhere to policies and procedures that assign responsibility for supervision of employees who perform securities trading functions; provide for the fair and equitable allocation of securities and prices to accounts; and provide for crossing of buy and sell orders on a fair and equitable basis.
- 151.140 requires savings associations to adopt written policies and procedures dealing with the functions involved in effecting securities transactions on behalf of customers.
- 12 CFR 12.7(a)(4) requires certain national bank officers and employees involved in the securities trading process to report to the bank all personal transactions in securities made by them or on their behalf in which they have a beneficial interest.
- 12 CFR 151.150 requires certain savings association officers and employees to report personal transactions they make or that are made

on their behalf in which they have a beneficial interest.

- 12 CFR 12.8 requires a national bank seeking a waiver of one or more of the requirements of §§ 12.2 through 12.7 to file a written request for waiver with the OCC.

*Type of Review:* Regular.

*Affected Public:* Individuals; Businesses or other for-profit.

*Estimated Number of Respondents:* 1,326.

*Estimated Total Annual Responses:* 2,833.

*Estimated Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 6,944 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

- (a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;
- (b) The accuracy of the OCC’s estimate of the burden of the collection of information;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected;
- (d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- (e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 13, 2012.

**Michele Meyer,**  
Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2012–1018 Filed 1–19–12; 8:45 am]

**BILLING CODE 4810–33–P**

**DEPARTMENT OF THE TREASURY**

**United States Mint**

**Pricing for 2012 Annual Sets and America the Beautiful Quarters® Bags & Rolls**

**AGENCY:** United States Mint, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The United States Mint is announcing 2012 pricing for annual sets and the America the Beautiful Quarters® Bags and Rolls. Please see the table below.

Product	Retail Price
2012 United States Mint Proof Set®	\$31.95
2012 United States Mint Silver Proof Set® .....	67.95
2012 United States Mint Uncirculated Coin Set® .....	27.95
2012 United States Mint America the Beautiful Quarters Proof Set™	14.95
2012 United States Mint America the Beautiful Quarters Silver Proof Set™ .....	41.95
America the Beautiful Quarters® Bags .....	34.95
America the Beautiful Quarters® Rolls .....	32.95

**FOR FURTHER INFORMATION CONTACT:** B. B. Craig, Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW., Washington, DC 20220; or call (202) 354–7500.

**Authority:** 31 U.S.C. §§ 5111, 5112 & 9701.

Dated: January 13, 2012.

**Richard A. Peterson,**  
Deputy Director, United States Mint.

[FR Doc. 2012–1024 Filed 1–19–12; 8:45 am]

**BILLING CODE P**



# FEDERAL REGISTER

---

Vol. 77

Friday,

No. 13

January 20, 2012

---

Part II

## Department of Labor

---

Employee Benefits Security Administration

---

Proposed Exemptions From Certain Prohibited Transaction Restrictions;  
Notice

**DEPARTMENT OF LABOR****Employee Benefits Security Administration****Proposed Exemptions From Certain Prohibited Transaction Restrictions**

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Notice of Proposed Exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). This notice includes the following proposed exemptions: D-11655, Renaissance Technologies, Inc. (Renaissance or the Applicant); D-11677, Weyerhaeuser Company (Weyerhaeuser) and Federalway Asset Management LP (collectively the Applicants); and D-11680, Citigroup Inc. (Citigroup); *et al.*

**DATES:** All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice.

**ADDRESSES:** Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N-5700, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. \_\_\_\_\_, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via email or FAX. Any such comments or requests should be sent either by email to: [moffitt.betty@dol.gov](mailto:moffitt.betty@dol.gov), or by FAX to (202) 219-0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public

Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue NW., Washington, DC 20210.

**WARNING:** If you submit written comments or hearing requests, do not include any personally-identifiable or confidential business information that you do not want to be publicly-disclosed. All comments and hearing requests are posted on the Internet exactly as they are received, and they can be retrieved by most Internet search engines. The Department will make no deletions, modifications or redactions to the comments or hearing requests received, as they are public records.

**SUPPLEMENTARY INFORMATION:****Notice to Interested Persons**

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate). The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

**Renaissance Technologies, LLC (Renaissance, or the Applicant)**

*Located in New York, New York*

[Application No. D-11655]

**Proposed Exemption**

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act (or ERISA) and section 4975(c)(2) of the Code and in

accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847 August 10, 1990).

**Section I. Covered Transactions Involving IRAs Subject to Title I and TITLE II of ERISA**

If the exemption is granted, the restrictions of section 406(a)(1)(A) and (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) and (D) of the Code,<sup>1</sup> shall not apply, effective January 1, 2012, to:

(a) The direct or indirect acquisition by a Participant's IRA of an interest in a Medallion Fund through such IRA's acquisition of an interest in a New Medallion Vehicle;

(b) The acquisition of an additional interest by a Participant's IRA in a New Medallion Vehicle; and

(c) The redemption of all or a portion of a Participant's IRA's interest in a New Medallion Vehicle.

This proposed exemption is subject to the general conditions set forth below in Section III.

**Section II. Covered Transactions Involving IRAs Subject to Title II of ERISA Only**

If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) and (D) of the Code,<sup>2</sup> shall not apply, effective January 1, 2012, to:

(a) The direct or indirect acquisition by a Spouse's IRA of an interest in a Medallion Fund through such IRA's acquisition of an interest in a New Medallion Vehicle;

(b) The acquisition of an additional interest by a Spouse's IRA in a New Medallion Vehicle; and

(c) The redemption of all or a portion of a Spouse's IRA's interest in a New Medallion Vehicle.

This proposed exemption is subject to the general conditions set forth below in Section III.

**Section III. General Conditions**

(a) An IRA's acquisition of an interest in a New Medallion Vehicle is made at the specific direction of an IRA Holder.

(b) Renaissance renders no investment advice (within the meaning of 29 CFR 2510.3-21(c)) to IRA Holders concerning a potential acquisition of an

<sup>1</sup> For purposes of this proposed exemption, references to the provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

<sup>2</sup> Pursuant to 29 CFR 2510.3-2(d), the Spouses' IRAs are not within the jurisdiction of Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

interest in a New Medallion Vehicle and does not engage in marketing activities or offer employment-related incentives of any kind intended to cause IRA Holders to consider such acquisition.

(c) An interest in a New Medallion Vehicle is only available to IRA Holders who satisfy the securities law-based investor qualifications applicable to all investors in such New Medallion Vehicle.

(d) No commissions, sales charges, or other fees or profit participations in the form of performance allocations or otherwise, direct or indirect, are assessed against an IRA in connection with its acquisition and holding of an interest in a New Medallion Vehicle.

(e) An IRA pays no more and receives no less for its particular interest in any of the New Medallion Vehicles than they would in an arm's length transaction with an unrelated party.

(f) An IRA's interest in a New Medallion Vehicle is redeemable, in whole or in part, without the payment of any redemption fee or penalty, no less frequently than on a quarterly basis upon no less than 10 days advance written notice.

(g) An acquisition or redemption of an IRA's interest in a New Medallion Vehicle is made for fair market value, determined as follows:

(1) Equity securities are valued at their last sale price or official closing price on the market on which such securities primarily trade using sources independent of Renaissance and the issuer. If no sales occurred on such day, equity securities are valued at the last reported independent "bid" price or, if sold short, at the last reported independent "asked" price.

(2) Fixed income securities are valued on either the basis of "firm quotes" obtained at the time of an acquisition or redemption from U.S.-registered or foreign broker-dealers, which are registered and subject to the laws of their respective jurisdiction, which quotes reflect the share volume involved in the transaction, or on the basis of prices provided by independent pricing services that determine valuations based on market transactions for comparable securities and various relationships between such securities that are generally recognized by institutional traders.

(3) Options are valued at the mean between the current independent "bid" price and the current independent "asked" price or, where such prices are not available, are valued at their fair value in accordance with Fair Value Pricing Practices by the Renaissance Valuation Committee, which utilizes a

set of defined rules and an independent review process.

(4) If current market quotations are not readily available for any investments, such investments are valued at their fair value by the Renaissance Valuation Committee in accordance with Fair Value Pricing Practices.

(h) Redemption of an IRA's interest in a New Medallion Vehicle, in whole or in part, is made in cash.

(i) In the event that a redemption of any portion of an IRA Holder's interest in any of the Medallion Funds becomes necessary as the result of a reduction of the Investment Allocation applicable to an IRA Holder, then, at such IRA Holder's election, a redemption is first made of the IRA Holder's taxable investments (if any) prior to his or her IRA's interest in a New Medallion Vehicle.

(j) With respect to the investment by Participants in the New Medallion Vehicles through IRAs, Renaissance acknowledges that such investments may constitute investments by a "pension plan" within the meaning of section 3(2) of the Act, and the Applicant represents that, with respect to such investments, it will comply with all applicable requirements of Title I of the Act.

(k) Renaissance does not use the fact that IRAs invested in the Funds in any marketing activities or publicity materials for the Funds.

(l) In advance of the initial investment by an IRA in a New Medallion Vehicle, the IRA Holder receives:

(1) A copy of the proposed exemption and the final exemption, following the publication of the final exemption in the **Federal Register**;

(2) A private offering memorandum (with all related exhibits) describing the relevant investment vehicles, including its investment objectives, risks, conflicts, operating expenses and redemption and valuation policies, and any IRA Holder whose IRA owns an interest in a New Medallion Vehicle receives the same disclosures and information provided to other investors with respect to the Fund in which he or she invests; and

(3) All reasonably available relevant information as such IRA Holder may request.

(m) On an on-going basis, Renaissance provides each IRA Holder whose IRA owns an interest in a New Medallion Vehicle with the following information:

(1) Unaudited performance reports at the end of each month; and

(2) Audited annual financial statements following the end of each calendar year.

(n) Prior to the acquisition by an IRA of an interest in a New Medallion Vehicle or each Fund or vehicle in which, or through which, a New Medallion Vehicle invests, Renaissance or the applicable New Medallion Vehicle manager (the New Medallion Vehicle Manager):

(1) Agrees to submit to the jurisdiction of the federal and state courts located in the State of New York;

(2) Agrees to appoint an agent for service of process for the New Medallion Vehicle, and any other Fund described in this section, in the United States (the Process Agent);

(3) Consents to service of process on the Process Agent; and

(4) Agrees that any enforcement by an IRA Holder of his or her rights pursuant to this exemption will, at the option of the IRA Holder, occur exclusively in the United States courts.

(o) Renaissance maintains or causes to be maintained for a period of six years from the date of any covered transaction such records as are necessary to enable the persons described in paragraph (p)(i) below to determine whether the conditions of this proposed exemption, if granted, have been met, provided that (i) a separate prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Renaissance, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest or disqualified person other than Renaissance shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph (p)(i) below; and

(p)(i) Except as provided below in paragraph (p)(ii), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to above in paragraph (o) are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, the Commodity Futures Trading Commission (CFTC), or the U.S. Securities and Exchange Commission (SEC), and

(B) Any IRA Holder or any duly authorized representative or beneficiary of an IRA; and

(ii) None of the persons described above in paragraph (p)(i)(B) shall be authorized to examine trade secrets of Renaissance, or commercial or financial information which is privileged or confidential, and should Renaissance

refuse to disclose information on the basis that such information is exempt from disclosure, Renaissance shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

#### Section IV. Definitions

For purposes of this proposed exemption:

(a) The term “Renaissance” means Renaissance Technologies, LLC, and its affiliates.

(b) An “affiliate” of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such entity (for purposes of this paragraph, the term “control” means the power to exercise a controlling influence over the management or policies of a person other than an individual); and

(2) Any officer of, director of, or partner in such person.

(c) The term “Fair Value Pricing Policies” means the Official Pricing Policy established in good faith by the Renaissance Valuation Committee for valuing an instrument, which is subject to the approval of the Renaissance Technologies LLC Board of Directors.

(d) The term “Fund” or “Funds” means, individually or collectively, the nine privately offered U.S. and non-U.S. collective investment vehicles managed by Renaissance, comprised almost exclusively of assets of Renaissance and its owners and employees (the Proprietary Funds) and the five privately offered U.S. and non-U.S. collective investment vehicles, consisting primarily of assets of clients of Renaissance (the non-Proprietary Funds).

(e) The term “Investment Allocation” means the permitted investment allocation in the Medallion Funds applicable to a Renaissance employee, which such employee and his or her Spouse may utilize to make investments in a Medallion FF or Kaleidoscope, or in an applicable New Medallion Vehicle investing in such Funds, subject to each such employee’s overall Investment Allocation limit.

(f) The term “IRA” means an “individual retirement account” as defined under section 408(a) of the Code or a “Roth IRA” as defined under section 408A of the Code that is beneficially owned by an IRA Holder.

(g) The term “IRA Holder” means a Participant, or the Spouse of a Participant, who is eligible to invest in

a New Medallion Vehicle through his or her IRA.

(h) The term “Kaleidoscope” means Kaleidoscope Fund LLC, a Delaware limited liability company established by Renaissance to facilitate the investment by certain employees of Renaissance in the other Proprietary Funds.

(i) The term “Medallion Funds” means six of the nine Proprietary Funds, organized in a “master-feeder” investment structure, comprised of six Medallion Fund feeder funds (Medallion FFs) engaging in their investment and trading activities only through certain master funds and their subsidiaries (the Medallion Master Funds).

(j) The term “New Medallion Vehicle” or “New Medallion Vehicles” means, individually or collectively, New Medallion FF, the New Medallion Conduit, and New Kaleidoscope.

(k) The term “New Kaleidoscope” means Kaleidoscope RF Fund LLC, the Delaware limited liability company to be established by Renaissance in order to facilitate the investment in the Medallion Funds (through the New Medallion Conduit), by IRA Holders who do not meet the investor qualifications to invest in the New Medallion FF.

(l) The term “New Medallion Conduit” means Medallion RMPRF Fund LP, the Bermuda Limited Partnership that is treated as a corporation for US Federal Income Tax purposes, to be established by Renaissance in order to facilitate the investment by New Kaleidoscope in the Medallion Funds.

(m) The term “New Medallion FF” means Medallion Fund RF LP, the Bermuda Limited Partnership that is treated as a corporation for US Federal Income Tax purposes, to be established by Renaissance in order to facilitate an IRA Holder’s investment in the Medallion Master Funds.

(n) The term “Participant” means a former participant in the Renaissance Technologies, LLC 401(k) Plan (the 401(k) Plan) who received a distribution of their entire account balance in the 401(k) Plan prior to December 31, 2010 as a result of the termination of such plan, and is either an employee or a Permitted Owner of Renaissance at the time of such individual’s investment in the New Medallion Vehicles.

(o) The term “Permitted Owners” means the seven individuals permitted to invest in the Medallion Funds following the termination of their Renaissance employment, comprised of three Renaissance “founders,” and four former employees who are owners of Renaissance.

(p) The term “Renaissance Valuation Committee,” or “RVC,” means the committee, established by Renaissance in 2008, that oversees and monitors the valuation process, and establishes the methods of, and procedures for, valuing various instruments traded by Renaissance (e.g., the Proprietary Funds), composed of high-level Renaissance employees who also are Fund investors.

(q) The term “Spouse” means a person who is (a) married to a Participant, or (b) to the extent not prohibited by applicable law, in a civil union or similar marriage-equivalent institution established pursuant to State law of the State where the Participant resides (or otherwise recognized by the State where the Participant resides) with a Participant.

#### Section IV. Effective Date

If granted, this proposed exemption will be effective as of January 1, 2012.

#### Summary of Facts and Representations<sup>3</sup>

##### The Applicant

1. Renaissance is an investment adviser registered with the SEC and a commodity pool operator and commodity trading advisor registered with the CFTC. The firm was founded in 1982 and is headquartered in New York City, and its research and trading activities are conducted from its office in East Setauket, New York. Renaissance implements quantitative investment strategies on behalf of its clients, employing quantitative analysis, specifically, mathematical and statistical methods, to uncover technical indicators with predictive value. This analysis is used to construct proprietary computer models which use publicly available financial data to identify and implement trading decisions electronically. Renaissance’s quantitative analysis and trading activities are applied to mature, highly liquid, publicly-traded instruments in both U.S. and foreign markets.

2. The Applicant has approximately 275 employees, about 100 of whom are owners of Renaissance. According to the Applicant, many of Renaissance’s employees are specialists with non-financial backgrounds, including mathematicians, physicists, astrophysicists, and statisticians. In this respect, about a third of the more than 200 employees at the Long Island office have Ph.D.s.

<sup>3</sup> The Summary of Facts and Representations (the Summary) is based on the Applicant’s representations and does not reflect the views of the Department.

3. Renaissance is the investment manager of the Funds, fourteen privately offered U.S. and non-U.S. collective investment vehicles with aggregate net assets under management as of April 30, 2011 of approximately \$19 billion. Renaissance's nine Proprietary Funds are comprised almost exclusively of assets of Renaissance and its owners and employees, and include, among others, the six Medallion Funds and Kaleidoscope. According to the Applicant, none of the assets of any Proprietary Fund is treated as "plan assets" of any "benefit plan investor," as those terms are defined in section 3(42) of the Act and 29 CFR 2510.3-101. Renaissance's non-Proprietary Funds consist primarily of assets of clients, such as foundations, private- and public-sector pension funds, financial institutions, and high net worth individuals, as well as a small amount of proprietary assets.

According to Renaissance, as of April 30, 2011 the breakdown of aggregate assets under management between the Proprietary Funds and the non-Proprietary Funds is \$13.3 billion and \$5.8 billion, respectively. Of this, the Applicant states that the Medallion Funds (described below) represent approximately \$10.2 billion of the Proprietary Funds' assets under management as of April 30, 2011.

#### *The Medallion Funds*

4. Renaissance explains that the Medallion Funds are organized in a "master-feeder" structure, with investors owning shares of a "feeder fund" that invests directly in one or more "master funds," generally organized as such for tax or other regulatory reasons. There are six Medallion FFs, each of which is intended for investors who meet certain criteria specific to that Medallion FF concerning that investor's residency (U.S. or non-U.S.) and regulatory status under the U.S. federal securities laws. All equity interests in each Medallion FF are owned by the investors in that Medallion FF, and, as described below, also by Renaissance (in certain Medallion FFs).

5. The Applicant states that the Medallion FFs all have the same investment objectives and trading strategies and currently do, and will, invest and trade together through the same master trading vehicles that were formed solely for that purpose. In this regard, each Medallion FF engages in its investment and trading activities only through the Medallion Master Funds. Investors contribute capital to a Medallion FF and receive interests or shares (depending on the Medallion FF

structure as either a partnership or a corporation) in such Medallion FF. All investment capital in each Medallion FF (minus a small amount necessary to pay expenses at the Medallion FF level) is re-invested in the Medallion Master Funds where all investment and trading activities occur. According to the Applicant, as a practical matter, the Medallion FFs have a minimum capital investment requirement of \$25,000, from subscribers but do have the discretion to accept less in appropriate circumstances.

6. The Medallion Master Funds and the Medallion FFs are organized as either limited partnerships or corporations, and all equity interests in the Medallion Master Funds are owned collectively and directly by one or more of the Medallion FFs, and indirectly, primarily by Renaissance, owners of Renaissance, and Renaissance's employees. All investors in the Medallion FFs (as well as the other Proprietary Funds and non-Proprietary Funds) must, among other things, meet the entry requirements established under the U.S. federal securities laws for admission.<sup>4</sup> Further, the Medallion Funds are audited annually by a nationally-recognized accounting firm.

7. The Applicant states that the primary objective of each Medallion Fund is to achieve appreciation of its assets through investment and trading in a variety of both securities-related and futures-related financial instruments. According to the Applicant, the Medallion Funds seek out investments that are reasonably liquid in nature and that complement their other trading activities. The Applicant states further that the Medallion Funds trading takes place on organized U.S. and foreign exchanges, as well as through the interbank or cash markets, or on or through recognized markets of regional, national or international standing, based on a proprietary and highly confidential computational trading system developed by Renaissance.

8. According to the Applicant, the Medallion Funds invest and trade in various types of financial instruments as determined by Renaissance, including, without limitation: (a) Equity securities and related instruments, such as common and preferred stocks, ADRs, options, warrants, convertible securities and swaps and other derivatives relating to equity securities, (b) futures contracts (and options thereon) and forward

contract transactions, and (c) fixed income securities and related derivatives, including U.S. and non-U.S. government issued (and U.S. government agency guaranteed) securities, mortgage-related securities and derivatives and credit default swaps. The Applicant explains that allocations of the Medallion Funds' assets among these investment areas will vary based on market opportunities and other related factors. Furthermore, the Medallion Funds also may utilize other securities, options, cash instruments, interest rate swaps and futures and other derivatives for hedging purposes. Nevertheless, the Applicant notes that the Medallion Funds are not limited to the specific investments described above and Renaissance has the exclusive responsibility for choosing the investments and strategies in which the Medallion Funds may from time to time invest and the amount of capital that will be invested.

9. According to the Applicant, Renaissance operates a diverse proprietary equity trading program consisting of several different equity trading strategies primarily based on technical methods that produce a statistical forecast of future prices of individual securities. In this regard, the Applicant explains that the Medallion Funds' portfolio of equity securities may consist of both long and short positions, and a substantial portion of the positions are structured as derivative transactions. Furthermore, the Applicant notes that Renaissance may from time to time develop and utilize other equity trading strategies as a part of the Medallion Funds' overall equity trading program, which may be integrated into the existing Medallion Master Funds and their subsidiaries or may be implemented through new affiliates of such Funds.

10. According to the Applicant, the Medallion Funds' investment strategy for its proprietary futures trading program is based primarily on technical analysis using a trading method based on input from certain proprietary computer programs, databases and algorithms, and to a limited extent on the basis of fundamental analysis of factors affecting prices of futures instruments. The Applicant notes that a wide variety of traditional commodity futures contracts are traded, together with certain financial futures contracts and contracts in major currencies, although there will not necessarily be positions in each such contract on every day.

11. The Applicant states that the Medallion Funds also invest and trade

<sup>4</sup> The Medallion FFs currently operate under the exemptions set forth in sections 3(c)(7), 3(c)(1), or 6(b) of the 1940 Act, and Rule 506 of Regulation D under the Securities Act of 1933, as amended (the 1933 Act).

in a variety of fixed income securities as a cash management strategy in support of its other investment programs. According to the Applicant, these fixed income securities include, but are not limited to, U.S. government-issued (and U.S. government agency-guaranteed) and non-U.S. government issued instruments including securities and repurchase and/or reverse repurchase transactions thereon. The Applicant states further that cash instruments, such as money market shares, also are employed, as are mortgage-related securities and derivatives, and credit default swaps.

12. According to the Applicant, the Medallion Funds use leverage in their investment and trading activities, derived from two sources—borrowed funds in securities transactions and inherent leverage embedded in futures contracts and related instruments. In this regard, the Medallion Funds borrow, either directly or indirectly, in order to finance the acquisition of securities and secure such borrowings with its assets, at market rates of interest without recourse to the Funds' investors. The Applicant states that the amount of these borrowings varies, but that the Medallion Funds' equities positions generally equal 4 to 5 times its investor capital. According to the Applicant, futures and forward contracts trading also is leveraged in that the margin deposits required to establish and to maintain these positions create inherent leverage on these transactions, but do not involve any borrowed funds (they are good faith deposits).<sup>5</sup>

13. The Applicant states that the risk of investing in the Medallion Funds results from a variety of factors, including the volatility in the various markets for financial instruments that the Funds trade in, the use of leverage (which can exacerbate both profits and losses), and the uncertainty of governmental actions around the world and their impact on the interconnected global financial markets (e.g., actions of central banks that affect interest rates in various currencies). However, the Applicant observes that these risks are mitigated by several factors, including the Medallion Funds' broad investment diversification, the liquidity of most of the instruments the Funds trade, the quarterly liquidity afforded to each investor, and the success that

<sup>5</sup> The Applicant explains that futures contract positions on recognized exchanges in the U.S. may be acquired with initial margin deposits generally that range from 2% to 15% of the face amount of a contract (e.g., a \$37,997 contract to acquire wheat can be established with an initial deposit of \$3,037 (8% of its face value).

Renaissance has achieved in trading the various Medallion Funds that have resulted in average annual returns (before management fees and performance allocations) of 76.91% over the past twenty years.

#### *The Kaleidoscope Fund*

14. One of the nine Proprietary Funds maintained by Renaissance is Kaleidoscope, a Delaware limited liability company, established exclusively as a "perk" to Renaissance's employees who do not meet the financial qualification requirements under the U.S. federal securities laws for eligibility to invest in any of the other eight Proprietary Funds.<sup>6</sup> Kaleidoscope is a "fund-of-funds" that currently invests in the Medallion Funds through one of the Medallion FFs, known as "Medallion RMP," in addition to the other Proprietary Funds. As of April 30, 2011, Kaleidoscope held approximately \$29.1 million in assets under management, approximately \$8.9 million of which was invested in Medallion RMP. Further, as Kaleidoscope only invests in the Proprietary Funds, it invests indirectly in the instruments and transactions that such Funds invest in directly. Kaleidoscope is also audited annually by a nationally-recognized accounting firm.

#### *The RIFF and RIEF Funds*

15. In addition to the Medallion Funds and Kaleidoscope, RIEF RMP LLC (RIEF) and RIFF RMP LLC (RIFF) make up the remainder of the Proprietary Funds. RIEF is a Delaware limited liability company that does not trade in a master-feeder structure, but instead engages in direct investing and has multiple classes of ownership interests. RIEF invests and trades for its own account primarily in a widely diversified portfolio consisting almost exclusively of listed U.S. and non-U.S. equity securities that are publicly traded on U.S. securities exchanges, and to a more limited extent in derivatives, such as exchange traded futures contracts and total return swaps. RIFF is also a Delaware limited liability company, but, unlike RIEF, it operates in a master-feeder structure similar to the Medallion Funds. Thus, all investment decisions are made at the level of the ultimate RIFF master fund, through which RIEF invests and trades primarily in futures contracts on organized exchanges,

<sup>6</sup> Kaleidoscope currently operates under the exemption set forth in section 3(c)(1) of the 1940 Act and Rule 506 of Regulation D under the 1933 Act.

forward contracts, and other derivative instruments.

16. Investors in RIEF and RIFF are limited primarily to certain of Renaissance's employees and their family members, as well as entities maintained for the benefit of the foregoing persons, each of whom meets the applicable federal securities law requirements.<sup>7</sup> Such investors either invest directly by acquiring interests in such Funds, or they may invest indirectly through Kaleidoscope. RIEF and RIFF are subject to both SEC registration and regulation by the CFTC, and are both audited annually by a nationally-recognized accounting firm.<sup>8</sup>

#### *The Interests of Renaissance and its Owners and Employees in the Medallion Funds*

17. Renaissance is the general partner of the Medallion FFs and Medallion Master Funds that are organized as limited partnerships, and certain of Renaissance's owners serve as directors of the Medallion FFs and Medallion Master Funds that are organized as non-U.S. corporations. Renaissance is also the investment manager to all the Medallion Funds, including both Medallion FFs and Medallion Master Funds, and has investment discretion over their assets. However, the Applicant states that Renaissance's role as "investment manager" of the Medallion FFs is extremely narrow in practice, as each Medallion FF, by its terms, only may invest in, and thus effectively is "hardwired" to, the Medallion Master Funds. In effect, the Applicant contends, Renaissance's role at the Medallion FF level is more administrative than investment related (as compared to the role of an "investment manager" as defined in Section 3(38) of the Act).

18. As the investment manager of the Medallion Funds, Renaissance receives a quarterly, fixed management fee from each Medallion FF, based on the net asset value of each Medallion fund at the beginning of each semi-annual period (January 1 and July 1 of each year), and payable in cash. However,

<sup>7</sup> According to the Applicant, Renaissance owns less than 1% of the equity interests in each of RIEF and RIFF, and no Participant is a majority owner of either of such Funds. Therefore, the Applicant states that neither RIEF nor RIFF are parties in interest or disqualified persons with respect to IRAs investing therein. As a result, the Department is not proposing exemptive relief for such transactions, nor fully describing them, herein.

<sup>8</sup> RIEF qualifies under section 6(b) of the 1940 Act and Rule 506 of Regulation D under the 1933 Act, and RIFF qualifies under Rule 506 of Regulation D under the 1933 Act (there is no parallel exemption under the 1940 Act because RIFF trades primarily in futures, and thus is a "futures" fund and not a "securities" fund).

Renaissance does not receive a management fee from any of the Medallion Master Funds. These management fees are charged at the annualized rate of 5% of net asset value (i.e., 2½% of net asset value at the beginning of each semi-annual period). Thus, the most recent fixed quarterly management fees paid to Renaissance by the Medallion FFs are equal to approximately \$107 million.

19. Renaissance also maintains substantial capital investments in the four U.S. Medallion FFs that are organized as Delaware limited partnerships, and hence has a “capital account” in each U.S. Medallion FF. In addition, Renaissance owns a separate class of non-participating shares in the two non-U.S. Medallion FFs that are organized as Bermuda corporations. Combined, Renaissance owns approximately 28.49% of the combined equity interests in the Medallion FFs.<sup>9</sup> Because the Medallion FFs directly invest solely in the Medallion Master Funds, Renaissance indirectly owns 28.49% of the combined equity interests in the Medallion Master Funds.

20. Renaissance also receives a contractual performance allocation equal to a percentage of the semi-annual net profits that are earned by each investor, from (a) the two non-U.S. Medallion FFs, through its separate class of non-participating shares in each such non-U.S. Medallion FF, and (b) each of the four U.S. Medallion FFs through its capital account in each such Medallion FF. According to the Applicant, performance allocations are calculated and assessed on an investor-by-investor basis within each Medallion fund in an amount that ranges between 20% and 44% of the new high net capital appreciation (realized and unrealized) experienced by each investor during each semi-annual period (i.e., January 1 to June 30 and July 1 to December 31 of each year).<sup>10</sup> The Applicant states that the performance allocation is calculated on a “high-watermark” basis (i.e., only after any cumulative net losses from prior semi-annual calculation periods are

overcome).<sup>11</sup> Thus, the quarterly performance allocations paid to Renaissance by the Medallion FFs for the most recent calculation period are equal to approximately \$891 million. Furthermore, payment of such performance allocations increases the amount of Renaissance’s capital account in the applicable Medallion Fund. According to the Applicant, Renaissance then has the option in whole or in part to withdraw such performance allocation in cash or to leave the performance allocation in its capital account (which is available to be withdrawn at any time in the future).

Renaissance does not receive a performance allocation directly from any of the Medallion Master Funds. However, as a result of its contractual performance allocations from the Medallion FFs, Renaissance indirectly holds a 36% profits interest in the Medallion Master Funds.

21. According to the Applicant, since the Medallion Master Funds are owned by the Medallion FFs, Renaissance has an indirect profits interest in the Medallion Master Funds in excess of 50% through a combination of its (a) profit participation in the Medallion FFs’ net profits received through the performance allocations resulting from the Medallion Master Funds’ trading and investment activities, and (b) direct ownership interests in the U.S. Medallion FFs, which in turn invest in the Medallion Master Funds.<sup>12</sup> The Applicant explains that, since Renaissance holds a 36% profits interest in the Medallion Master Funds through its contractual performance allocations from the Medallion FFs, 64% of the profits interest in the Medallion Master Funds remains to be divided among all equity holders, in proportion to their equity ownership in the Medallion FFs. Because Renaissance owns approximately 28.49% of the combined equity interests in the Medallion FFs, they own a corresponding 18.23% interest in profits in the Medallion

Master Funds based on their equity interest in the Medallion FFs (28.49% of 64% = 18.23%). Thus, Renaissance has a 54.23% profits interest (36% + 18.23% = 54.23%) in the Medallion Master Funds.

22. Renaissance’s owners and employees (and their affiliated entities) also may invest in the Medallion FFs in their personal capacities (if they meet the investor qualification requirements applicable to such Funds) and would thus have direct ownership interests in the Medallion FFs (but not necessarily in the same Medallion FFs or in the same proportions). As of April 30, 2011, such individuals owned approximately 71.46% of the total assets under management of the Medallion FFs, or \$7.3 billion.

23. In addition, small ownership interests in the Medallion FFs are held by Kaleidoscope (0.09% or \$8.9 million) and certain “outsiders,” i.e., individuals who are employed by two entities in which Renaissance has a minority ownership interest in connection with these entities’ management of two venture capital partnerships (0.13% or \$13.4 million). As described below, the investment by Kaleidoscope facilitates the indirect investment in the Medallion FFs by individuals who do not otherwise qualify to invest directly in such Funds.

24. Renaissance is also the managing member of Kaleidoscope and its investment manager. However, since Renaissance maintains Kaleidoscope purely as a “perk” to its employees, it does not receive any performance allocations or management fees (or other compensation) from Kaleidoscope for acting as its managing member or investment manager, respectively. Kaleidoscope does, however, pay management fees to, and is subject to performance allocations at the investee Fund levels in the same manner as are all other investors. The Applicant explains that Kaleidoscope currently invests only in Medallion RMP, RIEF, and RIFF. As an investor in such Funds, Kaleidoscope is subject to the same fixed fees and performance allocations payable to Renaissance as are all the other investors in such Funds (although such fees and allocations may vary by investor). In this regard, the most recent fixed quarterly management fees and performance allocations for the most recent calculation period paid to Renaissance by Medallion RMP, that are allocable to Kaleidoscope’s investment in such Fund, are equal to \$196,154, and \$774,654, respectively. However, no extra compensation is paid to Renaissance for its role in managing Kaleidoscope.

<sup>9</sup> According to the Applicant, Renaissance directly owns 28.41% of the combined Medallion FFs, but Kaleidoscope, which invests directly in the Medallion FFs, is owned approximately 94.6% by Renaissance and 5.4% by its owners, directors, and employees. Taking this into account, Renaissance’s equity ownership percentage of the combined Medallion FFs is actually 28.49%.

<sup>10</sup> The Applicant states that calculating the performance allocation on an investor-by-investor basis assures that every investor only pays a performance allocation on its own investment profits (because it is possible for a Fund to have net profits while certain investors do not).

<sup>11</sup> The Applicant explains that performance allocations are not assessed on any unrecouped losses from prior periods, which must be made up before a new performance allocation is assessed. Furthermore, the Applicant notes that performance allocations are assessed as of a redemption date that occurs in the middle of a performance allocation calculation period with respect to any redeemed amounts as of that date. In such event, the date used to calculate appreciation of the Funds is the date of redemption.

<sup>12</sup> Section 3(14)(G) of the Act and/or section 4975(e)(2)(G) of the Code provides that a partnership is a party in interest or a disqualified person with respect to a plan if 50% or more of the capital or profits interest in the partnership is owned by, among others, a fiduciary, service provider, or an employer any of whose employees are covered by such plan.

25. As of April 30, 2011, Kaleidoscope held \$29,117,684 in assets under management, approximately \$60,037 of which represented expenses accrued to the partners in such Fund. Furthermore, as of April 30, 2011, Renaissance held an ownership interest in Kaleidoscope worth \$27,554,570 or approximately 94.6% of the Fund's value, and Renaissance's owners and employees (and their affiliated entities, e.g., personal trusts) held an ownership interest of approximately 5.4% of Kaleidoscope's assets under management, or \$1,563,114, in their personal capacities.

#### *The Decision To Terminate the 401(k) Plan*

26. Renaissance previously sponsored the 401(k) Plan for its employees. All aspects of the 401(k) Plan, including the investment options, were provided by Fidelity Investments (Fidelity), the Plan recordkeeper, and a directed trustee and an unrelated party. Renaissance relates that many of its employees expressed an interest to invest their retirement assets in the Medallion Funds or in some other investment vehicle that is managed by Renaissance. According to the Applicant, these individuals were dissatisfied with the investment options offered under the 401(k) Plan and their marked volatility and poor performance (many 401(k) Plan investment options lost over 40% of their value in 2008 alone), and they desired to take advantage of the Funds' comparatively high investment returns. The Applicant notes that the Medallion Funds have historically been excellent investments, earning a net average return in excess of 40 percent per annum since 1998, including net returns for 2005 through 2010 ranging from approximately 33 to 98 percent.<sup>13</sup> In addition, according to the Applicant, Kaleidoscope has earned a net average return in excess of 22 percent per annum since its inception in 2007.

27. The Applicant relates that there were a number of factors which, taken together, led Renaissance to conclude that the best opportunity for its employees to invest their retirement assets in the Medallion Funds was through the termination of the 401(k) Plan and the application for an administrative exemption to permit Participants to invest in the Medallion Funds through their IRAs. As a threshold consideration, Renaissance

explains that Fidelity's management policies would not permit unregistered, alternative investment vehicles such as the Funds as an investment option for the Plan. However, even if Fidelity had agreed to allow the 401(k) Plan to offer the Funds as an investment option, the Applicant suggests that there were considerable legal obstacles to establishing such investments options.

28. According to the Applicant, offering the Funds as investment options under the 401(k) Plan could have created a potential issue under section 404(c) of the Act in connection with Participants' ability to reallocate their investments among the different investment options in the 401(k) Plan.<sup>14</sup> The Applicant explains that, although the Medallion Funds invest primarily in liquid investments which can be valued on a daily basis, they permit redemptions only on a quarterly or monthly basis. By contrast, the 401(k) Plan investments were comprised of mutual funds that permitted investments in or out on a daily basis (subject to frequent trading restrictions imposed by some of the mutual funds). Renaissance suggests that, if the 401(k) Plan investment options other than the Medallion Funds all allowed daily investments and redemptions, but the Medallion Funds did not, there could have been a question as to whether the regulations under section 404(c) of the Act were satisfied.

29. The Applicant also observes that, as a tax-qualified plan, the 401(k) Plan was subject to the nondiscrimination requirements of section 401(a)(4) of the Code, including the requirement that benefits, rights and features under the 401(k) Plan be available on a basis that does not discriminate in favor of non-highly compensated employees. In order to comply with provisions of laws governing securities and futures contracts, and provisions relating to the registration of fund offerings and pre-filing requirements linked to investor financial qualifications, each Fund (except Kaleidoscope) provides financial standards for ownership that would exclude some persons who were participants in the Plan. Thus, according to the Applicant, if a group of 401(k) Plan participants was ineligible to invest in the Funds through the Plan as a result of those restrictions, and those participants were non-highly compensated employees, there could be

an issue as to whether the Plan satisfied the requirements under section 401(a)(4) of the Code.<sup>15</sup>

30. Finally, the Applicant states that an important consideration for Renaissance was to give participants the opportunity to take advantage of the special rule for spreading the tax liability from a Roth conversion in 2010 over two taxable years.<sup>16</sup> The Applicant explains that, while legislation was adopted in September 2010 to amend section 402A of the Code to permit a "Roth rollover" inside a qualified plan, there was no IRS guidance on this provision in 2010, while there was guidance on Roth IRA conversions. Thus, Renaissance determined that it was most advantageous to the Participants to terminate the 401(k) Plan in October 2010, so that Participants could take their distributions prior to the end of that year, because they would only have the opportunity to take advantage of the "two-year averaging" tax benefit if such election was made in 2010.

31. Accordingly, the Applicant terminated the 401(k) Plan, causing the distribution of the 401(k) Plan's account balances (the Proceeds) to Participants. Renaissance intended that Participants would receive their Proceeds in newly created or pre-existing IRAs or Roth IRAs and could either invest in the Funds through a group of new feeder funds, described below, designed specifically for that purpose, or, if they desired, in unrelated investments managed by third parties. Furthermore, Renaissance intended that the Spouses of Participants would be allowed to invest alongside such Participants through their IRAs to the extent such investment is allowed under Renaissance's investment guidelines governing the Medallion Funds.

32. The Applicant states that most of Renaissance's approximately 275 current employees are potential IRA investors in the Funds. They note that 249 of Renaissance's employees are currently investors in the Funds on an after-tax basis. The Applicant notes further that, based on the amount of Proceeds, the potential amount of IRA assets of Participants that could be invested in the Funds if the proposed transactions are granted exemptive relief is equal to approximately \$88 million (representing all Participants' account balances). However, according to the Applicant, some Proceeds were distributed to persons (e.g., former employees) who are not eligible to

<sup>13</sup> As the New Medallion Vehicles will not charge fees or profit participations in the form of performance allocations, Renaissance anticipates that their returns to IRA investors will exceed the historical net returns of the existing Proprietary Funds.

<sup>14</sup> 29 CFR 2550.404c-1(b)(2)(ii)(C) provides that "each investment alternative \* \* \* [must permit] participants and beneficiaries to give investment instructions with a frequency which is appropriate in light of the market volatility to which the investment alternative may reasonably be expected to be subject."

<sup>15</sup> See Income Tax Reg. 1.401(a)(4)-4(e)(3)(i) and (iii)(C).

<sup>16</sup> See section 408A(3)(A)(iii) of the Code.

invest in the new feeder funds,<sup>17</sup> and it will not be clear how many employees intend to invest in the Funds through IRAs until after such new feeder funds are established and begin accepting investments. In addition, the Applicant states that the IRAs of Spouses also may be permitted to invest in the Funds, and it is impossible to know how many of these persons will invest. Nevertheless, the Applicant believes that the total of all of such IRA investments would constitute less than one percent (1%) of its total assets under management.

#### *The New Medallion Vehicles*

33. In order to facilitate investment by Participants and their Spouses in the Proprietary Funds, Renaissance has proposed to create a group of new feeder funds that will only accept investment from the IRAs of such individuals; provided that, in order for a Participant or a Participant's Spouse to invest, such Participant is employed by Renaissance at the time of such investment.<sup>18</sup> Specifically, Renaissance has proposed to create the New Medallion FF, the New Medallion Conduit, and New Kaleidoscope, referred to as the "New Medallion Vehicles," in order to facilitate the investment of IRAs into the Medallion Funds, in addition to two other new feeder funds designed to facilitate the investment by IRAs into RIEF and RIFF.<sup>19</sup>

34. According to the Applicant, the New Medallion Vehicles are an essential part of the covered transactions, because: (a) They are necessary for the IRA Holders in each Fund to avoid being subject to taxes on unrelated business taxable income under the Code on the income resulting from each Fund's borrowings; (b) they are required to assure compliance to the maximum extent with the requirements of the various United States securities laws; and (c) in the case of New Medallion FF, it is preferable (although not essential) to create a new vehicle that would be parallel to the New Medallion Conduit (where a new vehicle was essential) rather than create a new class of an existing Medallion FF.

35. New Medallion FF would be organized as a Bermuda Limited Partnership that elects to be treated as a corporation for US Federal Income

Tax purposes, and will invest directly in the Medallion Master Funds. New Medallion FF would be available only to IRAs maintained by Participants who meet the same investor qualifications as those investing in the Medallion Funds. The Applicant states that absolutely no management fees or other fees or profit participations in the form of performance allocations or otherwise, direct or indirect, will be charged to or imposed on IRAs that invest in the New Medallion FF.

36. New Kaleidoscope is proposed to be a new fund-of-funds patterned after Kaleidoscope that is available only to IRAs maintained by Participants that do not meet the investor qualifications to invest directly in the New Medallion FF. New Kaleidoscope would be organized as a Delaware limited liability company, and will invest in the Medallion Master Funds through the New Medallion Conduit, a Bermuda Limited Partnership that will elect to be treated as a corporation for US Federal Income Tax purposes.<sup>20</sup> In addition, New Kaleidoscope will invest in the two other newly established feeder funds which are designed to facilitate investment in RIEF and RIFF. Absolutely no management fees or other fees or profit participations in the form of performance allocations or otherwise, direct or indirect, will be charged to IRAs that invest any Proceeds in New Kaleidoscope.<sup>21</sup>

37. The investment portfolios of New Medallion FF and New Kaleidoscope will be different from each other but will have the same respective portfolios as the existing Medallion FFs and Kaleidoscope, respectively, as described above. For example, the Applicant explains that the New Medallion FF will invest alongside the other Medallion FFs in the Medallion Master Funds, which generally invest and trade in the transactions and instruments described above. As New Kaleidoscope only invests in the Medallion Master Funds (through the New Medallion Conduit) and the other two non-Medallion Proprietary Funds, it will not have its own portfolio of investments but instead will own indirect interests in each of the instruments and transactions that such

Funds invest in directly. Thus, New Kaleidoscope will have the same portfolio as Kaleidoscope.

#### *Qualifications To Invest in the New Medallion Vehicles*

38. The Applicant states that, in order to qualify for investment in one of the New Medallion Vehicles with an IRA, such an individual must generally be either a current employee or owner of Renaissance who received Proceeds, or such person's Spouse, except for the Permitted Owners of Renaissance who may be eligible to invest in the New Medallion Vehicles past the termination of their employment. Additionally, an "IRA Holder" must meet the particular securities law based investor qualifications of such New Medallion Vehicles.

39. According to Renaissance, an IRA investing in the New Medallion FF will be required to be a "Qualified Purchaser" as defined in section 3(c)(7) of the 1940 Act, an IRA whose beneficial owner is a "knowledgeable employee" as defined in Rule 3c-5 of the 1940 Act (a Knowledgeable Employee), or an "Accredited Investor," as defined in Rules 501-506 of Regulation D under the 1933 Act.<sup>22</sup> Renaissance explains that an IRA qualifies as an Accredited Investor if the person for whose benefit it is established is an Accredited Investor in his/her own right or if the IRA has a net worth of at least \$15 million.

40. The Applicant states that New Kaleidoscope will qualify as a 3(c)(1) fund under the 1940 Act, and thus will accept investment by IRAs that are Accredited Investors, plus up to 35 non-Accredited Investors.<sup>23</sup> The New Medallion Conduit, through which New Kaleidoscope will invest in the Medallion Master Funds, will similarly allow investment by Accredited Investors and up to 35 non-Accredited Investors. Thus, the Applicant explains that any investors in New Kaleidoscope

<sup>22</sup> A Qualified Purchaser under the 1940 Act is an individual who owns at least \$5,000,000 in investments (as defined in Rule 2a51-1 under the 1940 Act). An Accredited Investor under the 1933 Act is an individual who (i) has a net worth, or joint worth with that person's spouse, at the time of his purchase in excess of \$1,000,000 (excluding the value of the primary residence of such person); or (ii) had an income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and who reasonably expects an income in excess of the same income level in the current year.

<sup>23</sup> Under Regulation D of the 1933 Act, up to 35 persons who are not Accredited Investors are eligible to invest in any vehicle that determines to accept them (as have Kaleidoscope and one of the Medallion Funds).

<sup>17</sup> The eligibility requirements for investing in the New Medallion Vehicles are discussed below.

<sup>18</sup> However, according to the Applicant, there are seven owners of Renaissance (the Permitted Owners), who would be eligible to invest their IRAs in the new feeder funds regardless of whether they are employed by Renaissance.

<sup>19</sup> Because neither RIEF nor RIFF are covered under the exemptive relief proposed herein, the new feeder funds created to facilitate investment in the Funds by IRAs are not fully described herein.

<sup>20</sup> New Medallion FF and the New Medallion Conduit are structurally identical, save for the securities law qualifications for investors' admittance, as described below. Furthermore, New Medallion FF will accept direct IRA investment, whereas the New Medallion Conduit will only accept investment by New Kaleidoscope, and thus will have no direct investment by IRAs.

<sup>21</sup> The Applicant notes that IRAs investing in the two new feeder funds designed to facilitate the investment into RIEF and RIFF, will similarly not be charged management fees or profit participations of any kind.

in excess of 35 must be Accredited Investors.<sup>24</sup>

41. The Applicant notes that the investor qualifications for New Kaleidoscope mirror those of Kaleidoscope itself, as there are no financial qualification requirements for investors in the Kaleidoscope Fund. Accordingly, the Applicant believes that it is consistent with the purpose for which Kaleidoscope was created that anyone eligible to invest in Kaleidoscope who wishes to invest his or her IRA in New Kaleidoscope should be able to do so, without further investment restrictions. Furthermore, the Applicant notes that by combining investment by New Kaleidoscope (including the New Medallion Conduit) with investment by the New Medallion FF in the Medallion Master Funds, Renaissance will be able to maximize the number of IRAs that can be invested in the Medallion Funds.<sup>25</sup>

42. According to the Applicant, based on representations made by the 249 employees that invest in the Funds on an after-tax basis, approximately 100 are Qualified Purchasers and approximately 125 (who are not Qualified Purchasers) are Accredited Investors. The Applicant notes that all the Qualified Purchasers also are Accredited Investors. The other 24 employees invested in the Applicant's Funds on an after-tax basis are neither Qualified Purchasers nor Accredited Investors.

#### *Coverage Issues Related to the Investment by IRAs in the New Medallion Vehicles*

43. The Applicant notes that the characteristics of the structure and implementation of the transactions described herein raise certain coverage issues under Title I of the Act. In this regard, the Department believes that, with respect to the investment by Participants' IRAs in the Proprietary Funds, the transactions described herein do not satisfy the requirements for the safe harbor for individual retirement accounts under DOL Regulation 29 CFR 2510.3-2(d). The Department is unable to conclude that, with respect to the investment by Participants' IRAs in the New Medallion Vehicles, Renaissance has not created a pension plan subject to Title I of the Act. However, the

<sup>24</sup> The Applicant notes that potential non-Accredited Investors in New Kaleidoscope will be admitted in the order that Participants' completed IRA transfer applications are received. However, the Applicant does not expect there to be 35 such applications, as there are currently only 25 non-Accredited Investors in Kaleidoscope.

<sup>25</sup> The Applicant notes that section 3(c)(7) of the 1940 Act does not limit the number of investors a Fund may take, but Funds qualifying under section 3(c)(1) of the 1940 Act are limited to 100 in number.

Department notes that the IRAs beneficially owned by the Spouses of Participants would be not subject to Title I of the Act, but would remain subject to Title II of the Act and the rules and regulations promulgated thereunder.

44. As a result of the Department's view that the covered transactions may constitute a Title I plan with respect to the investment of Participants' IRAs in the New Medallion Vehicles, the Department believes that Renaissance, as the sponsor of a Title I plan and the fiduciary with respect to the Participants' IRAs, would be required to operate the arrangement in accordance with Title I of the Act. This includes, to the extent applicable, ensuring compliance with section 404 of the Act and the duty to diversify plan investments. In this regard, the Department does not believe that it would be practical to develop a single percentage limitation that would apply to investment in the Medallion Funds by IRAs due to the different types of investment activities engaged in by such entities. The Department notes that section 404(a) of the Act requires, among other things, that a fiduciary discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries, and in a prudent fashion. Section 404(a)(1)(C) of the Act further requires that a fiduciary diversify the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

Accordingly, it is the responsibility of the relevant fiduciary intending to take advantage of the relief provided by this proposed exemption to determine the appropriate level of investment in the Medallion Master Funds, based on the particular facts and circumstances, consistent with its responsibilities under section 404 of the Act.<sup>26</sup>

#### *The Request for Exemptive Relief*

45. The Applicant states that, prior to an IRA Holder's investment of Proceeds in a New Medallion Vehicle, such IRA Holder will have no disqualified person or party in interest relationship with Renaissance or any affiliate of Renaissance (in this regard, see 29 CFR 2510.3-2(d)). However, the Applicant states that IRAs will hold 25% or more of the equity interests in each New Medallion Vehicle in which they

<sup>26</sup> The Department notes that its views regarding the Applicant's establishment of a plan, and the operation of such plan, subject to Title I of the Act, also extend to the investment by IRAs in the new feeder funds created by Renaissance to facilitate the investment by IRAs in RIEF and/or RIFF.

invest.<sup>27</sup> The IRAs are "benefit plan investors" for purposes of section 3(42) of the Act and 29 CFR 2510.3-101, as the IRAs constitute plans described in section 4975(e)(1) of the Code, and in the case of IRAs owned by Participants, may constitute an "employee benefit plan(s)" under section 3(3) of the Act.<sup>28</sup> Thus, investment by benefit plan investors in each New Medallion Vehicle would be deemed "significant," and each IRA would own an undivided interest in the assets of each New Medallion Vehicle in which it invests.<sup>29</sup>

46. According to the Applicant, once a Participant's IRA invests in a New Medallion Vehicle, establishing the plan asset relationships described above, Renaissance, the Medallion Master Funds, and certain employees, officers, directors, and 10% owners of each will become parties in interest under section 3(14) of the Act and/or disqualified persons and section 4975(e)(2) of the Code, with respect to IRAs that invest in the New Medallion Vehicles.<sup>30</sup>

47. As a result, the Applicant states that the indirect acquisition by an IRA of an interest in a Medallion Master Fund through such IRA's acquisition of an interest in a New Medallion Vehicle constitutes the initial prohibited transaction, pursuant to section 406(a)(1)(A) and (D) of the Act and/or section 4975(c)(1)(A) and (D) of the Code. After such initial acquisition of an interest in a Medallion Master Fund has been made by an IRA, additional acquisitions or redemptions of interests in a New Medallion Vehicle by such IRA would constitute additional prohibited transactions pursuant to section 406(a)(1)(A) and (D) of the Act and/or section 4975(c)(1)(A) and (D) of the Code.

48. Furthermore, the Applicant states that Renaissance's provision of services to a New Medallion Vehicle would constitute a prohibited transaction pursuant to section 406(a)(1)(C) of the Act and/or section 4975(c)(1)(C) of the

<sup>27</sup> According to the Applicant, benefit plan investors will not hold 25% or more of the equity interests in any Medallion Master Fund or any other Fund maintained by Renaissance.

<sup>28</sup> 29 CFR 2510.3-101(f)(2). As stated above, the Department is unable to conclude that Renaissance has not established a Title I plan pursuant to 29 CFR 2510.3-2(d).

<sup>29</sup> 29 CFR 2510.3-101(a)(2).

<sup>30</sup> As the Applicant states, neither RIEF nor RIFF are currently parties in interest and/or disqualified persons with respect to the IRA Holders. It is the Department's view that, absent a current showing of a disqualified person relationship, no exemptive relief for such transactions is appropriate. However, once a disqualified person relationship exists between the IRAs and the two non-Medallion Proprietary Funds, the Applicant could resubmit an application for exemptive relief for covered transactions involving those Funds.

Code with respect to each IRA investing in such New Medallion Vehicle. The Applicant explains that Renaissance will provide certain administrative services to the New Medallion Vehicles that are strictly ministerial in nature. However, the Applicant states that Renaissance will also provide a "limited" amount of investment management services where, for example, it makes semi-annual distributions,<sup>31</sup> or limits the overall size of the Medallion Funds, either of which could cause a full or partial redemption of an IRA investment.

49. However, the Applicant states that Renaissance's providing of investment management and ministerial services to a New Medallion Vehicle would be exempted by section 408(b)(2) of the Act (provided all conditions were satisfied). Section 408(b)(2) of the Act provides relief for the "[c]ontracting or making reasonable arrangements with a party in interest for office space, or legal, accounting or other services necessary for the establishment or operation of the plan, if no more than reasonable compensation is paid therefor."<sup>32</sup> Under the Department's regulations, a service is necessary for the establishment or operation of a plan if the service is "appropriate and helpful to the plan obtaining the service in carrying out the purposes for which the plan is established or maintained."<sup>33</sup>

50. Nevertheless, the Applicant contends that a single, individual exemption covering section 406(a)(1)(A), (C), and (D) of the Act and/or section 4975(d)(1)(A), (C), and (D) of the Code would be appropriate, given that the parties to whom this relief would apply are all individuals. Otherwise, according to the Applicant, an IRA Holder would be forced to rely in part on section 408(b)(2) of the Act and in part on the administrative exemptive relief provided herein, which the Applicant suggests is unnecessarily burdensome on such individual investors.

51. Despite the Applicant's concerns, the Department believes that it would be more appropriate for the Applicant to rely on the statutory relief in section 408(b)(2) of the Act and/or section 4975(d)(2) of the Code for Renaissance's provision of investment management and ministerial services to the IRAs, rather than to propose administrative exemptive relief for such transactions.

<sup>31</sup> Renaissance states that, because of capacity constraints in the operation of the strategy employed by the Medallion Funds, for a number of years the Funds have returned all or substantially all of their profits to investors.

<sup>32</sup> Section 408(b)(2) of the Act.

<sup>33</sup> 29 CFR 2550.408(b)(2).

As a fiduciary to the New Medallion Vehicles, it would ultimately be Renaissance's responsibility to determine whether the services it provides satisfy all of the conditions set forth in the statutory exemption and pertinent regulations. Moreover, Renaissance should be in the best position to determine whether the conditions of that exemption are satisfied, and to demonstrate compliance therewith.

52. Accordingly, the Applicant is seeking administrative exemptive relief under section 408(a) of the Act and/or section 4975(c)(2) of the Code from the prohibitions outlined in sections 406(a)(1)(A) and (D) of the Act and section 4975(c)(1)(A) and (D) of the Code, for the following transactions: (a) The direct or indirect acquisition by a Participant's IRA of an interest in a Proprietary Fund through such IRA's acquisition of an interest in a New Medallion Vehicle; (b) the acquisition of an additional interest by a Participant's IRA in a New Medallion Vehicle; and (c) the redemption by a Participant's IRA of all or a portion of its interest in a New Medallion Vehicle. Additionally, the Applicant is seeking administrative exemptive relief under section 4975(c)(2) of the Code from the prohibitions of section 4975(c)(1)(A) and (D) of the Code for the following transactions: (a) The direct or indirect acquisition by a Spouse's IRA of an interest in a Proprietary Fund through such IRA's acquisition of an interest in a New Medallion Vehicle; (b) the acquisition of an additional interest by a Spouse's IRA in a New Medallion Vehicle; and (c) the redemption by a Spouse's IRA of all or a portion of its interest in a New Medallion Vehicle.<sup>34</sup>

<sup>34</sup> The Applicant states that it does not believe relief from section 406(b)(1) or (2) of the Act and/or section 4975(c)(1)(E) or (F) of the Code is necessary in connection with the covered transactions, because, according to Renaissance, neither it nor any IRA Holder will be using any of its authority, control or responsibility as a fiduciary to benefit itself or a person in which it has an interest which may affect the exercise of its best judgment as a fiduciary. The Department notes that regulation 29 CFR 2550.408b-2(e)(2) provides that a fiduciary does not engage in an act described in section 406(b)(1) of the Act if the fiduciary does not use any of the authority, control, or responsibility that makes him a fiduciary to cause a plan to pay additional fees for a service furnished by such fiduciary or to pay a fee for a service furnished by a person in which the fiduciary has an interest that may affect the exercise of his judgment as a fiduciary. It is also the Department's view that generally a fiduciary's decision to retain itself or an affiliate service provider whose fees will be paid by the plan sponsor (or who does not charge fees of any kind for the provision of services) will not involve an adversity of interests as contemplated by section 406(b)(2) of the Act. Accordingly, the decision to invest the IRAs' assets in the Funds, which are managed by Renaissance, would not

### *Investments in the New Medallion Vehicles To Be Made at IRA Holders' Discretion*

53. Renaissance notes that each Participant has complete investment discretion over his or her Proceeds. Thus, a Participant could, in his or her discretion, receive the Proceeds as taxable income and choose to invest them as he or she determines. One investment option would be to roll the Proceeds over to an IRA (either a Roth IRA or a traditional IRA). The Applicant notes that, subject to an IRA Holder's Investment Allocation discussed below, no upper dollar amount limitations would be imposed on the portion of the Proceeds which a Participant may invest in the New Medallion Vehicles. However, for administrative reasons, the Applicant states that it is necessary to provide for a \$1,000 minimum threshold for each New Medallion Vehicle.<sup>35</sup> Nevertheless, a Participant could invest none, some, or all of his or her Proceeds in the New Medallion Vehicles. An IRA Holder could also redeem his or her interest in the Funds at his or her discretion, subject to the redemption guidelines attributable to the respective New Medallion Vehicles, described below.

54. Moreover, the Applicant states that it has not provided, nor will it at any time provide, investment advice concerning an IRA Holder's investment of their IRA in the New Medallion Vehicles or offer any financial or employment-related incentives to invest in the Funds. The Applicant notes that there have been no official communications with Participants regarding the opportunity to invest in the Funds through IRAs since the termination of the 401(k) Plan, except that Renaissance's general counsel recently advised the Firm's management committee that comments on the application were received and are being addressed. However, the Applicant states that, once the proposed exemption is granted, it will provide certain disclosures intended to facilitate the informed decision making of IRA Holders regarding the investment of their IRAs in the New Medallion Vehicles.

55. According to Renaissance, in advance of the initial investment by an IRA in a New Medallion Vehicle, each IRA Holder will receive (a) the copy of the proposed exemption and the final

appear, in itself, to raise issues under section 406(b)(1) or (b)(2) of the Act.

<sup>35</sup> The Applicant states that the New Medallion Vehicles' offering documents will provide for a \$1,000 minimum investment unless Renaissance agrees to accept less in a particular circumstance.

exemption, following the publication of the final exemption in the **Federal Register**, (b) a private offering memorandum (with all related exhibits) describing the relevant investment vehicles, including its investment objectives, risks, conflicts, operating expenses and redemption and valuation policies (which disclosures and information will be the same as that provided to other investors with respect to the Fund in which such IRA Holder invests), and (c) any other reasonably available relevant information as such IRA Holder may request. Moreover, after the initial investment by an IRA in a New Medallion Vehicle, on an on-going basis, Renaissance will provide each IRA Holder whose IRA owns an interest in a New Medallion Vehicle with (a) unaudited performance reports at the end of each month, and (b) audited annual financial statements following the end of each calendar year.

56. The Applicant observes that, as IRA Holders have the discretion to invest in the New Medallion Vehicles, they may use whatever IRA custodian they so choose. According to the Applicant, two major financial institutions with which it has banking and other customer and investment relationships have indicated that they would be willing to act as IRA custodians on a fee-free basis through their private wealth management divisions to facilitate Participants' IRA investments.<sup>36</sup> The Applicant has also identified other IRA custodians who are willing to act as custodians for investments that are not publicly-traded, on a fee-basis, whose names Renaissance will make available to IRA Holders who inquire. However, the Applicant stresses that it will not make any endorsement or recommendation concerning IRA custodians, and will impose no restrictions on the custodian that a Participant may use, and neither Renaissance nor any Participant (or Spouse) will obtain any additional benefit from using a particular custodian.

57. Finally, the Applicant notes that there should not be any institutional or corporate pressure on Participants to

invest in the New Medallion Vehicles, as only a small number of individuals within Renaissance will have actual knowledge of an employee's investment in the New Medallion Vehicles. According to Renaissance, the CFO/CCO and the General Counsel would have access to that information, in addition to approximately 10 other employees of Renaissance in Investor Relations, Fund Accounting, and Infrastructure, who, as a result of their respective job positions, are responsible for the preparation and distribution to investors of investor statements.

#### *Voting of IRAs' Interests in the New Medallion Vehicles*

58. According to the Applicant, IRA investors in the New Medallion Vehicles will have certain voting rights that will mirror the rights of other investors in the existing Medallion and Kaleidoscope Funds. In this regard, the Applicant states that IRA Holders will generally have the right to vote for all material amendments to an organizational document (i.e., a limited partnership agreement or a limited liability company agreement) that either are proposed by, or are consented to by, Renaissance (i.e., those amendments not involving ministerial, legally mandated, or technically conforming or corrective changes). For example, the Applicant observes that IRA Holders also may vote to approve (a) the admission of an additional general partner to New Medallion FF or New Medallion Conduit proposed by Renaissance, or (b) the appointment of a liquidator when one is required and Renaissance is unable to serve in such a role. Finally, in the event of a New Medallion Vehicle's dissolution, IRA Holders will generally have the right to vote to continue or reconstitute (as applicable) the business of each New Medallion Vehicle and to select one or more successors to Renaissance as its manager.

The Applicant states that IRA Holders will be able to exercise their voting rights either (a) at a formal meeting of all investors where votes may be exercised in person or by proxy, or (b) by executing a written consent pursuant to a prior written solicitation from Renaissance on reasonable prior notice. Furthermore, each New Medallion Vehicle will have the right to vote on certain matters arising at their master fund levels. However, the Applicant notes that these master fund voting rights effectively are held by Renaissance because of its control position with respect to each master fund entity. Nevertheless, the Applicant represents that it will seek the consent

of IRA Holders for matters described above to the extent that a situation arises at a master fund level where it would be inequitable or imprudent for Renaissance not to obtain the requisite IRA Holder consents at the feeder fund level consistent with the IRA Holders' voting rights set out above.

#### *Voluntary Redemptions of IRAs' Interests*

59. The Applicant states that voluntary redemptions of an IRA's interest in a New Medallion Vehicle would be available periodically with prior notice given to Renaissance. The Medallion Funds permit redemptions to be effected quarterly on 10 days' prior notice, and the New Medallion FF would also allow redemptions quarterly on 10 days' prior notice. Kaleidoscope also has quarterly redemptions on 45 days' prior notice and New Kaleidoscope would be the same. At present, greater than 75% of the Medallion Funds' net assets are in cash, cash equivalents or can be liquidated into cash on one week's notice or less. The same is true indirectly for Kaleidoscope, which invests in the Medallion Funds as well as the other two non-Medallion Proprietary Funds.

60. According to the Applicant, redemptions of investors' interests in the Funds are normally made in cash, as the Funds do not ordinarily invest in illiquid investments. Further, since the IRAs' potential combined interests in the New Medallion Vehicles are not expected initially to exceed 1% of the total assets of all Renaissance-managed funds, any request for redemption by an IRA from any of the New Medallion Vehicles should be redeemable in cash on a timely basis. However, the provision for in-kind distributions exists in the operating agreements of the Funds in the event of an unforeseen event, such as the liquidation of a Fund where the issuer of one its portfolio securities is in bankruptcy.

Nevertheless, the Department is concerned that, in the event that a Fund makes a distribution in-kind to an IRA, such IRA may receive illiquid assets in exchange for its interest in the New Medallion Vehicles, and consequently may experience difficulty in realizing full value in redemption of its investment in the Funds. In response to the Department's concerns, the Applicant states that it will provide for any redemption of IRAs' interests in the New Medallion Vehicles in cash.

#### *Compulsory Redemptions of IRAs' Interests*

61. Renaissance states that its investment and trading strategy for the

<sup>36</sup> Deutsche Bank AG provides brokerage and other investment-related services, including acting as a prime broker and equity derivatives counterparty, to the Medallion Funds, and receives market-competitive fees from such Funds for those services; and JPMorgan Chase & Co. provides brokerage and banking services to all of Applicant's Funds, and receives market-competitive fees from the Funds for those services. The Applicant emphasizes that neither custodian will receive any fees from a New Medallion Vehicle, although they will receive market-rate fees from such New Medallion Vehicle's underlying master funds for separate services that they perform for such Funds.

Medallion Funds cannot be executed efficiently if too much capital has been invested in such Funds. Therefore, the Medallion Funds have for a number of years imposed an aggregate limit on the amount of capital that the Medallion Funds can accept. The Applicant explains that, as a result, each Renaissance employee from the President to the lowest-paid employee, has a permitted "Investment Allocation" in the Medallion Funds that is based on his or her compensation level, and, if applicable, an employee's ownership interest in Renaissance itself, and is adjusted at the beginning of each semi-annual period (January 1 and July 1 of each year). The Investment Allocation specifies the aggregate dollar amount that each Renaissance employee is entitled, at the employee's discretion, to invest in a Medallion Fund, subject to that employee's ability to comply with all applicable securities law requirements for the relevant Medallion Fund, or in Kaleidoscope (which invests up to 40% of its assets in Medallion and the balance in the remaining two non-Medallion Proprietary Funds).

62. The Applicant states that IRA Holders would be able, at their discretion, to utilize their Investment Allocations in connection with making an investment of some or all of their IRA assets in the New Medallion Vehicles, subject to each Participant's overall Investment Allocation limit. In addition, Renaissance permits an employee to share his or her Investment Allocation with certain family members. Thus, a Spouse could invest his or her IRA in New Medallion FF or in New Kaleidoscope to the extent of the remainder of such IRA Holder's Investment Allocation. However, the Applicant states that, on occasion, Renaissance may proportionately reduce employees' Investment Allocations, in order, for example, to maintain the Funds' profitability or to permit an allocation to be made to new employees.<sup>37</sup> According to the Applicant, any reduction of Investment Allocations would be effected on a pro rata basis with respect to all Renaissance employees with Investment Allocations.<sup>38</sup>

<sup>37</sup> As noted above, because of capacity constraints in the operation of the Medallion Funds, Renaissance may determine the appropriate size of the Medallion Funds and reduce investors' Investment Allocations accordingly.

<sup>38</sup> As noted above, Renaissance has the option in whole or in part to receive its performance allocation in cash or to leave such amounts in its capital account, which could cause a corresponding reduction in the Investment Allocations of other investors, including IRAs. The Department generally notes that, even if a transaction, at its inception, did not involve a violation of section

63. In the event IRA Holders' Investment Allocations are reduced, the Funds may be forced to redeem a portion of such IRA Holders' interests in New Medallion FF or New Kaleidoscope. The Applicant states that the size of such IRA Holders' redemption would correspond to the amount necessary to lower an IRA Holder's total investment in the Funds to comply with the limit imposed by his or her Investment Allocation. According to the Applicant, in the event that an IRA Holder had both an individual account and an IRA account invested in the Medallion Funds, he or she would generally be able to choose from where the redemption would come. Furthermore, the Applicant suggests that an IRA Holder should be able to redeem a portion of his or her IRA's interest without any adverse tax consequence by reinvesting the IRA in other assets.<sup>39</sup>

64. Redemptions of IRAs' interests in the New Medallion Vehicles may also be necessary when IRA Holders terminate employment with Renaissance. According to the Applicant, when employees and owners of Renaissance terminate employment, they retain their Investment Allocations for a period of between 6 to 12 months following such termination, depending upon an employee's length of service and other negotiated terms of the employment arrangement. The Applicant states that an IRA would generally also be permitted to retain its interest in a New Medallion Vehicle for up to 12 months, and potentially as long as 14 months or more, following the date of termination.

65. Thereafter, the Applicant explains that IRA Holders could, in their sole discretion, transfer their IRAs' investments to RIEF or RIFF (but not the newly created feeder funds for such Funds), or redeemed outright in exchange for cash.<sup>40</sup> Likewise, the Applicant states that, if a person ceases to be a Spouse, he or she is no longer eligible to invest in any New Vehicle

406(b)(1) or (b)(2) of the Act, if a divergence of interests develops between the IRA and the fiduciary (or persons in which the fiduciary has an interest), the fiduciary must take steps to eliminate the conflict of interest in order to avoid engaging in a prohibited transaction.

<sup>39</sup> In such case, an IRA Holder may desire to reallocate his or her IRA's investments to investments outside of the Funds or to the other new feeder funds for RIEF or RIFF that are designed to accept investment from Participants' IRAs and are not subject to Investment Allocations.

<sup>40</sup> The Applicant states that Renaissance generally desires to restrict the availability of fee-free investment in the New Medallion Vehicles and the new feeder funds for RIEF and RIFF to IRAs of current employees and owners of Renaissance (and such individuals' spouses).

and will be redeemed. Renaissance notes that such Funds are generally available to employees of Renaissance as investments past termination of their employment, but that IRA Holders' investments transferred to such Funds will be subject to the payment of management fees and profit participations in the same manner as such individual's taxable investments.<sup>41</sup>

#### *Valuations of IRAs' Interests in the New Medallion Vehicles*

66. According to Renaissance, the Medallion Funds are designed to trade highly diversified portfolios of liquid securities and other instruments traded on international exchanges or derivatives whose value is based on such liquid securities or instruments. The Applicant notes that to the extent that a Fund's assets are traded through OTC derivative products, the majority of those products follow the liquidity of the underlying assets.

67. The Applicant emphasizes that Renaissance's valuation policies would apply equally to all investors, including IRA Holders. According to the Applicant, an acquisition or redemption of an IRA's interest in a New Medallion Vehicle would be made for fair market value. Renaissance explains that equity securities are valued at their last sale price or official closing price on the market on which such securities primarily trade using sources independent of Renaissance and the issuer. Furthermore, if no sales occurred on such day, equity securities are valued at the last reported independent "bid" price or, if sold short, at the last reported independent "asked" price. Fixed income securities are valued on either the basis of "firm quotes" obtained at the time of an acquisition or redemption from U.S.-registered or foreign broker-dealers, which are registered and subject to the laws of their respective jurisdiction, which quotes reflect the share volume involved in the transaction, or on the basis of prices provided by independent pricing services that determine valuations based on market transactions for comparable securities and various relationships between such securities that are generally recognized by institutional traders.

<sup>41</sup> Notwithstanding the foregoing, the Applicant notes that there are seven Participants, the Permitted Owners, whose IRA investments (and those of their Spouses) would not be compulsorily redeemed from the New Medallion Vehicles upon their termination of employment with Renaissance, comprised of a group referred to as Renaissance "founders" and current owners who are also permitted to retain a reduced Investment Allocation.

68. Options are valued at the mean between the current independent “bid” price and the current independent “asked” price or, where such prices are not available, are valued at their fair value in accordance with Fair Value Pricing Practices by the Renaissance Valuation Committee, which utilizes a set of defined rules and an independent review process. Except for derivative transactions described above, Renaissance states that the Funds generally do not invest in other non-publicly traded investments. However, in the very unlikely event that neither primary nor secondary pricing sources are available for a particular security or instrument, Renaissance would assess in good faith all information available in the market, including dealer quotations, and establish “fair value” according to their Fair Value Pricing Policies established by Renaissance Valuation Committee.

69. The Applicant explains that the Renaissance Valuation Committee establishes valuation policies and provides a check and balance on the entire valuation process. Among other things, Renaissance states that it meets monthly with Renaissance’s Fund Accounting Group, which is responsible for the daily valuation issues, interfaces with the Fund’s auditors when necessary to assist the auditors in understanding certain valuations in connection with the auditors review of the Funds’ financial statements, and keeps abreast of industry valuation standards in an attempt to assure that Renaissance follows “best valuation practices.”

70. According to the Applicant, Renaissance’s Official Pricing Policy reflects Renaissance’s judgment of best practices in the financial services industry for valuing various assets. The Applicant notes that the methodology utilized in establishing these policies involves constant reassessment and review to determine whether or not Renaissance’s pricing sources and reliance thereon are fair and reasonable and consistent with practices of other firms and professionals in the financial services industry, and these policies attempt to be as objective and fair as they can be given the circumstances.

71. The Applicant clarifies that, with respect to “hard to value assets,” the following guidelines generally will apply for stale or unpriced equity securities trading on U.S. or Foreign Exchanges:

If the security has not been traded for a period of 30 days or less, then the last price from the pricing source as per the official pricing policy will be applied as the closing price.

If the security has not traded for a period of more than 30 days but less than 60 days, then the last price from the pricing source as per the official pricing policy will be reduced by 50% and applied as the closing price.

If the security has not traded for a period of more than 60 days, then the last price from the pricing source as per the official pricing policy will be reduced by 90% and applied as the closing price.

If a security has been delisted from an exchange, then the security will be marked to zero.

If, from time to time, a quoted price is not available for a particular security, the RVC will establish a methodology for valuing the security, and the ultimate valuation is subject to approval by the Renaissance Technologies LLC Board of Directors.

72. It is stressed by the Applicant that the RVC’s pricing policies are not ad hoc. Rather, according to the Applicant, the policies established to address hard to value assets are applied uniformly and equitably across all Funds at the same time. However, the Applicant explains that by definition, hard to value assets frequently will have their own unique circumstances that require flexibility and judgment to value them; and not rigid and inflexible rules. Thus, the Applicant notes that the policy is to obtain the best available information from leading data vendors and other pricing sources and to use that information to value these assets as fairly, equitably and uniformly as possible.<sup>42</sup>

#### *Statutory Findings*

73. According to the Applicant, the proposed exemption is administratively feasible because it is similar to other relief that the Department previously granted in Prohibited Transaction Exemption (PTE) 91–1 and PTE 2008–03,<sup>43</sup> and the purchase of interests in the New Medallion Vehicles would be

<sup>42</sup> The Applicant notes that Renaissance’s asset valuations are also reviewed by the Funds’ auditors in connection with their certification of audited financial statements for the Funds under GAAP.

<sup>43</sup> PTE 2008–03, published in the **Federal Register** at 73 FR 13582 (March 13, 2008), granted exemptive relief for (A) the acquisition, from an offshore corporation (the Offshore Corporation) of non-voting equity securities, representing an economic interest in the Offshore Corporation by an ERISA-covered client plan (the Client Plan), where the Offshore Corporation is a party in interest with respect to the Client Plan, due to the ownership of all of the voting equity shares of the Offshore Corporation by Wellington Global Administrator, Ltd., a subsidiary of Wellington Management, which is (or may become) a fiduciary and a service provider with respect to the Client Plan; and (B) the redemption of the Client Plan’s Shares by the Offshore Corporation either in cash or in kind; and PTE 91–1, published in the **Federal Register** at 56 FR 448 (January 4, 1991), granted exemptive relief for the acquisition, sale or redemption of limited partnership units between pension plans (the Plans) investing in the International Small Float Fund (the Fund) and PIM, the general partner of the Fund and a party in interest to the Plans.

consummated at the discretion of the Participants and regulated by certain provisions of the 1940 Act and the 1933 Act, as described above.

74. The Applicant further states that the proposed exemption is in the interest of the IRAs and their beneficiaries, because, if the Medallion Funds’ investments continue to perform in a manner consistent with their historical returns, the IRAs will realize excellent investment returns compared to the alternatives previously available in the 401(k) Plan or otherwise in the marketplace. Furthermore, IRA Holders would be able to take advantage of those above-average investment returns on a tax-deferred (or in the case of a Roth IRA, tax-free), and a fee-free, basis.

The Applicant offers that many investment management firms seek to permit their employees to invest in the investment products that they manage. In its conversations with the Department, the Applicant emphasized that it is motivated by goodwill in creating the New Medallion Vehicles to accept Participants’ IRA investments, and that Renaissance will not benefit in any material sense from such transactions. In this regard, the Applicant observes that Renaissance will not charge or accept any fees or profit participations, and no compensatory benefit will be received by any owner or employee of Renaissance in connection with an IRA’s investment in a New Medallion Vehicle.<sup>44</sup>

In addition, according to the Applicant, no meaningful marketing benefit could inure to Renaissance through IRA Holders’ purchasing of interests in the New Medallion Vehicles. The Applicant contends that current and potential third party investors are already well aware of the significant holdings by Applicant’s own employees and directors in the Funds in such individuals’ personal capacities. Renaissance states that the Medallion Funds are already virtually entirely owned by employees of Renaissance and their families.

<sup>44</sup> Renaissance notes that certain operating expenses of the New Medallion Vehicles payable to third parties will be paid from the assets of the New Medallion Vehicles, but nothing in the manner of management fees or performance allocations, direct or indirect, will accrue to the Applicant. Additionally, the underlying Funds in which the New Medallion Vehicles invest will incur substantial obligations to pay third party brokerage commissions, option premiums, and other transaction costs, regardless of whether the Funds realize any profits. Such expenses, as noted in certain of the Funds’ “Private Offering Memoranda,” are significantly higher than those incurred by most other investment programs, due to the highly active nature of Renaissance’s trading programs.

75. Finally, Renaissance states that the proposed exemption is protective of IRAs and their beneficiaries because all transactions would be required to be effected at the discretion of IRA Holders. Renaissance has not made, nor will it make, an endorsement or recommendation to Participants that they establish IRAs to invest any Proceeds in the New Medallion Vehicles. Moreover, Renaissance will not engage in any marketing activities intended to cause IRA Holders to consider such an investment or offer any financial or employment-related incentive for IRA Holders to invest in the New Medallion Vehicles. Further, the Applicant contends that neither Renaissance nor any employee or owner of Renaissance will exercise any of its authority, control, or responsibility as a fiduciary of a New Medallion Vehicle to benefit itself or a person in which it has an interest which may affect the exercise of its best judgment as a fiduciary.

The Applicant observes that no IRA Holder will be able to invest in a New Medallion Vehicle for a particular Fund unless he or she satisfies the securities law-based requirements for other investors in the same Fund. In addition, prior to and during an investment in the Funds, IRA Holders will receive written disclosures allowing them to make informed decisions regarding any determination to invest (or redeem) Proceeds in the Funds. The Applicant notes that each Medallion Fund's investment objectives, strategies, risks, and mechanics of maintaining an investment (including information about redemptions), are described in detail in the relevant offering document delivered to each investor. Renaissance points out that the Participants are comprised of a highly educated cadre of professionals with over 200 combined Ph.D.'s in mathematics, physics, and statistics. Thus, they explain, the population of potential IRA Holders is on the whole more educated, and possibly more sophisticated, than the average investor, and thus better able to judge the merits of an investment in the Funds.

The Applicant states that the risks involved in the proposed transactions are mitigated by several factors, including the Medallion Funds' broad investment diversification, the liquidity of most of the instruments that the Medallion Funds trade, and the quarterly liquidity afforded to each investor. Moreover, the Applicant represents that it is knowledgeable and experienced in the transactions contemplated by the Funds and has a significant record of positive investment

returns. Moreover, only a relatively small amount of IRA assets would be invested through the New Medallion Vehicles, facilitating the valuation and ready redemption of such investments, in cash, upon the receipt of a redemption request.

Finally, with respect to the investment by Participants in the New Medallion Vehicles through IRAs, the Applicant acknowledges that such investments may constitute investments by a "pension plan" within the meaning of Section 3(2) of the Act and the Applicant represents that, with respect to such investments, it will comply with all applicable requirements of Title I of the Act. Moreover, prior to the acquisition by an IRA of an interest in a New Medallion Vehicle, the Applicant states that it will submit to the jurisdiction of the federal and state courts located in the State of New York, take steps to facilitate the service of process by an IRA Holder, and submit itself to jurisdiction in the United States courts, in the event that an IRA Holder is required to exercise his or her rights pursuant to this exemption.

#### *Summary*

76. In summary, the Applicant represents that the covered transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code because:

(a) An IRA's acquisition of an interest in a New Medallion Vehicle will only be made at the specific direction of an IRA Holder.

(b) Renaissance will render no investment advice to IRA Holders concerning a potential acquisition of an interest in a New Medallion Vehicle and will not engage in marketing activities or offer employment-related incentives of any kind intended to cause IRA Holders to consider such acquisition.

(c) An interest in a New Medallion Vehicle will only be available to IRA Holders who satisfy the securities law-based investor qualifications applicable to all investors in such New Medallion Vehicle.

(d) No commissions, sales charges, or other fees or profit participations in the form of performance allocations or otherwise, direct or indirect, will be assessed against an IRA in connection with its acquisition and holding of an interest in a New Medallion Vehicle.

(e) An IRA will pay no more and receive no less for its particular interest in any of the New Medallion Vehicles than it would in an arm's length transaction with an unrelated party.

(f) An IRA's interest in a New Medallion Vehicle will be redeemable,

in whole or in part, without the payment of any redemption fee or penalty, no less frequently than on a quarterly basis upon no less than 10 days advance written notice.

(g) All acquisitions and redemptions by an IRA of its interest in a New Medallion Vehicle will be made for fair market value.

(h) Redemption of an IRA's interest in a New Medallion Vehicle, in whole or in part, will be made in cash.

(i) In the event that a redemption of any portion of an IRA Holder's interest in any of the Medallion Funds becomes necessary as the result of a reduction of the Investment Allocation applicable to an IRA Holder, then, at such IRA Holder's election, a redemption will first be made of the IRA Holder's taxable investments (if any) prior to his or her IRA's interest in a New Medallion Vehicle.

(j) With respect to the investment in the New Medallion Vehicles through Participants' IRAs, Renaissance acknowledges that such investments may constitute investments by a "pension plan" within the meaning of section 3(2) of the Act, and the Applicant represents that, with respect to such investments, it will comply with all applicable requirements of Title I of the Act.

(k) Renaissance will not use the fact that IRAs invested in the Funds in any marketing activities or publicity materials for the Funds.

(l) In advance of the acquisition of an interest by an IRA in a New Medallion Vehicle, and periodically thereafter, the IRA Holder will receive certain disclosures and financial information related to the Funds, described herein, enabling such individual to make an informed decision regarding his or her investment in the Funds.

(m) Renaissance, the New Medallion Vehicles, and each Fund or vehicle in which, or through which, a New Medallion Vehicle invests, will agree to the legal jurisdictional, service of process, and venue requirements described herein.

(n) Renaissance will comply with the recordkeeping requirements provided herein to enable certain authorized persons to determine whether the conditions of the exemption have been met, for so long as such records are required to be maintained.

#### **Notice to Interested Persons**

Notice of the proposed exemption will be given to interested persons within 3 days of the publication of the notice of proposed exemption in the **Federal Register**. The notice will be given to interested persons who are

current employees by electronic mail, with receipt of delivery requested (or its equivalent), and to other interested persons by overnight mail with proof of delivery required. Such notice will contain a copy of the notice of proposed exemption, as published in the **Federal Register**, and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2). The supplemental statement will inform interested persons of their right to comment on and/or to request a hearing with respect to the pending exemption. Written comments and hearing requests are due within 33 days of the publication of the notice of proposed exemption in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Warren Blinder of the Department, telephone (202) 693-8553. (This is not a toll-free number.)

**Weyerhaeuser Company  
(Weyerhaeuser) and Federalway Asset  
Management LP (Collectively, the  
Applicants)**

*Located in Federalway, Washington*

[Application No. D-11677]

**Proposed Exemption**

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

*Section I: Specific Proposed Exemption  
Involving the Contribution In-Kind*

If the proposed exemption is granted, the restrictions of sections 406(a)(1)(A), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) and 4975(c)(1)(E) of the Code,<sup>45</sup> shall not apply, effective as of the date of the publication of a final exemption in the **Federal Register**, to the contribution in-kind by the Weyerhaeuser Company (Weyerhaeuser), the sponsor of the Weyerhaeuser Pension Plan (the Plan), of a bundle of assets (the Assets) owned by Weyerhaeuser Asset Management LLC (WAM), a wholly-owned subsidiary of Weyerhaeuser NR Company which is in turn a wholly-owned subsidiary of Weyerhaeuser, to the Weyerhaeuser Company Master Retirement Trust (the Master Trust); provided that the conditions, as set forth, below, in

section IV, and the following conditions are satisfied:

(a) Prior to the execution and closing on the in-kind contribution of the Assets, an independent, qualified fiduciary (the I/F), as defined in section V(k), acting on behalf of the Master Trust, determines whether and on what terms to enter into the in-kind contribution of such Assets;

(b) The I/F negotiates, reviews, and approves the specific terms and conditions of the in-kind contribution of the Assets and determines, prior to entering into such in-kind contribution, that such transaction is feasible, in the interest of, and protective of the Master Trust and its participants and beneficiaries;

(c) The I/F takes the necessary steps to ensure compliance by Weyerhaeuser with the terms and conditions of the in-kind contribution of the Assets;

(d) As of the date the Assets are contributed to the Master Trust, the contributed value of the Assets is equal to the fair market value of the Assets, as determined by the I/F;

(e) The terms and conditions of the in-kind contribution of the Assets are no less favorable to the Master Trust than terms negotiated at arm's length under similar circumstances between unrelated parties;

(f) The fair market value of the Assets will constitute less than one percent (1%) of the assets of the Master Trust at the time such Assets are contributed to the Master Trust;

(g) The Master Trust incurs no commissions, fees, costs, or other charges and expenses in connection with the in-kind contribution of the Assets to the Master Trust;

(h) The in-kind contribution of the Assets is a one-time transaction;

(i) The fair market value of the Assets is *not* credited in the prefunding balance for purposes of calculating the minimum required contributions of Weyerhaeuser to the Plan;

(j) Pursuant to the royalty interest agreement (the Royalty Agreement) with Federalway Asset Management LP (Newco), the Master Trust will be entitled to receive annual royalty payments in the amount of 12.5 percent (12.5%) on revenues of less than \$25 million per year and 15 percent (15%) on revenues of more than \$25 million per year; and

(k) The termination of Newco as investment manager of the Master Trust will have no impact on the Master Trust's rights under the Royalty Agreement.

*Section II: Specific Proposed Exemption  
Involving the Management by Newco of  
the Assets of Employee Benefit Plans*

Effective for a period of five (5) years, beginning on the date of the publication of a final exemption in the **Federal Register** and ending on the day which is five (5) years from such publication date, the restrictions of section 406(a)(1)(A) through (D) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to:

(a) Any transaction between a party in interest, as defined in section V(e), with respect to the Plan and the Master Trust in which such Plan has an interest; and any transaction between a party in interest, as defined in section V(e), with respect to any other employee benefit plan or employee benefit plans sponsored by Weyerhaeuser (the Other Plan(s)) and the Master Trust in which such Other Plan(s) have an interest; and

(b) Any transaction between a party in interest, as defined in section V(e), and any employee benefit plan or any employee benefit plans, as defined in section V(i), (the Client Plan(s)), where such Client Plan has engaged Newco to act as investment manager within the meaning of section 3(38) of the Act, or where such Client Plan is invested in a collective investment vehicle managed by Newco, the assets of which are treated as plan assets under section 3(42) of the Act; provided that:

(1) Newco has discretionary authority or control with respect to the assets of the Plan, the assets of the Other Plan(s), or the assets of the Client Plan(s) which are invested in an investment fund (a Managed Account) involved in any such transaction;

(2) Newco satisfies the definition, as set forth, below, in section V(a) of this exemption; and

(3) The conditions as set forth, below, in section III, and section IV, are satisfied.

*Section III: Specific Conditions  
Applicable to Transactions Described in  
Section II of This Proposed Exemption*

(a) At the time of the transaction, as defined in section V(h), neither the party in interest, as defined in section V(e), nor any affiliate, as defined in section V(b):

(1) Has the authority to appoint or terminate Newco as a manager of the Managed Account involved in the transaction, or

(2) Has the authority to negotiate on behalf of the Plan, the Other Plan(s), or the Client Plan(s), the terms of the management agreement with Newco

<sup>45</sup> For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

(including renewals or modifications thereof) with respect to the Managed Account involved in the transaction.

Notwithstanding the foregoing, in the case of a Managed Account in which two (2) or more unrelated plans, as defined in section V(i), have an interest, a transaction with a party in interest, as defined in section V(e), with respect to a plan will be deemed to satisfy the requirements of section III(a), if the assets of the plan managed by Newco in the Managed Account, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof, as described in section V(b)(1)) or by the same employee organization, and managed in the same Managed Account, represent less than 10 percent (10%) of the assets of the Managed Account;

(b) The transaction is not described in—

(1) Prohibited Transaction Exemption 2006–16 (71 FR 63786; October 31, 2006) (relating to securities lending arrangements) (as amended or superseded),

(2) Prohibited Transaction Exemption 83–1 (48 FR 895; January 7, 1983) (relating to acquisitions by plans of interests in mortgage pools) (as amended or superseded), or

(3) Prohibited Transaction Exemption 82–87 (47 FR 21331; May 18, 1982) (relating to certain mortgage financing arrangements) (as amended or superseded);

(c) The terms of the transaction are negotiated on behalf of the Managed Account by, or under the authority and general direction of, Newco, and either Newco, or (so long as Newco retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by Newco, makes the decision on behalf of the Managed Account to enter into the transaction, provided that the transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest, as defined in section V(e);

(d) The party in interest, as defined in section V(e), dealing with the Managed Account is neither Newco nor a person related to Newco, within the meaning of section V(g);

(e) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of Newco, the terms of the transaction are at least as favorable to the Managed Account as the terms generally available in arm's length transactions between unrelated parties;

(f) Neither Newco nor any affiliate thereof, as defined in section V(c), nor any owner, direct or indirect, of a 5 percent (5%) or more interest in Newco is a person who within the ten (10) years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of:

(1) Any felony involving abuse or misuse of such person's employee benefit plan position or employment, or position or employment with a labor organization;

(2) Any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company, or fiduciary;

(3) Income tax evasion;

(4) Any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities;

(5) Conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or

(6) Any other crime described in section 411 of the Act. For purposes of this section III(f), a person shall be deemed to have been "convicted" from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

*Section IV—General Requirements Applicable to Transactions Described in Section I and Section II of This Proposed Exemption*

(a) Newco or an affiliate, as defined in section V(l), maintains or causes to be maintained within the United States, for a period of six (6) years from the date of each covered transaction, the records necessary to enable the persons described, below, in section IV(b)(1)(A)–(E), to determine whether the conditions of this proposed exemption have been met, except that:

(1) a separate prohibited transaction will not be considered to have occurred solely because, due to circumstances beyond the control of Newco and/or its affiliates, as defined in section V(l), the records are lost or destroyed prior to the end of the six (6) year period, and

(2) No party in interest or disqualified person, as defined in section V(e), other than Newco, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination, as required by section IV(b)(1).

(b)(1) Except as provided in section IV(b)(2), and notwithstanding any

provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in section IV(a) are unconditionally available for examination at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department or of the Internal Revenue Service;

(B) Any fiduciary of the Plan, any fiduciary of any Other Plan(s), any fiduciary of any Client Plan(s), and any duly authorized representative of such fiduciary;

(C) Any contributing employer to the Plan, any contributing employer to any Other Plan(s), any contributing employer to any of the Client Plan(s), and any duly authorized employee representative of such contributing employer;

(D) Any participant or beneficiary of the Plan, any participant or beneficiary of any Other Plan(s), any participant or beneficiary of any Client Plan(s), and any duly authorized representative of such participants or beneficiaries; and

(E) Any employee organization whose members are covered by the Plan, any employee organization whose members are covered by the Other Plan(s), and any employee organization whose members are covered by any Client Plan(s);

(2) None of the persons, described in section IV(b)(1)(B) through (E), shall be authorized to examine trade secrets of Newco or its affiliates, as defined in section V(l), or commercial or financial information which is privileged or confidential.

*Section V—Definitions*

(a) For purposes of this proposed exemption, the term, Federalway Asset Management LP, and the term, "Newco," means a fiduciary (as defined in section V(j)) which is an investment adviser registered under the Investment Advisers Act of 1940 that has total client assets under its management and control in excess of \$85,000,000, as of the date Newco commences operations, and shareholders' or partners' equity (as defined in section V(m) in excess of \$1,000,000.

(b) For purposes of section III(a), an "affiliate" of a person means—

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, 10 percent (10%) or more partner, or highly compensated employee as defined in section 4975(e)(2)(H) of the Code (but

only if the employer of such employee is the plan sponsor), and

(3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets involved in the transaction. A named fiduciary (within the meaning of section 402(a)(2) of the Act) of a plan with respect to the plan assets involved in the transaction and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of section III(a), if such employer or an affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

(c) For purposes of section III(f), an "affiliate" of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent (5%) or more partner or owner, and

(4) Any employee or officer of the person who—

(A) Is a highly compensated employee (as defined in section 4975(e)(2)(H)) or officer (earning 10 percent (10%) or more of the yearly wages of such person), or

(B) Has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(d) For purposes of section V(b), section V(c), and section V(l), the term, "control," means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) For purposes of this proposed exemption, the term, "party in interest," means a person described in section 3(14) of the Act and includes a "disqualified person," as defined in Code section 4975(e)(2).

(f) For purposes of section V(c)(2) and section V(l)(2), the term, "relative," means a relative as that term is defined in section 3(15) of the Act, or a brother, a sister, or a spouse of a brother or sister.

(g) Newco is "related" to a party in interest for purposes of section III(d), if, as of the last day of its most recent

calendar quarter: (i) Newco owns a 10 percent (10%) or more interest in the party in interest; (ii) a person controlling, or controlled by, Newco owns a 20 percent (20%) or more interest in the party in interest; (iii) the party in interest owns a 10 percent (10%) or more interest in Newco; or (iv) a person controlling, or controlled by, the party in interest owns a 20 percent (20%) or more interest in Newco. Notwithstanding the foregoing, a party in interest is "related" to Newco if: (i) A person controlling, or controlled by, the party in interest has an ownership interest that is less than 20 percent (20%) but greater than 10 percent (10%) in Newco and such person exercises control over the management or policies of Newco by reason of its ownership interest; (ii) a person controlling, or controlled by, Newco has an ownership interest that is less than 20 percent (20%) but greater than 10 percent (10%) in the party in interest and such person exercises control over the management or policies of the party in interest by reason of its ownership interest. For purposes of this definition:

(1) The term "interest" means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation,

(B) The capital interest or the profits interest of the entity if the entity is a partnership, or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an interest if, other than in a fiduciary capacity, the person has or shares the authority—

(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest.

(h) For purposes of this proposed exemption, the time as of which any transaction occurs is the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after the date of the publication of the final exemption in the **Federal Register** or a renewal that requires the consent of the Newco occurs on or after the date of the publication of the final exemption in the **Federal Register**, and the requirements of the final exemption are satisfied at the time the transaction is entered into or renewed, respectively, the

requirements will continue to be satisfied thereafter with respect to the transaction. Nothing in this paragraph shall be construed as exempting a transaction entered into by a Managed Account which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the final exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for the final exemption.

(i) For purposes of this proposed exemption, the terms, "employee benefit plan" and "plan," include an employee benefit plan described in section 3(3) of the Act and/or a plan described in section 4975(e)(1) of the Code, but do *not* include a plan sponsored by Newco or any affiliate of Newco.

(j) For purposes of section V(a), the term "fiduciary" means a fiduciary managing the assets of a plan, as defined in section V(i), in a Managed Account that is independent of and unrelated to the employer sponsoring such plan. For purposes of this proposed exemption, a fiduciary will not be deemed to be independent of and unrelated to the employer sponsoring the plan, if such fiduciary directly or indirectly controls, is controlled by, or is under common control with the employer sponsoring the plan.

(k) For purposes of section I, the term, "I/F," means a fiduciary that:

(1) Can demonstrate, through experience and/or education, proficiency in matters involving the in-kind contribution of assets, including assets such as the Assets which are the subject of section I of this proposed exemption;

(2) Is an expert with respect to the valuation of assets, such as the Assets, or has the ability to access (itself or through persons engaged by it) appropriate data regarding the value of assets, such as the Assets, in the relevant market;

(3) Has not engaged in any criminal activity involving fraud, fiduciary standards, or securities law violations;

(4) Is appointed to act on behalf of the Master Trust for all purposes related to in-kind contribution of the Assets; and

(5) Is independent of and unrelated to Weyerhaeuser and its affiliates, as defined, below, in section V(l). For purposes of this proposed exemption, a fiduciary will not be deemed to be independent of and unrelated to Weyerhaeuser and its affiliates if:

(i) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with

Weyerhaeuser and its affiliates, as defined, below, in section V(l),

(ii) Such fiduciary directly or indirectly receives any compensation or other consideration in connection with any of the transactions described in this proposed exemption; except that an I/F may receive compensation for acting as an I/F in connection with the transactions contemplated herein, if the amount or payment of such compensation is not contingent upon or in any way affected by the I/F's ultimate decisions, and

(iii) The annual gross revenue from Weyerhaeuser and its affiliates, as defined, below, in section V(l), received by such fiduciary, during any year of its engagement, does not exceed one percent (1%) of such fiduciary's annual gross revenue from all sources for its prior tax year.

(l) For purposes of section IV(a) and section V(k), the term, "affiliate," means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(m) For purposes of section V(a), the term "shareholders' or partners' equity" means the equity shown in the balance sheet, as of the date Newco commences operations, prepared in accordance with generally accepted accounting principles.

#### *Temporary Nature of the Exemption*

**Effective Date:** With regard to the transaction described in section I, the Department has determined that the relief proposed with respect to such transaction shall be effective, as of the date of the publication of the final exemption in the **Federal Register**.

With regard to the transactions described in section II, the Department has determined that the relief proposed with respect such transactions is temporary in nature, and, if granted, shall be effective, beginning on the date of the publication of the final exemption in the **Federal Register** and ending on the day which is five (5) years from the date of the publication of the final exemption in the **Federal Register**. Accordingly, relief described in this proposed exemption, if granted, with respect to the transactions described in section II will not be available upon the expiration of such five-year period for any new or additional transactions, as described herein, after such date, but

would continue to apply beyond the expiration of such five-year period for continuing transactions entered into within the five-year period; provided that the conditions of this proposed exemption, if granted, continue to be satisfied. Should the applicant wish to extend, beyond the expiration of such five-year period, the relief provided for new or additional transactions, as described in section II, the Applicants may submit another application for exemption. In this regard, the Department expects that prior to filing another exemption application seeking relief for new or additional transactions, as described in section II, the Applicants should be prepared to demonstrate compliance with the conditions of the final exemption.

#### **Summary of Facts and Representations**

1. The Plan is a non-contributory defined benefit pension plan tax-qualified under section 401(a) of the Code. As of June 1, 2011, the date the Applicants filed the application for exemption, the Plan is the sole defined benefit pension plan sponsored by Weyerhaeuser. The Plan is maintained for salaried employees of Weyerhaeuser and participating subsidiaries. The Plan also covers certain hourly employees. In this regard, the Weyerhaeuser Company Retirement Plan for Hourly Rated Employees and the Weyerhaeuser Company Retirement Plan for Salaried Employees were merged, effective December 31, 2010, and were renamed the Weyerhaeuser Pension Plan, which is the Plan that is subject to this proposed exemption. As of January 1, 2011, the Plan had 75,607 participants.

It is represented that, as of December 31, 2010, the Plan had assets with a fair market value of \$4.235 billion, with projected benefit obligations of \$4.233 billion, and with a funded ratio of 100.47%. In this regard, it is represented that the Plan is fully-funded as of January 2008, 2009, 2010. Further, the Plan has no minimum required contribution due in 2011.

2. Established in 1900, Weyerhaeuser (NYSE: WY) operates in 10 countries, primarily in the United States and Canada. Weyerhaeuser's four major business segments span nearly all aspects of the forest products industry, including cellulose fibers, real estate, timberlands, and wood products. In this regard, Weyerhaeuser manages 20.5 million acres of forests and generated approximately \$6.6 billion in net sales in 2010. As the sponsor of the Plan, Weyerhaeuser is a party in interest with respect to the Plan, pursuant to section 3(14)(C) of the Act.

3. The named fiduciary for the Plan, within the meaning of section 402(a)(2) of the Act, is an investment committee (the Investment Committee). As a fiduciary with respect to the Plan, the Investment Committee is a party in interest, pursuant to section 3(14)(A) of the Act. Plan administration and investment monitoring are the responsibilities of the administrative committee and the Investment Committee, respectively. Certain employees of Weyerhaeuser and its subsidiaries serve as members of these two (2) committees. The Chairman of the Investment Committee is a retired employee of and currently a consultant to Weyerhaeuser.

4. The assets of the Plan are held in a Master Trust. The Master Trust is qualified under the Code and is exempt from federal income taxes. The Plan received a favorable determination letter from the Internal Revenue Service (IRS), dated October 28, 2005. The Plan has been amended and restated since that date. However, it is the opinion of Weyerhaeuser that the Plan, as amended and restated, meets the Code requirements; and that therefore, the Master Trust continues to be tax exempt.

The Master Trust has total assets, as of December 31, 2010, of approximately \$4.235 billion. As of June 1, 2011, the Plan is the only plan funded by the Master Trust. The trustee of the Master Trust is Bank of New York Mellon Corporation. The custodian for the group annuity contract held in the Master Trust is Metropolitan Life Insurance Company.

5. During 2008 and 2009, Morgan Stanley Investment Management, Inc. (Morgan Stanley), and Northwater Capital Management Inc. (Northwater), and WAM acted as investment managers of the assets of the Plan in the Master Trust. It is represented that Morgan Stanley and Northwater each qualify as qualified professional asset managers (QPAMs) under Prohibited Transaction Exemption 84-14 (PTE 84-14).<sup>46</sup> Effective July 1, 2009, Northwater's investment management duties were transferred to WAM.

WAM provides a broad array of investment advisory and investment management services to the Master Trust. It is represented that WAM is a registered investment adviser with the Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended. It is further

<sup>46</sup> 49 FR 9494, March 13, 1984, as corrected at 50 FR 41430, October 10, 1985, amended at 70 FR 49305, August 23, 2005, and amended at 75 FR 38837 (July 6, 2010).

represented that WAM qualifies as an in-house asset manager (INHAM) within the meaning of Prohibited Transaction Exemption 96–23.<sup>47</sup> If the proposed exemption is granted, it is represented that WAM will cease to be an investment manager for the Master Trust.

As the current investment managers with respect to the assets of the Plan, Morgan Stanley and WAM are fiduciaries, pursuant to section 3(21)(A) of the Act and are parties in interest with respect to the Plan, pursuant to section 3(14)(A) of the Act. Further, Morgan Stanley and WAM, as service providers to the Plan, are parties in interest with respect to the Plan, pursuant to section 3(14)(B) of the Act. As a wholly-owned subsidiary of a wholly-owned affiliate of Weyerhaeuser, WAM is also a party in interest with respect to the Master Trust, pursuant to 3(14)(G) of the Act.

#### *The In-Kind Contribution of Assets to the Plan*

6. Section I of this proposed exemption describes an in-kind contribution of assets. Specifically, Weyerhaeuser proposes to contribute in-kind to the Master Trust certain Assets which are owned by WAM. It is represented that the proposed contribution of the Assets will not be used to reduce Weyerhaeuser's cash contributions to the Plan. In this regard, it is represented that the fair market value of the Assets will not be credited in the prefunding balance for purposes of calculating minimum required contributions by Weyerhaeuser to the Plan.

As Weyerhaeuser is the sponsor of the Plan, the Applicants are concerned that the in-kind contribution of the Assets by Weyerhaeuser to the Master Trust could be viewed as a prohibited transaction, pursuant to section 406(a)(1)(A) of the Act for which an exemption would be needed.<sup>48</sup> Further, as both WAM and Weyerhaeuser are parties in interest with respect to the Plan, the in-kind contribution to the Master Trust by Weyerhaeuser of the Assets owned by WAM raises issues of conflict of interest for which the Applicants have requested

relief from sections 406(b)(1) and 406(b)(2) of the Act.

The Assets arise from WAM's management of the assets of the Master Trust and WAM's management of the assets of the Weyerhaeuser Company Limited Master Trust (the Canadian Trust), established in connection with Weyerhaeuser's Canadian pension plans. The Assets include: (1) A limited right to disclose the "Weyerhaeuser" name; (2) access to WAM's historical investment performance calculations and related work papers; (3) access to the books and records of the Canadian Trust; (4) certain business contracts; (5) computers, scanners, printers, MFD's, polycom video conference hardware; (6) office furniture and fixtures; (7) information filed within personal hard drives and filed within shared drives of transferring employees; (8) various newsletters, publications, reviews, analysis, and reports; (9) books, studies, research articles, and publications purchased by WAM; and (10) various analytical models, spread sheets, and periodic reports. It is represented that, if this proposed exemption is granted, the fair market value of the Assets when contributed in-kind to the Master Trust will constitute less than one percent (1%) of the assets of the Master Trust.

7. The Assets contributed in-kind by WAM and certain other property owned by the Master Trust, including performance backup books and records relating to WAM's management of the Master Trust (collectively, the Licensed Assets) will be licensed by the Master Trust under the Royalty Agreement with Newco. Newco will be permitted to market the track record of WAM and may refer to the management by certain WAM personnel of all or a portion of the Master Trust when marketing to other clients. Pursuant to the Royalty Agreement, the Master Trust will be entitled to receive annual royalty payments of a specified percentage<sup>49</sup> of Newco's revenue, other than any revenue received by Newco relating to Newco's management of the assets of the Plan invested in the Master Trust.

In accordance with section 3.4 of the Royalty Agreement, commencing on December 31, 2018, the Master Trust could elect to require Newco to purchase the royalty interest and the Licensed Assets (the Put) in exchange for payment within a certain time frame of an amount based upon a specific formula, as set forth in the Royalty Agreement. Under the terms of the Put,

proceeds equal to four (4) times the prior year's royalty payment are payable no later than 180 days following the "put option measurement date." The "put option measurement date" is generally the December 31st following the one year anniversary of the date on which the Master Trust gives notice of its intent to exercise the Put, but in no event earlier than December 31, 2020. The Investment Committee would be responsible for exercising the Put.

In accordance with section 3.3 of the Royalty Agreement, commencing on December 31, 2020, Newco could elect to require the Master Trust to sell the royalty interest and the Licensed Assets to Newco (the Call) in exchange for payment within a certain time frame of an amount based upon a specific formula, as set forth in the Royalty Agreement. Under the terms of the Call, proceeds equal to five (5) times the prior year's royalty payment are payable no later than 180 days following the "call option measurement date." The "call option measurement date" is generally the December 31st following the one year anniversary of the date on which Newco gives notice of its intent to exercise the Call, but in no event earlier than December 31, 2022. A majority of the Board of Directors of Federalway Asset Management GP LLC (the Newco GP) would be responsible for exercising the Call. The Royalty Agreement, pursuant to section 3.6 therein, also makes provision for Newco to charge back-end fees to the Master Trust.<sup>50</sup>

<sup>50</sup>The Applicants have not requested any relief from the prohibited transactions provision of the Act, with respect to the entry into the Royalty Agreement between Newco and the Master Trust, nor have the Applicants requested any relief from the operation of the terms of such agreement, including the exercise of the Put, or the exercise of the Call, and the receipt by Newco of back-end fees. In the opinion of the Applicants, Newco is not a fiduciary to the Master Trust with respect to the decision by the Master Trust to enter into the Royalty Agreement nor with respect to the operation of the Royalty Agreement, the exercise of the Put, the exercise of the Call, or the receipt of back-end fees, all of which the Applicants maintain are independent rights that are unconnected with any determination of whether the Master Trust becomes or remains a client of Newco. The Investment Committee and Newco represent that they are comfortable that the terms of the Royalty Agreement represent an arm's-length transaction and that the consideration, as set forth in the Royalty Agreement represents fair market value. Accordingly, the Investment Committee and Newco intend to rely on the relief provided by the statutory exemption, as set forth in section 408(b)(17) of the Act with respect to the decision by the Master Trust to enter into the Royalty Agreement, and with respect to the operation of the Royalty Agreement, the exercise of the Put, the exercise of the Call, and the receipt of back-end fees by Newco. The Department, herein, is offering no view as to the Applicant's reliance on the statutory exemption, as set forth in section 408(b)(17) of the Act, for such transactions, nor is the Department offering any view, as to whether the Applicants satisfy the conditions, as set forth in

<sup>47</sup> 61 FR 15975, April 10, 1996, amended at 76 FR 18255 (April 1, 2011).

<sup>48</sup> The Applicants cite to Advisory Opinion 81–69A (July 28, 1981) in which the Department determined that in-kind contributions of property to a defined benefit pension plan would be a prohibited sale or exchange of property between a plan and a party in interest under section 406(a)(1)(A) of the Act, because such in-kind contribution would constitute a discharge by the employer of its legal obligation to make a yearly cash contribution to such plan.

<sup>49</sup> It is represented that the specified percentage would be 12.5% on revenues of less than \$25 million per year and 15% on revenues of more than \$25 million per year.

8. The Applicants represent that the in-kind contribution of the Assets to the Master Trust, as described in section I of the proposed exemption, is administratively feasible in that such in-kind contribution will be a one-time transaction. The Applicants represent further that the transaction, as described in section I of this proposed exemption, is feasible, as the Applicants will be required to maintain records necessary to enable the Department and the IRS and other interested parties to determine whether the conditions of this proposed exemption, if granted, have been met.

9. The Applicants represent that the transaction, described in section I of the proposed exemption, is protective of the rights of participants and beneficiaries of the Plan, because Evercore Trust Company, N.A. (Evercore Trust) has been retained by Weyerhaeuser and by the Investment Committee, pursuant to a written agreement (the Agreement), dated June 9, 2011, to serve as the I/F, who will act on behalf of the Plan with respect to the contribution in-kind of the Assets.

Evercore Trust's responsibilities, pursuant to such Agreement, are to: (a) Determine whether to accept on behalf of the Plan the contribution in-kind of the Assets, subject to the Department's grant of a final exemption; (b) prepare the valuation of the current fair market value of the Assets; (c) negotiate on behalf of the Plan the terms and conditions of the contribution in-kind of the Assets; and (d) render an opinion in the form of a report suitable for submission to the Department in connection with the application for exemption. In addition, it is represented that Evercore Trust will take the necessary steps to ensure compliance by Weyerhaeuser with the terms and conditions of the in-kind contribution of the Assets. Further, as of the date the Assets are contributed to the Master Trust, the contributed value of the Assets will be equal to the fair market value of the Assets, as determined by Evercore Trust.

The Applicants represent that Evercore Trust is qualified to serve as the independent fiduciary in connection with the proposed in-kind contribution of the Assets. In this regard, Evercore Trust is a nationally chartered trust bank with 12.8 billion in assets under management. Evercore Trust is a

such statutory exemption. Further, the Department, herein, is not providing any relief with regard to the entry into the Royalty Agreement, nor is the Department providing any relief, herein, with regard to the operation of terms of the Royalty Agreement, including the Put, the Call, and the back-end fees.

subsidiary of Evercore Partners, Inc. (NYSE:EVR) which provides specialized investment management, independent fiduciary, and trustee services to employee benefit plans. Charles E. Wert and Norman P. Goldberg at Evercore Trust lead a multi-disciplinary team of 29 professionals, including relationship managers, plan administrators, financial analysts, and in-house legal counsel.

Evercore Trust represents that it is independent and unrelated to Weyerhaeuser and the Investment Committee. In this regard: (a) Evercore Trust does not directly or indirectly control, is not controlled by, and is not under common control with, Weyerhaeuser; (b) neither is Evercore Trust nor any of its officers, directors, or employees an officer, director, partner, or employee of Weyerhaeuser (nor a relative of such persons); (c) Evercore Trust may receive compensation from Weyerhaeuser only for performing the services for acting as the I/F, as described in the Agreement, as long as the amount of such payment is not contingent upon or in any way affects such services; and (d) the annual compensation received by Evercore Trust, pursuant to the Agreement, does not exceed one percent (1%) of annual gross revenue of Evercore Trust.

Evercore Trust represents that it understands and acknowledges its duties and responsibilities under ERISA in acting as the I/F on behalf of the Plan in connection with the in-kind contribution of the Assets. In this regard, Evercore Trust represents that it is required to act solely in the interest of the Plan's participants and beneficiaries with care, skill, and prudence in discharging its obligations.

It is represented that Evercore Trust conducted a thorough due diligence process in evaluating the proposed in-kind contribution of the Assets. In this regard, the due diligence process involved a number of meetings with personnel from Weyerhaeuser, WAM, Lindsay Goldberg, and the Applicants' outside counsel. These meetings were conducted in person by Evercore Trust in an on-site visit with Weyerhaeuser and WAM personnel in Federal Way, WA on September 27, 2011, as well as via email and telephone conference calls. It is represented that these sessions enabled Evercore Trust to understand a number of important elements related to the in-kind contribution of the Assets, including the investment performance of WAM, the Plan's funded status, the projections for Newco, and the estimated cash flow to be generated by the Royalty Agreement. In addition, Evercore Trust reviewed and relied on a variety of information

provided by Weyerhaeuser, represented to be accurate and complete in all material respects. In addition, Evercore Trust independently gathered and reviewed additional information that was publicly available.

In evaluating whether to accept the in-kind contribution of the Assets on behalf of the Plan, Evercore Trust determined that the Plan would receive significant monetary benefits associated with such Assets. In this regard, once Newco is retained by the Client Plans, the Plan would accrue royalty payments. Based on the Royalty Agreement and certain base case projections for Newco (the Base Case Projections),<sup>51</sup> the Assets would generate \$1.3 million in royalty payments in year three (3) after start up. Based on the Base Case Projections and reasonable assumptions, Evercore Trust has projected that the Plan would receive between \$17 million and \$24.8 million in total royalty payments excluding any revenue received from the exercise of the Put or the Call. In addition, the Plan would receive proceeds associated with the expected exercise of either the Put or the Call. Based on the Base Case Projections and reasonable assumptions, Evercore Trust has projected that the Plan would receive either \$13.2 million from the exercise of the Put in year nine (9) after start up or \$18.9 million from the exercise of the Call in year eleven (11) after start up. Based on these calculations the Plan would receive between \$30.2 million and \$43.7 million in total proceeds generated by the Assets over these timeframes.

With respect to diversification, to the extent that the *returns generated by the Assets were uncorrelated to the returns generated by the Master Trust's investment portfolio*, the in-kind contribution of the Assets would potentially reduce volatility for the Plan.

With respect to Plan funding, the Plan does not have a required minimum contribution due in 2011. In this regard, it is represented that the in-kind contribution of the Assets would be a voluntary contribution of assets to the Plan. Moreover, Evercore Trust represents the proposed in-kind contribution of the Assets would have no adverse effect on Weyerhaeuser's

<sup>51</sup> Newco management prepared *pro forma* projections for Newco for six (6) years based on WAM's track record, cost structure, discussions with potential clients of Newco, and general industry conditions. As the Base Case Projections were prepared for Newco as a consolidated business, Evercore Trust reviewed all the revenue and cost assumptions underlying the Base Case Projections and concluded such assumptions were reasonable.

ability to satisfy future funding requirements of the Plan and would not materially impact Weyerhaeuser's operations, or financial condition. Accordingly, Evercore Trust represents that the in-kind contribution of the Assets will not be used to reduce Weyerhaeuser's cash contribution to the Plan and will not be used to directly offset future required contributions.

With regard to the arrangement between the Plan and Newco, Evercore Trust states that the in-kind contribution of the Assets would indirectly support the continuity of the Plan's current investment team. In addition, the Plan would not be responsible for any start-up costs associated with Newco. Further, the Plan would not be locked into a long term arrangement with Newco, nor would the Investment Committee be prevented from selecting another service provider in the future.

Evercore Trust states that the Plan would benefit from the favorable fee arrangement to be established with Newco. In this regard, the initial fee schedule to be charged by Newco to the Plan is designed to cover cost without a profit margin. It is represented that Newco will charge 25 basis points of assets under management to provide full service investment advisory and investment management services to the Plan, whereas Newco expects to charge 50 basis points for such services to the Client Plans. Further, in the opinion of Evercore Trust the floor and the cap on annual charges provides the Plan with greater certainty related to investment management fees. Accordingly, Evercore Trust concluded that the Plan would be no worse off with the fees charged by Newco than its current fee arrangement with WAM.

Finally, Evercore Trust considered and resolved several possible issues associated with the in-kind contribution of the Assets. In this regard, Evercore Trust concluded that the stated limit on the growth of Newco and the Investment Committee's ongoing duty to monitor the Plan's service providers mitigates the risk that Newco's attention to the Plan's assets will decline as Newco develops and maintains new clients. Further, in the view of Evercore Trust, potential conflicts of interest that could arise, if the Investment Committee were reluctant to replace Newco as a service provider, are addressed by the fact that the Assets would represent less than .3 percent (.3%) of the Plan's assets and should not influence prudent fiduciary decision-making. Accordingly, Evercore Trust concluded that these potential issues are insignificant, unlikely, and vastly outweighed by the expected

benefits associated with the in-kind contribution of the Assets to the Plan.

Based on the preceding analysis, Evercore Trust has determined that on behalf of the Plan that it would be prudent to accept the in-kind contribution of the Assets and that such contribution in-kind is in the interests of the Plan and its participants and beneficiaries. In the opinion of Evercore Trust, the in-kind contribution of the Assets would provide monetary, diversification, and funding benefits to the Plan without significant costs or downside risk. Therefore, Evercore Trust has determined to accept on behalf of the Plan the in-kind contribution of the Assets, subject to the Department's grant of a final exemption. Evercore Trust has also concluded that additional negotiation on the terms and conditions of the proposed in-kind contribution of the Assets is not necessary, because the proposed structure provides sufficient protection of the Plan's interests.

10. The Applicants believe that the relief requested in section I of this proposed exemption offers significant potential benefits to the Plan. In this regard, as of the date the Assets are contributed to the Master Trust, the contributed value of the Assets will be equal to the fair market value of the Assets, as determined by Evercore Trust.

Evercore Trust represents that it is qualified to serve as the independent appraiser of the fair market value of the Assets, because of Evercore Trust's comprehensive valuation experience utilizing the discounted cash flow approach (the DCF Approach) upon which Evercore Trust relied in valuing the Assets.

With regard to the methodology used, Evercore Trust employed the DCF Approach<sup>52</sup> to value the stream of royalty payments to the Master Trust and the Put and the Call, pursuant to the Royalty Agreement. Under the DCF Approach, the free cash flow of the Assets is estimated and then discounted back to the present at a weighted average cost of capital. In addition, a residual value multiple or growth rate is generally assigned and then applied to the last year of the projected cash flow to take into account the future free cash flows into perpetuity.

As only gross fees from assets under management from the Client Plan

<sup>52</sup> It is represented that the Evercore Trust did not use the comparable precedent transactions approach, as information regarding comparable precedent transactions of similar assets was not publicly available. Further, Evercore Trust did not employ the comparable valuation multiples approach, because there are no instructive publicly traded comparable securities.

generate royalty payments, only assumptions regarding these fees directly impact the valuation of the Assets. The assumptions used by Evercore Trust for such gross fees from assets under management from the Client Plans are as follows: (a) A fee of 50 basis points, based on Newco's expectations of the fees clients will pay; (b) a \$2 billion client acquired at the beginning of year three; and a \$2 billion client acquired at the beginning of year six, based on the current pipeline of potential new clients and a long lead time to attract clients; and (c) six percent (6%) assets under management growth from existing clients based on the historical performance of the Master Trust assets managed by WAM. Evercore Trust reviewed the assumptions regarding such gross fees and found them reasonable.

Further, Evercore Trust in valuing the Assets under the DCF Approach considered three (3) possible scenarios: (a) The royalty payments are continued in perpetuity; (b) the Put is exercised on December 31, 2020, (in which case the royalty payments would not be continued); and (c) the Call is exercised on December 31, 2022, (also in which case the royalty payments would not be continued). In discussions with Weyerhaeuser, Newco management, and LG Asset Management L.P. (Lindsay Goldberg) (*see*, paragraph no. 14, below), Evercore Trust was told that it is highly likely that the Put or the Call will be exercised and that there is about an equal chance that the Put or the Call will be exercised. As a result, Evercore Trust weighted exercising the Put and the Call at 50 percent (50%) each and did not give any weight to the scenario where the Master Trust received royalty payments in perpetuity.

It is represented that Evercore Trust valued the potential Put and Call using the DCF Approach, whereby Evercore Trust calculated the exercised value of the Put and the Call and discounted those values back to the present at a weighted average cost of capital and weighed the three (3) scenarios to arrive at a valuation conclusion for the Assets. Evercore Trust used a 15 percent (15%) discount rate, based on the implied cost of equity for Newco, assuming Newco was 100% equity financed. Further, Evercore Trust did not deduct taxes from the stream of payments, because the Plan does not pay taxes. Accordingly, in the opinion of Evercore Trust the fair market value of the Assets, as of October 21, 2011, the date of the valuation report, is \$11,700,000.

11. In addition, it is represented that the in-kind contribution of the Assets, as described in section I of this

proposed exemption, will be in the interest of the Plan and its participants and beneficiaries, because the Plan will not pay any commissions, fees, costs, charges, or other expenses in connection with the in-kind contribution of Assets to the Plan.

#### **Management by NEWCO of All or a Portion of the Assets in the Master Trust**

12. It is represented that the Master Trust has been at the forefront of investing in alternative investment vehicles for more than 20 years. In this regard, the Master Trust's investments include cash and short-term investments, hedge funds, private equity, real estate fund investments, and common and preferred stock. In addition, the Master Trust is invested in equity index derivatives, fixed income derivatives, swaps, and other derivative instruments. For approximately the past seven (7) years, it is represented that a large portion of the assets of the Master Trust have been managed in this way by an investment team employed "in house" by WAM, as an INHAM, pursuant to PTE 96-23.

13. It is represented that key personnel of the investment team currently employed "in house" by WAM will be leaving WAM (the Former WAM Personnel) and will be forming Newco, a new registered investment adviser under the Investment Advisers Act of 1940, as amended. The Former WAM Personnel who join Newco will be entering into employment agreements with Newco. Newco will be a Delaware limited partnership which will be outside of the Weyerhaeuser control group. Newco intends to market an alternative asset management platform designed to provide full-service investment advisory and investment management services to unrelated entities. These unrelated entities will include large investment firms such as foundations, sovereign wealth funds, endowment funds, public funds, and corporate pension funds (collectively, the Funds). Newco would initially target a few of the Funds unrelated to Weyerhaeuser with investable asset between \$1 billion and \$2 billion to add as new clients (the Unrelated Funds) Newco would initially limit the number of Unrelated Funds to between two (2) to five (5). Salim Shariff would be the Chief Investment Officer and President of Newco.

14. In connection with the establishment and operation of Newco, the Former WAM Personnel will enter into a joint venture with an affiliate of Goldberg Lindsay & Co. LLC (GLCo). GLCo, a registered investment adviser,

is the investment manager to a series of private investment funds with aggregate capital commitments of approximately \$10 billion that are focused on making long-term equity investments in established industries. The affiliate of GLCo which will enter into the joint venture with Former WAM Personnel is LG Asset Management L.P., and is referred to, herein, as Lindsay Goldberg. It is represented that Lindsay Goldberg will assist Newco with the provision of (or, in the alternative, the retention of persons to provide) various services, including marketing, IT operations, HR, administration, and use of space. However, Lindsay Goldberg will not provide portfolio management services. Such portfolio management services will be provided exclusively by Newco.

It is represented that Lindsay Goldberg has an experienced team of investment professionals led by its co-managing partners, Alan E. Goldberg (Mr. Goldberg) and Robert D. Lindsay (Mr. Lindsay) each of whom has more than 25 years of private investment experience.

15. Newco will initially be funded by Lindsay Goldberg. In this regard, it is represented that the Master Trust will not pay, directly or indirectly, any part of Newco's start up fees. Approximately 60 percent (60%) of Newco will be owned by Lindsay Goldberg. Approximately 40 percent (40%) of Newco will be owned by key personnel of Newco. A substantial portion of the equity of Newco will be held by the Former WAM Personnel.

16. The Newco GP will be a Delaware limited liability company. The Newco GP will be managed by a board of four (4) managers (the Board). Lindsay Goldberg will be entitled to appoint two (2) managers to the Board of the Newco GP. The Former WAM Personnel will be entitled to appoint one (1) manager to the Board. The Master Trust will be entitled to appoint one (1) of the managers to the Board.

17. Weyerhaeuser and the Investment Committee wish to retain the services of the Former WAM Personnel after such personnel have been engaged by Newco. In this regard, Weyerhaeuser has determined that expansion of WAM under the corporate umbrella, as a wholly-owned business providing investment management services to unrelated entities is not within its overall corporate strategy and would not be a core business of Weyerhaeuser. Accordingly, to accommodate the desire of the Former WAM Personnel to expand their business operations and also to ensure the continuity of investment management services provided to the Master Trust by the

Former WAM Personnel, the Investment Committee has made a preliminary determination to engage Newco as an investment manager, within the meaning of section 3(38) of the Act, for some or all of the assets in the Master Trust. It is represented that any such investment management services provided by Newco to the Master Trust will be pursuant to a written investment management agreement terminable by the Investment Committee on reasonably short notice.<sup>53</sup> The Master Trust will have no obligation to engage Newco or to continue the services of Newco for any set period of time. It is represented that initially Newco will charge a fee for providing investment management services to the Master Trust at a cost that approximates the cost incurred by WAM to manage the Master Trust's assets (*i.e.*, no profit margin included). In this regard, it is represented that the initial *ad valorem* fee charged would be 25 basis points with a floor and a cap on annual increases of 3 percent (3%) and 6 percent (6%), respectively. The Applicants represent that the fees payable by the Master Trust to Newco will be significantly less than "market rate" fees for similar services.<sup>54</sup>

It is represented that the determination of the Investment Committee to hire Newco as the investment manager for some or all of the assets in the Master Trust is conditioned upon the grant by the Department to Newco of a final exemption permitting Newco to enter into transactions on behalf of the Master Trust, as though Newco were a QPAM. Accordingly, the Applicants have requested that the proposed exemption be modeled after PTE 84-14, as amended.

18. PTE 84-14 generally permits various parties in interest with respect

<sup>53</sup> It is represented that termination of Newco as investment manager of the Master Trust will have no impact on the Master Trust's rights under the Royalty Agreement, discussed above.

<sup>54</sup> The Applicants have not requested and the Department, herein, is not providing any relief for the receipt of a fee by Newco from the Master Trust for the provision of investment management services to such Master Trust. The statutory exemption, as set forth in section 408(b)(2) of the Act and the Department's regulations, pursuant to 29 CFR 2550.408b-2, provides relief from section 406(a) of the Act for contracting or making reasonable arrangements with a party in interest for services necessary for the establishment or operation of a plan, if no more than reasonable compensation is paid therefore. The Department, herein, is offering no view, as to whether the receipt by Newco of a fee for the provision of investment management services to the Master Trust is covered by such statutory exemption, nor is the Department, herein, offering any view as to whether Newco satisfies the conditions set forth in such statutory exemption.

to an employee benefit plan to engage in a transaction involving plan assets, if the transaction is authorized by a QPAM, provided certain conditions are satisfied. Specifically, the Applicants seek an individual exemption for transactions that are described in Part I of PTE 84-14.<sup>55</sup> Part I of PTE 84-14 provides relief from the restrictions of section 406(a)(1)(A)-(D) of the Act and section 4975(c)(1)(A)-(D) of the Code for transactions between a party in interest with respect to an employee benefit plan and an investment fund in which such plan has an interest and which is managed by a QPAM, provided certain conditions are satisfied.

One such condition (the Diverse Clientele Test), as set forth in Part I(e) of PTE 84-14, requires that:

The transaction is not entered into with a party in interest with respect to any plan whose assets managed by QPAM, when combined with the assets of other plans established or maintained by the same employer (or affiliate thereof \* \* \* or by the same employee organization, and managed by the QPAM, represent more than 20 percent of the total client assets managed by the QPAM at the time of the transaction.

Another condition, as set forth in Part VI(a)(4) of PTE 84-14 (the Assets Under Management Test), requires that an investment adviser registered under the Investment Advisers Act of 1940 have total client assets under its management and control in excess of \$85,000,000, as of the last day of its most recent fiscal year. As a newly established entity, Newco will not be able, as of the last day of its most recent fiscal year, to satisfy the Assets Under Management Test, as set forth in PTE 84-14. However, it is anticipated that Newco will have \$85,000,000 in assets under management on the date it commences operations.

In addition, another condition, as set forth in Part VI(a)(4) of PTE 84-14 (the Shareholders'/Partners' Equity Test), requires that an investment adviser in order to qualify as a QPAM must either have shareholders' or partners' equity in excess of \$1 million, as evidenced by the most recent balance sheet prepared within the immediately preceding two years, or payment of all of its liabilities including any liabilities that may arise by reason of a breach or violation of a duty described in sections 404 and 406 of the Act unconditionally guaranteed by a party, including an affiliate, a bank, a saving and loan, an insurance company, or a broker-dealer who must satisfy certain net worth requirements.

As a newly established entity, Newco will not be able to satisfy the Shareholders'/Partners' Equity Test, as set forth in PTE 84-14, because it will not have a recent balance sheet prepared within the immediately preceding two years. However, it is represented that Newco will be capitalized in excess of \$1 million, as of the date Newco commences operations.

19. Because Newco does not satisfy the Assets under Management Test, the Shareholders'/Partners' Equity Test, and the Diverse Clientele Test, as those tests are set forth in PTE 84-14, Newco will not qualify as a QPAM with respect to the Master Trust. Accordingly, the Applicants request that the Department grant exemptive relief that will permit Newco to act as though it were a QPAM, in light of the fact that: (a) Newco's investment team will consist of the same Former WAM Personnel who managed the assets of the Master Trust as an INHAM; (b) on the day Newco commences operation, it will be capitalized in excess of \$1 million; and (c) on the day Newco commences operation, it is anticipated that Newco will have \$85,000,000 in assets under management.

20. In the opinion of the Applicants the proposed transactions, as set forth in section II, are administratively feasible, because such transactions are similar in some respect to other class and administrative exemptions previously granted by the Department. In this regard, the Former WAM Personnel who will be employed by Newco will continue to implement the investment management strategy that has been in operation for the past seven (7) year under the auspices of WAM. In addition, it is represented that the transactions, as described in section II of this proposed exemption would not impose any administrative burdens on the Department which are not already imposed by PTE 84-14.

Further, the transactions, as described in section II of this proposed exemption are feasible, as the Applicants will be required to maintain records necessary to enable the Department and the IRS and other interested parties to determine whether the conditions of the proposed exemption, if granted, have been met.

21. With respect to the transactions described in section II of this proposed exemption, it is represented that the conditions, as set forth in section III of this proposed exemption provide sufficient safeguards for the protection of the Plan, any Other Plan(s) and any Client Plan(s). In this regard, the transactions which are the subject of section II of this proposed exemption

cannot be part of an agreement, arrangement, or understanding designed to benefit a party in interest. Neither Newco nor a person related to Newco may engage in transactions with a Managed Account. Any party in interest (including a fiduciary) which deals with a Managed Account may only be a remote party in interest, and such party in interest may not have discretionary authority or control with respect to the investment of plan assets involved in the transaction nor render investment advice with respect to those assets.

22. It is represented that the transactions described in section II of the proposed exemption are in the interest of the Plan, any Other Plan(s), and any Client Plan(s) which invest in a Managed Account, because Newco will be able to negotiate transactions with parties in interest with respect to such plan(s) where such transactions are beneficial. Absent the proposed exemption, such plan(s) would be precluded from engaging in such transactions, even though such transactions may offer favorable investment opportunities.

Further, the Applicants maintain that if the Department were to deny to Newco the relief, as set forth in section II of the proposed exemption, the Master Trust would lose access to the Former WAM Personnel who have been running a large portion of the assets of the Plan in the Master Trust for over seven (7) years. Further, if the Department were not to grant to Newco the ability act as though it were a QPAM, Newco would not be able to continue to implement its proven investment strategy on behalf of the Master Trust, as counterparties are not willing to enter into transactions with the Master Trust, other than under the umbrella of PTE 84-14 or similar exemptive relief.

23. In summary, the Applicants represent that the subject transactions satisfy the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) Prior to the execution and closing on the in-kind contribution of the Assets, Evercore Trust, acting on behalf of the Master Trust, will determine whether and on what terms to enter into the in-kind contribution of such Assets;

(b) Evercore Trust will negotiate, review, and approve the specific terms of the in-kind contribution of the Assets and will determine, prior to entering into such in-kind contribution, that such transaction is feasible, in the interest of, and protective of the Master Trust and its participants and beneficiaries;

(c) Evercore Trust will take the necessary steps to ensure compliance by

<sup>55</sup> The Applicants have not requested an administrative exemption for the transactions described in Part II, Part III, and Part IV, and Part V of PTE 84-14.

Weyerhaeuser with the terms and conditions of the in-kind contribution of the Assets;

(d) As of the date the Assets are contributed to the Master Trust, the contributed value of the Assets will be equal to the fair market value of the Assets, as determined by Evercore Trust.

(e) The terms and conditions of the in-kind contribution of the Assets will be no less favorable to the Master Trust than terms negotiated at arm's length under similar circumstances between unrelated third parties;

(f) The fair market value of the Assets will constitute less than one percent (1%) of the assets of the Master Trust at the time such Assets are contributed to the Master Trust;

(g) The Master Trust will incur no commissions, fees, costs, or other charges and expenses in connection with the in-kind contribution of the Assets to the Master Trust; and

(h) The in-kind contribution of the Assets is a one-time transaction;

(i) On the day Newco commences operation, Newco will be capitalized in excess of \$1 million, and on the same day, it is anticipated that Newco will have \$85,000,000 in assets under management;

(j) Newco will be able to continue to implement a proven investment strategy on behalf of the Master Trust;

(k) The proposed exemption will ensure the continuity of investment management services provided to the Master Trust by the Former WAM Personnel, who have been running a large portion of the assets of the Plan in the Master Trust in recent years;

(l) The Master Trust will not be precluded from engaging in transactions with parties in interest, even though such transactions may offer favorable investment opportunities;

(m) The transactions which are the subject of section II of this proposed exemption cannot be part of an agreement, arrangement, or understanding designed to benefit a party in interest;

(n) Neither Newco nor a person related to Newco may engage in transactions with a Managed Account;

(o) Any party in interest (including a fiduciary) which deals with a Managed Account may only be a remote party in interest, and such party in interest may not have discretionary authority or control with respect to the investment of plan assets involved in the transaction nor render investment advice with respect to those assets; and

(p) The Applicants will be required to maintain records necessary to enable the Department and the IRS and other interested parties to determine whether

the conditions of the proposed exemption, if granted, have been met.

#### Notice to Interested Persons

The persons who may be interested in the publication in the **Federal Register** of the Notice of Proposed Exemption (the Notice) include all the participants in the Plan, the active employees, terminated participants and each beneficiary.

It is represented that these several classes of interested persons will be notified of the publication of the Notice through different methods. In this regard, notification will be provided within twenty (20) days of the date of publication of the Notice in the **Federal Register**, by posting at locations customarily used for notices regarding labor-management matters for review. Such posting will contain a copy of the Notice, as it appears in the **Federal Register** on the date of publication, plus a copy of the supplemental statement (the Supplemental Statement) as required, pursuant to 29 CFR 2570.43(b)(2), which will advise interested persons of their right to comment and to request a hearing.

It is represented that Weyerhaeuser will also provide notice to each terminated participant and each beneficiary receiving benefits of the publication of the Notice by first class mail, within twenty (20) days of publication of the Notice in the **Federal Register**. Such mailing will contain a copy of the Notice, as it appears in the **Federal Register** on the date of publication, plus a copy of the Supplemental Statement, as required, pursuant to 29 CFR 2570.43(b)(2), which will advise all such interested persons of their right to comment and to request a hearing.

The Department must receive all written comments and/or requests for a hearing no later than thirty (30) days from the *later of*: (1) The date a copy of the Notice and a copy of the Supplemental Statement are posted; or (2) the date of the mailing first class of a copy of the Notice and a copy of the supplemental Statement to terminated participants and beneficiaries of the Plan.

**FOR FURTHER INFORMATION CONTACT:** Ms. Angelena C. Le Blanc of the Department, telephone (202) 693-8540. (This is not a toll-free number.)

#### Citigroup Inc. (Citigroup)

*Located in New York, New York*

Exemption Application Number D-11680

#### Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act (or ERISA) and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).<sup>56</sup>

If the proposed exemption is granted, Citigroup Inc. and its current and future affiliates (collectively, Citigroup) shall not be precluded, as of December 1, 2010, from functioning as a "qualified professional asset manager" (QPAM), pursuant to Prohibited Transaction Exemption 84-14 (PTE 84-14), (49 FR 9494 March 13, 1984, as amended on August 23, 2005 at 70 FR 49305), solely because of a failure to satisfy Section I(g) of PTE 84-14, as a result of Citigroup's affiliation with Citibank Belgium SA (CBB), an entity convicted of six (6) counts of criminal activity in Belgium, provided that the following conditions are met:

(a) The affiliate convicted under Belgium law does not provide fiduciary or QPAM services to employee benefit plans (plans) or otherwise exercise discretionary control over plan assets;

(b) ERISA-covered assets are not involved in the misconduct that is the subject of the affiliate's conviction(s);

(c) Citigroup imposes its internal procedures, controls, and protocols on the affiliate to reduce the likelihood of any recurrence of misconduct to the extent permitted by local law;

(d) This exemption is not applicable if Citigroup, or any affiliate (other than branches or affiliates found liable for similar crimes in Belgium in connection with the sale of certain structured notes (the Lehman Notes) is convicted of any of the crimes described in Section I(g) of PTE 84-14;

(e) Citigroup maintains records that demonstrate that the conditions of the exemption have been and continue to be met for at least six years following the conviction of an affiliate under Belgium law;

(f) Citigroup has adopted procedures to afford ample protection of the interests of participants and beneficiaries of employee benefit plans; and

<sup>56</sup> For purposes of this proposed exemption, references to section 406 of ERISA should be read to refer to the corresponding provisions of section 4975 of the Code as well.

(g) Citigroup complies with the other conditions of PTE 84–14, as amended.

*Effective Date:* This proposed exemption, if granted, will be effective as of December 1, 2010.

### Summary of Facts and Representations

1. Citigroup Inc. (Citigroup), is a multinational financial services corporation headquartered in New York. Citigroup operates, for management reporting purposes, principally via two primary business segments: Citicorp, consisting of Citigroup's Regional Consumer Banking businesses (including retail banking and Citi-branded cards in North America, EMEA, Latin America and Asia) and Institutional Clients Group (including securities and banking and transaction services); and Citi Holdings, consisting of Citigroup's Brokerage and Asset Management and Local Consumer Lending businesses. Citigroup, through securities and banking, offers a wide array of investment and commercial banking services and products for corporations, governments, institutional and retail investors, and high-net-worth individuals. The applicant represents that on March 31, 2011, Citicorp held approximately \$1.3 trillion of assets and \$784 billion of deposits, representing approximately 68% of Citigroup's total assets and approximately 91% of its deposits. In addition, Citigroup provides fiduciary and asset management services to employee benefit plans described in section 3(3) of the Act. Citigroup manages billions of dollars representing ERISA-covered plan assets. Therefore, it would not be uncommon for a plan for which Citigroup currently serves as a QPAM to engage in a transaction which may involve a party in interest. The applicant represents that without the ability to function as a QPAM pursuant to PTE 84–14, virtually no manager of ERISA assets will be able to manage such assets effectively.

2. Section I(g) of PTE 84–14 precludes a person who otherwise qualifies as a QPAM from serving as a QPAM if such person or an affiliate thereof has, within 10 years immediately preceding the transaction, been either convicted or released from imprisonment, whichever is later, as a result of certain specified criminal activity described under Section I(g) of PTE 84–14, section 411 of the Act and various laws incorporated by reference in section 411 of the Act. The applicant represents that the violations which would jeopardize Citigroup's QPAM status involve convictions of Citibank Belgium SA (CBB), a wholly-owned legal entity incorporated under Belgium law that is responsible for the retail banking

activities of Citigroup in Belgium, and three (3) of CBB's employees. CBB is a part of Citigroup's global consumer banking business line and focuses on the distribution of banking products to consumers by offering a wide range of credit cards, installment credit and deposit services and investment products to its approximately 580,000 customers, and acts as an intermediary for life insurance products. The applicant represents that CBB has no ERISA plan clients and is not expected to have any ERISA plan clients in the future.

3. On August 14, 2009, CBB and three (3) of its employees<sup>57</sup> were criminally charged on six (6) counts in connection with certain structured bond products issued by Lehman Brothers (Lehman). The Court's decision was announced on December 1, 2010.<sup>58</sup> The applicant represents that, in general, the criminal convictions of CBB and the three employees were related to the use of certain marketing letters and leaflets, as well as a prospectus, describing the characteristics of certain bond products issued by Lehman. Some of these materials had not been approved by the appropriate Belgium regulator (the FSMA, formerly known as the CBFA) at the time of distribution, as required by local law. Additionally, CBB was convicted for the use of unclear and misleading sales documentation and for inadequate oversight of the sales agency network. The applicant represents that the convictions related to the violation of the following Belgian Statutes: Act of 16 June 2006 regarding the public offers of investment instruments and the admission of investments instruments to trading on regulated markets (the Prospectus Act), Article 60; the Prospectus Act, Article 69; and Act of 14 July 1991 on commercial practices and on information and protection of the consumer (the Commercial Practices Act), Article 94. The applicant further represents that the Court's judgment did not detail the statutory provisions on which each conviction is based, that these convictions are on appeal by CBB and Mr. Staroukine as of the date of this proposal, and that criminal acts are neither authorized nor condoned by Citigroup.

4. Citigroup represents that although none of the unlawful misconduct involved its (or its affiliates') investment management activities, the criminal

<sup>57</sup> Jose de Penderanda de Fanchimont, Chief Compliance Officer, is no longer employed by CBB; Bernard Beyens, former Belgium Country Counsel, is no longer employed by CBB; and Francois Staroukine, is the current Belgium Country Counsel for CBB.

<sup>58</sup> The sentencing date is also December 1, 2010.

conduct described above would preclude each component of Citigroup and other affiliated investment managers from serving as a QPAM pursuant to 84–14. Accordingly, the applicant requests an exemption to enable Citigroup and any of its current or future affiliates to act as a QPAM despite their failure to satisfy Section I(g) of PTE 84–14 solely as a result of CBB and its employees' December 1, 2010 criminal conviction in Belgium. The transactions covered by the proposed exemption would include the full range of transactions that can be executed by investment managers who qualify as QPAMs pursuant to PTE 84–14. If granted, the exemption will enable Citigroup and its current and future affiliates to qualify as QPAMs by satisfying all conditions of PTE 84–14, unless Citigroup or any other affiliate (other than branches or affiliates found liable for similar crimes in Belgium in connection with the sale of the Lehman Notes) is convicted of any additional instances of the crimes described in Section I(g) of PTE 84–14.

5. The applicant maintains that the requested exemption is protective of the rights of participants and beneficiaries of affected plans because: (a) After the time of the conduct described herein, Citigroup launched an initiative to establish global standards for addressing the risk associated with its retail and investment products businesses; (b) a global policy has been created to assist Citigroup's investment professionals in meeting their responsibilities related to ensuring that investment product sales are suitable for clients in the context of the client's investment objectives, risk tolerance, and knowledge and experience; (c) Citigroup's suitability processes include a classification system for Citigroup accounts, a corresponding client rating scale, and defined mechanisms for framing suitability judgments; (d) consistent requirements were developed through the policy for mandatory sales force training on products, as well as Citigroup policies; (e) the investment product risk group has standardized requirements for review and approval of new products, as well as third party structured note issuers; (f) a local compliance staff reports to the global Chief Compliance Officer to ensure independence; (g) training regarding the policy and the applicant's other global policies and procedures is conducted in the local language; (h) CBB has voluntarily agreed to participate in the FSMA's moratorium applicable to distribution of structured products to retail investors; and (i) the applicant has

updated its procedures regarding review of marketing materials and communications related to ratings changes which should be reflected in marketing materials, in order to ensure compliance with the laws of Belgium.<sup>59</sup>

The proposed exemption also contains conditions, in addition to those imposed by PTE 84-14, which are designed to ensure the presence of adequate safeguards to protect the interests of the ERISA plan participants and beneficiaries against wrongdoers now and in the future. In this regard, the proposed exemption will be applicable if: (a) CBB has not, and does not, provide fiduciary or QPAM service to employee benefit plans covered by ERISA or otherwise exercise discretionary control over ERISA assets; (b) ERISA-covered assets were not involved in the conduct that is the subject of the affiliate's convictions; (c) Citigroup has imposed and will continue to impose its internal procedures, controls, and protocols on the affiliate to reduce the likelihood of any recurrence of misconduct to the extent permitted by local law; (d) The exemption will not be applicable if the applicant or any affiliate (other than branches or affiliates found liable for similar circumstances in Belgium in connection with the sale of the Lehman Notes) is convicted of any of the crimes described in Section I(g) of PTE 84-14; (e) Citigroup has kept and will continue to keep records that demonstrate that the conditions of the exemption have been and continue to be met for at least 6 years following the conviction of an affiliate; and (f) Citigroup has adopted procedures to afford ample protection of the interests of participants and beneficiaries of employee benefit plans.

6. The applicant represents that the proposed exemption is administratively feasible because it does not require the Department to oversee or administer any aspect of the relief provided. Further the applicant represents that the exemption will enable the plans to continue their current investment strategy with their current investment manager.

Moreover, the applicant notes that if the Department denies the requested exemption, the applicant will be unable to manage assets on an optimal basis subject to ERISA or the prohibited transaction provisions of the Code, thereby making it difficult for the applicant to enter into the transactions deemed necessary to meet the plans' investment mandates. The applicant

also states that plans would need to find other investment managers who could manage the assets in the strategy dictated by the plan.

7. The applicant represents that it has adopted substantial compliance policies and procedures intended to ensure that the applicable legal requirements are satisfied and that the highest standard of business integrity is maintained wherever the applicant conducts business. Employees of the applicant have been required to complete mandatory policy awareness training, which included training on global policy disclosure standards. Also, sales, marketing and promotional materials must now be approved by the applicant's legal and/or compliance department or the designated authorities prior to distribution. The applicant further represents that Mr. Staroukine, although currently serving as CBB's Belgium Country Counsel, has no involvement with ERISA plans, and will not have any future dealings with any ERISA plan assets while he is employed by the applicant, CBB or an affiliate.

8. In summary, it is represented that the transactions have satisfied and will satisfy the statutory criteria for an exemption under 408(a) because: (a) The affiliate convicted under Belgium law has not provided and will not provide fiduciary or QPAM services to ERISA-covered plans or otherwise exercise discretionary control over plan assets; (b) ERISA-covered assets have not been involved and will not be involved in the misconduct that is the subject of the affiliate's conviction; (c) Citigroup has continued and will continue to impose its internal procedures, controls, and protocols on the affiliate to reduce the likelihood of any recurrence of misconduct to the extent permitted by local law; (d) this exemption is not applicable if Citigroup, or any affiliate (other than branches or affiliates found liable for similar crimes in Belgium in connection with the sale of the Lehman Notes) is convicted of any of the crimes described in Section I(g) of PTE 84-14; (e) Citigroup has maintained and will maintain records that demonstrate that the conditions of the exemption have been met for at least six years following the conviction of the affiliate under Belgium law; and (f) Citigroup has adopted procedures which have afforded and will afford ample protection of the interests of participants and beneficiaries of employee benefit plans.

#### Notice to Interested Persons

The applicant represents that because those potentially interested ERISA-covered plans cannot all be identified,

the only practical means of notifying such plans of this proposed exemption is by publication in the **Federal Register**. Therefore, comments and requests for a hearing must be received by the Department not later than 30 days from the publication of this notice of proposed exemption in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Gary H. Lefkowitz of the Department, telephone (202) 693-8546. (This is not a toll-free number.)

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

<sup>59</sup>The applicant represents that in the event of a breach of the policies and/or procedures listed, an evaluation will be performed to determine if any future modifications are needed in the overall compliance structure.

Signed at Washington, DC, this 13th day of  
January, 2012.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Employee Benefits Security Administration,  
U.S. Department of Labor.*

[FR Doc. 2012-932 Filed 1-19-12; 8:45 am]

**BILLING CODE 4510-29-P**



# FEDERAL REGISTER

---

Vol. 77

Friday,

No. 13

January 20, 2012

---

Part III

The President

---

Notice of January 19, 2012—Continuation of the National Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process



## Title 3—

Notice of January 19, 2012

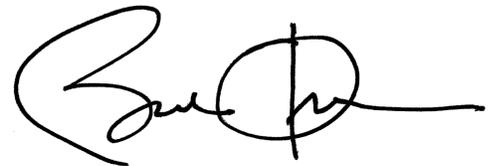
## The President

**Continuation of the National Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process**

On January 23, 1995, by Executive Order 12947, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by grave acts of violence committed by foreign terrorists who threaten to disrupt the Middle East peace process. On August 20, 1998, by Executive Order 13099, the President modified the Annex to Executive Order 12947 to identify four additional persons who threaten to disrupt the Middle East peace process. On February 16, 2005, by Executive Order 13372, the President clarified the steps taken in Executive Order 12947.

Because these terrorist activities continue to threaten the Middle East peace process and to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on January 23, 1995, and the measures adopted to deal with that emergency must continue in effect beyond January 23, 2012. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to foreign terrorists who threaten to disrupt the Middle East peace process.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,  
January 19, 2012.

# Reader Aids

## Federal Register

Vol. 77, No. 13

Friday, January 20, 2012

### CUSTOMER SERVICE AND INFORMATION

<b>Federal Register/Code of Federal Regulations</b>	
General Information, indexes and other finding aids	<b>202-741-6000</b>
<b>Laws</b>	<b>741-6000</b>
<b>Presidential Documents</b>	
Executive orders and proclamations	<b>741-6000</b>
<b>The United States Government Manual</b>	<b>741-6000</b>
<b>Other Services</b>	
Electronic and on-line services (voice)	<b>741-6020</b>
Privacy Act Compilation	<b>741-6064</b>
Public Laws Update Service (numbers, dates, etc.)	<b>741-6043</b>
TTY for the deaf-and-hard-of-hearing	<b>741-6086</b>

### ELECTRONIC RESEARCH

#### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: [www.fdsys.gov](http://www.fdsys.gov).

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: [www.ofr.gov](http://www.ofr.gov).

#### E-mail

**FEDREGTOC-L** (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, 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.

**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

**FEDREGTOC-L** and **PENS** are mailing lists only. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to: [fedreg.info@nara.gov](mailto:fedreg.info@nara.gov)

The Federal Register staff cannot interpret specific documents or regulations.

**Reminders.** Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at <http://www.regulations.gov>.

**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

### 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
1857-2010	12
2011-2224	13
2225-2434	17
2435-2612	18
2613-2904	19
2905-3068	20

### 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.

<b>3 CFR</b>	39...1, 3, 729, 731, 1009, 1622, 1624, 1626, 2439, 2442
<b>Proclamations:</b>	71 .....5, 6, 1012
8768.....	209
8769.....	211
8770.....	407, 2435
8771.....	413
8772.....	1007
8773.....	2905
8774.....	2907
<b>Administrative Orders:</b>	
Notice of January 19, 2012	3067
<b>6 CFR</b>	
5.....	1387
<b>7 CFR</b>	
<b>Proposed Rules:</b>	
42.....	2481
205.....	1980, 1996
253.....	1642
<b>8 CFR</b>	
1003.....	2011
1292.....	2011
<b>Proposed Rules:</b>	
212.....	1040
<b>9 CFR</b>	
92.....	1388
93.....	1388
94.....	1388
96.....	1388
98.....	1388
<b>10 CFR</b>	
431.....	1591
<b>Proposed Rules:</b>	
50.....	441
52.....	441
100.....	441
110.....	2924
430.....	1649, 2830
431.....	2356
<b>12 CFR</b>	
<b>Proposed Rules:</b>	
44.....	23
248.....	23
252.....	594
351.....	23
<b>13 CFR</b>	
124.....	1857
125.....	1857
126.....	1857
127.....	1857
<b>14 CFR</b>	
25.....	1614, 1618, 2437
33.....	2015
39.....	1, 3, 729, 731, 1009, 1622, 1624, 1626, 2439, 2442
71.....	5, 6, 1012
97.....	1013, 1015
117.....	330
119.....	330
121.....	330
135.....	1629
<b>Proposed Rules:</b>	
39.....	1043, 1654, 2234, 2236, 2238, 2658, 2659, 2662, 2664, 2666, 2669, 2674, 2926, 2928, 2930, 2932
71.....	770, 771, 1428, 1429, 1656
1260.....	1657
<b>15 CFR</b>	
740.....	1017
742.....	1017
774.....	1017
<b>Proposed Rules:</b>	
801.....	772
806.....	772
807.....	772
<b>16 CFR</b>	
<b>Proposed Rules:</b>	
303.....	234
305.....	234
<b>17 CFR</b>	
1.....	2613
3.....	2613
23.....	2613
43.....	1182, 2909
45.....	2136
170.....	2613
<b>Proposed Rules:</b>	
230.....	24
255.....	23
<b>20 CFR</b>	
411.....	1862
418.....	2446
<b>21 CFR</b>	
530.....	735
606.....	7
610.....	7
640.....	7
<b>Proposed Rules:</b>	
10.....	25
73.....	2935
172.....	2492
173.....	2492
178.....	2492
180.....	2492
<b>22 CFR</b>	
228.....	1396

<b>24 CFR</b>	21.....1872	<b>44 CFR</b>	25.....187
<b>Proposed Rules:</b>		64.....1883, 2646, 2650, 2912	26.....187
203.....2024	<b>39 CFR</b>	65.....423, 425, 1884, 1887	28.....204
<b>26 CFR</b>	<b>Proposed Rules:</b>		31.....202
1.....2225	3015.....2676	<b>45 CFR</b>	35.....183
<b>Proposed Rules:</b>		160.....1556	36.....189
1.....2240	<b>40 CFR</b>	162.....1556	38.....1889
<b>27 CFR</b>	49.....2456	1355.....896	41.....183
<b>Proposed Rules:</b>	52.....745, 1027, 1411, 1414,	1356.....896	42.....197, 204, 1640
9.....2027	1417, 1873, 2228, 2466,	<b>Proposed Rules:</b>	52.....187, 197, 202, 204, 1640,
<b>29 CFR</b>	2469, 2643	1355.....467	1889
1915.....18	60.....2456	<b>46 CFR</b>	212.....2653
4022.....2015	75.....2456	1.....232	252.....2653
<b>30 CFR</b>	80.....462, 1320	10.....232	501.....749
585.....1019	89.....2456	11.....232	539.....749
<b>Proposed Rules:</b>	92.....2456	12.....232	552.....749
920.....1430	94.....2456	13.....232	1552.....427
<b>31 CFR</b>	180.....745, 1633, 2910	14.....232	<b>Proposed Rules:</b>
1.....1632	300.....2911	15.....232	204.....2679, 2680
351.....213	761.....2456	<b>Proposed Rules:</b>	215.....2680
359.....213	1043.....2472	16.....2935	217.....2680
363.....213	1065.....2456	515.....1658	219.....2680
501.....1864	<b>Proposed Rules:</b>	<b>47 CFR</b>	225.....2680
590.....1864	9.....960	20.....1637	239.....2680
<b>Proposed Rules:</b>	51.....1130	54.....1637	241.....2680
150.....35	52.....1892, 1894, 1895, 2495,	64.....1039	242.....2680, 2682
<b>32 CFR</b>	2496, 2937, 2941, 2943	73.....2916	244.....2680
222.....745	60.....1130	<b>Proposed Rules:</b>	252.....2680
<b>33 CFR</b>	61.....1130	73.....2241, 2242, 2868	
100.....2448, 2629	63.....960, 1130, 1268, 2677	76.....468	<b>49 CFR</b>
117.....419, 420, 421, 423, 1405,	65.....960	90.....1661	173.....429
1406, 1407	80.....700	<b>48 CFR</b>	391.....1889
165.....1020, 1023, 1025, 1407,	81.....2677, 2943	Ch. 1.....182, 205	571.....751
1870, 2019, 2450, 2453	85.....2028	1.....197, 1640	<b>Proposed Rules:</b>
<b>Proposed Rules:</b>	86.....2028	2.....183, 187	238.....154
95.....2935	98.....1434	4.....183, 187, 204	239.....154
100.....2493	600.....2028	5.....189	523.....2028
165.....1431	1043.....2497	6.....189	531.....2028
<b>37 CFR</b>	<b>42 CFR</b>	7.....183, 187	533.....2028
<b>Proposed Rules:</b>	63.....556	8.....183, 189, 194, 204, 1889	536.....2028
1.....442, 448, 982	410.....217, 227	9.....183, 187, 197, 1640	537.....2028
3.....982	411.....217	11.....189	
11.....457	414.....227	12.....194, 197, 1640, 1889	<b>50 CFR</b>
<b>38 CFR</b>	415.....227	13.....187, 189	17.....431
4.....2909, 2910	416.....217	15.....204	648.....2022
	419.....217	16.....189, 194, 1889	660.....2655
	423.....1877	17.....183	679.....438, 2478, 2656
	489.....217	18.....183, 187, 189	<b>Proposed Rules:</b>
	495.....217, 227	19.....204, 1889	17.....45, 666, 1900, 2254, 2943
	<b>Proposed Rules:</b>	22.....204	218.....842
	37.....1360	23.....204	622.....1045, 1908, 1910
	447.....2500		648.....52
			665.....66

---

**LIST OF PUBLIC LAWS**


---

This is the final list of public bills from the first session of the 112th Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at <http://www.gpo.gov/fdsys>. Some laws may not yet be available.

**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**

---



---

**Public Laws Electronic Notification Service (PENS)**


---

**PENS** is a free electronic mail notification service of newly enacted public laws. To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html>

**Note:** This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.