FEDERAL REGISTER

Vol. 76 Wednesday,
No. 115 June 15, 2011

Pages 34845–35094

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.*

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*, 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.*

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.*

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: 76 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, July 12, 2011
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. 76, No. 115

Wednesday, June 15, 2011

Separate Parts In This Issue

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.

Rules and Regulations

Federal Register
Vol. 76, No. 115
Wednesday, June 15, 2011

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 874

[Docket No. FDA–2011–N–0361]

Medical Devices; Ear, Nose, and Throat Devices; Classification of the Wireless Air-Conduction Hearing Aid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying the wireless air-conduction hearing aid into class II (special controls). The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This rule is effective July 15, 2011. The classification was effective on March 31, 2011.

FOR FURTHER INFORMATION CONTACT: Vasant Dasika, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 2443, Silver Spring MD 20993–0002, 301–796–5365.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 of the regulations (21 CFR part 807).

Section 513(f)(2) of the FD&C Act provides that any person who submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device into class III under section 513(f)(1), request FDA to classify the device under the criteria set forth in section 513(a)(1). FDA will, within 60 days of receiving this request, classify the device by written order. This classification will be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing this classification.

In accordance with section 513(f)(1) of the FD&C Act, FDA issued an order on September 13, 2010, classifying the CLEAR 440 Series of hearing aids into class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device that was subsequently reclassified into class I or class II. On October 13, 2010, Widex Hearing Aid Co. submitted a petition requesting classification of the CLEAR 440 Series of hearing aids under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the petition in order to classify the device under the criteria for classification set forth in section 513(a)(1). FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the petition and information submitted during interactive review, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls will provide reasonable assurance of the safety and effectiveness of the device.

The device is assigned the generic name wireless air-conduction hearing aid, and it is identified as a wearable sound-amplifying device, intended to compensate for impaired hearing, that incorporates wireless technology in its programming or use.

FDA has identified the following risks to health associated with this type of device and the measures required to mitigate these risks:

Identified risk	Required measures
Degradations in device function due to electromagnetic interference (EMI)	Electromagnetic compatibility (EMC) testing; labeling.
Degradations in device function due to wireless technology disruption such as slow-down, lost or corrupted information, security issues including potential cross-talk or control by other users with a similar medical device.	Wireless technology design, description, and testing; performance testing; labeling.
Exposure to non-ionizing radiation emitted by wireless technology can potentially induce tissue heating.	Wireless technology design, description, analysis, and testing; labeling.

FDA believes that the following special controls, in addition to general controls, address the risks to health and provide reasonable assurance of the safety and effectiveness of the device: (1) Appropriate analysis/testing should validate EMC and safety of exposure to non-ionizing radiation; (2) Design, description, and performance data

should validate wireless technology functions; and (3) Labeling should specify appropriate instructions, warnings, and information relating to EMC and wireless technology and human exposure to non-ionizing radiation. Therefore, on March 31, 2011, FDA issued an order to the petitioner classifying the device into class II. FDA is codifying the classification of the device by adding § 874.3305.

Following the effective date of this final classification rule, any firm introducing a wireless air-conduction hearing aid into interstate commerce in the United States will need to comply with the special controls named in the regulation. However, the firm need only show that its device meets the recommendations of the special controls or in some other way provides equivalent assurance of safety and effectiveness.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is exempt from premarket notification requirements.

II. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) 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.

III. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this final rule is not a significant regulatory action under Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because reclassification of this device from class III to class II will relieve manufacturers of the device of the cost of complying with the premarket approval requirements of section 515 of the FD&C Act (21 U.S.C. 360e), and may permit small potential competitors to enter the marketplace by lowering their costs, the Agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $136 million, using the most current (2010) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

IV. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. Section 4(a) of the Executive order requires Agencies to ''construe * * * a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.'' Federal law includes an express preemption provision that preempts certain state requirements ''different from or in addition to'' certain Federal requirements applicable to devices. (See section 521 of the FD&C Act (21 U.S.C. 360k); See *Medtronic* v. *Lohr,* 518 U.S. 470 (1996); *Riegel* v. *Medtronic, Inc.,* 552 U.S. 312 (2008). The special controls established by this final rule create ''requirements'' for specific medical devices under 21 U.S.C. 360k, even though product sponsors have some flexibility in how they meet those requirements. (See *Papike* v. *Tambrands, Inc.,* 107., 107 F.3d 737, 740–42 (9th Cir. 1997).)

V. Paperwork Reduction Act of 1995

FDA concludes that this final rule contains no new collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520) is not required.

VI. References

The following references have been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition from Widex Hearing Aid Co., dated October 13, 2010.

List of Subjects in 21 CFR Part 874

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 874 is amended as follows:

PART 874—EAR, NOSE, AND THROAT DEVICES

■ 1. The authority citation for 21 CFR part 874 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section § 874.3305 is added to subpart D to read as follows:

§ 874.3305 Wireless Air-Conduction Hearing Aid.

(a) *Identification.* A wireless air-conduction hearing aid is a wearable sound-amplifying device, intended to compensate for impaired hearing that incorporates wireless technology in its programming or use.

(b) *Classification:* Class II (special controls). The special controls for this device are:

(1) Appropriate analysis/testing should validate electro magnetic compatibility (EMC) and safety of exposure to non-ionizing radiation;

(2) Design, description, and performance data should validate wireless technology functions; and

(3) Labeling should specify appropriate instructions, warnings, and information relating to EMC and wireless technology and human exposure to non-ionizing radiation.

(c) *Premarket notification.* The wireless air-conduction hearing aid is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 874.9.

Dated: June 9, 2011.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2011–14790 Filed 6–14–11; 8:45 am]

BILLING CODE 4160–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

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

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the benefit payments regulation for valuation dates in July 2011 and interest assumptions under the asset allocation regulation for valuation dates in the third quarter of 2011. The interest assumptions are used for valuing and paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective July 1, 2011.

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

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

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

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the asset allocation regulation are updated quarterly; assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for July 2011 and updates the asset allocation interest assumptions for the third quarter (July through September) of 2011.

The third quarter 2011 interest assumptions under the allocation regulation will be 4.21 percent for the first 25 years following the valuation date and 4.34 percent thereafter. In comparison with the interest assumptions in effect for the second quarter of 2011, these interest assumptions represent an increase of five years in the select period (the period during which the select rate (the initial rate) applies), an increase of 0.25 percent in the select rate, and an increase of 0.02 percent in the ultimate rate (the final rate).

The July 2011 interest assumptions under the benefit payments regulation will be 2.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for June 2011, these interest assumptions represent a decrease of 0.25 percent in the immediate annuity rate and are otherwise unchanged.

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

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during July 2011, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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

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

List of Subjects

29 CFR Part 4022

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

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

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

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

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

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

■ 2. In appendix B to part 4022, Rate Set 213, as set forth below, is added to the table.

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
213	7–1–11	8–1–11	2.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 213, as set forth below, is added to the table.

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
213	7–1–11	8–1–11	2.25	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

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

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

■ 5. In appendix B to part 4044, a new entry for July–September 2011, as set forth below, is added to the table.

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

* * * * *

For valuation dates occurring in the months—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* *	*		*	*	*	*
July–September 2011	0.0421	1–25	0.0434	>25	N/A	N/A

Issued in Washington, DC, on this 10th day of June 2011.

Laricke Blanchard,

Deputy Director for Policy, Pension Benefit Guaranty Corporation.

[FR Doc. 2011–14852 Filed 6–14–11; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2010–0879]

RIN 1625–AA09

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (AIWW), Elizabeth River, Southern Branch, Chesapeake, VA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operation regulations of the Gilmerton (US13/460) Bridge across the Elizabeth River (Southern Branch), AIWW mile 5.8, at Chesapeake, VA. Due to the construction of the new Gilmerton Highway Bridge, the existing drawbridge has experienced increased delays to vehicular traffic during unscheduled vessel openings. This change will allow adjustments and set opening periods for the bridge during the day until December 20, 2013, relieving vehicular traffic congestion during the weekday and weekend daytime hours while still providing for the reasonable needs of navigation.

DATES: This rule is effective from 9 a.m. on June 19, 2010 until 6:30 p.m. on December 20, 2013.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0879 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0879 in the ''Keyword'' box, and clicking ''Search.'' This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Waverly W. Gregory, Jr., Bridge Program Manager, Fifth Coast Guard District, at 757–398–6222. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 16, 2010, we published a notice of temporary deviation request for comments entitled ''Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (AIWW), Elizabeth River, Southern Branch, VA'' in the **Federal Register** (75 FR 69879) and a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (AIWW), Elizabeth River, Southern Branch, VA'' in the **Federal Register** (75 FR 69906). We received seven comments on the published deviation and NPRM. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. Making this rule effective in less than 30 days is necessary in order to continue the construction of the new Gilmerton Bridge Replacement Project without disruption. Additionally, delaying this final temporary could result in additional vehicular traffic congestion without providing any additional benefit to vessel traffic.

Background and Purpose

The City of Chesapeake, Virginia (the City), who owns and operates the lift-type Gilmerton (US13/460) Bridge, has requested a temporary change to the existing bridge regulations. The current regulation, set out in Title 33 CFR Part

117.997(c), requires the Gilmerton (US13/460) Bridge, at AIWW mile 5.8, in Chesapeake to open on signal at anytime for commercial vessels carrying liquefied flammable gas or other hazardous materials. From 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:30 p.m. Monday through Friday, except Federal holidays, the draw need not open for the passage of recreational or commercial vessels; except the draw shall open for commercial cargo vessels, including tugs, and tugs with tows, if two hours advance notice is given to the Gilmerton Bridge at (757) 545–1512. At all other times, the draw shall open on signal. The current operating schedule has been in effect since November 17, 2003.

The Gilmerton Bridge Replacement project, which is currently underway since November 2009, will provide a new vertical-lift type bridge over the Southern Branch of the Elizabeth River to replace the existing bridge that was constructed in 1938.

Due to the construction for the new Gilmerton Bridge, vehicular traffic is limited to one lane in each direction and the bridge and approaches have experienced back-ups, delays, and congestion. This temporary change will continue to allow, from June 19, 2011, to December 20, 2013, the draw of the Gilmerton (US13/460) Bridge to open on signal at anytime for commercial vessels carrying liquefied flammable gas or other hazardous materials, and at anytime for commercial cargo vessels, including tugs, and tugs with tows, if two hours advance notice is given to the Gilmerton Bridge at (757) 545–1512, but will extend by one-hour; from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays; the time each day when the draw need not open for the passage of recreational or commercial vessels.

From 9:30 a.m. to 3:30 p.m. Monday through Friday and from 6:30 a.m. to 6:30 p.m. Saturdays, Sundays and Federal holidays, the draw shall open on signal hourly on the half hour; except the draw shall open anytime for commercial cargo vessels, including tugs, and tugs with tows, if two hours advance notice is given to the Gilmerton Bridge at (757) 545–1512. At all other times, the draw shall open on signal. By expanding the morning and evening rush hour periods on the weekdays and implementing scheduled bridge openings between the rush hour periods and on the weekends, we anticipated a decrease in vehicular traffic congestion during the daytime hours.

Concurrent with the publication of the Notice of Proposed Rulemaking (NPRM), a Test Deviation [USCG–2010–0879] was issued to allow the City to test the proposed schedule and to obtain data and public comments. The test deviation was in effect during the entire Notice of Proposed Rulemaking comment period. Also, a count of the delayed vessels during the closure periods was taken to ensure a future regulation would not have a significant impact on navigation. The NPRM was coordinated with the main commercial waterway user group, specifically, the Virginia Maritime Association who represents waterborne commerce in the Port of Hampton Roads, and there was no expectation of any significant impacts on navigation.

Vessel traffic on this waterway consists of pleasure craft, tug and barge traffic, and ships with assist tugs. There are no alternate routes for vessels transiting this section of the Atlantic Intracoastal Waterway and the drawbridge will be able to open in the event of an emergency.

According to records furnished by the City, there were a total of 6,195 bridge openings and 12,498 vessel passages occurring at the drawbridge between September 2009 and September 2010. (See Table A)

TABLE A

2009	2009	2009	2009	2010	2010	2010	2010	2010	2010	2010	2010	2010
SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
BRIDGE OPENINGS FOR SEPTEMBER 2009–SEPTEMBER 2010												
551	621	549	503	299	284	317	476	639	616	459	365	516
BOAT PASSAGES FOR SEPTEMBER 2009–SEPTEMBER 2010												
892	1858	1361	645	406	392	478	967	1770	1408	791	628	902

Under normal conditions, the Gilmerton (US13/460) Bridge is a vital transportation route for over 35,000 motorists per day. According to recent vehicular traffic counts submitted by the City, the average daily traffic volume decreased at the Gilmerton (US13/460) Bridge to approximately 20,000 cars a day. Due to construction, the I–64 High Rise Bridge is the suggested alternate route for motorists. Even with the alternative vehicular route, the Coast Guard anticipates continued vehicular traffic congestion over the Gilmerton Highway Bridge due to the reduction of highway lanes and anticipates that traffic congestion will subside once the new bridge is completed.

Discussion of Comments and Changes

The Coast Guard received seven responses to the NPRM including two comments from the same respondent. Six comments were submitted online to *http://www.regulations.gov,* with one remark forwarded by e-mail.

The respondents, all mariners, expressed the following remarks and recommendations:

The first comment recommended operating procedures for inclusion in the regulatory language. The suggestions offered are the following:

1. *If any vessel is approaching the bridge and cannot reach the draw exactly on the half hour, the draw tender may delay the opening up to 10 minutes past the half hour for passage of the approaching vessel and any other vessels that are waiting to pass.*

The Coast Guard considered the proposal reasonable and will add the suggestion to the final rule.

2. *If Norfolk & Southern Railroad Bridge #7 adjacent to Gilmerton Bridge is closed at the time of a scheduled opening AND a vessel(s) is waiting that requires opening of the Gilmerton Bridge, the Gilmerton Bridge shall open as soon as Railroad Bridge #7 opens, to allow passage of the vessel(s) waiting from the scheduled opening time. Any other vessels that may have accumulated can pass through with the original vessel(s) that was delayed.*

For these situations, the Coast Guard will make the following changes: If the Norfolk & Southern Railroad Bridge #7,

at mile 5.8, is not opened during a particular scheduled opening for the Gilmerton Bridge and vessels were delayed, the draw tender at the Gilmerton Bridge may provide a single opening for waiting vessels once the Norfolk & Southern Railroad Bridge #7 reopens for vessels.

The second and third comments were opposed to the temporary regulations and suggested that the drawbridge opening restrictions during the weekday (between 6:30 a.m. to 9:30 a.m.) include one opening for vessels at 8:30 a.m. in order to coincide with the operation of the Dominion Boulevard (US 17) Bridge located across the Southern Branch of the Elizabeth River at AIWW mile 8.8 in Chesapeake VA. Both mariners stated in some measure that: *In this way, Belhaven NC, which is approximately 135 miles from Norfolk VA, can be reached. Transiting through at 9:30 a.m. adds an extra day to the trip.*

The Coast Guard does not believe that this request is reasonable since purpose of the test deviation and temporary regulations is to help reduce vehicle traffic congestion on the bridge during daytime hours, while providing for the reasonable needs of navigation during the construction of the new Gilmerton Bridge Replacement Project. The addition of a bridge opening at 8:30 would significantly disrupt vehicular traffic during ''rush hour'' without a corresponding benefit to vessel traffic. Further this is only a temporary change and once the new bridge is completed, the existing operating regulations, set out 33 CFR 117.997(c), will be reinstated.

The fourth comment disagreed with making the proposed bridge opening schedules permanent at this time and requested waiting to see how the traffic flows after the construction is completed. The fifth comment suggested that ''*We change the operation of the Dominion Boulevard (US 17) Bridge to open for vessels on the half-hour instead of on the hour and change the operation of the Gilmerton Bridge to open for vessels on the hour, because the Great Bridge locks and the Dominion Boulevard Bridge both open on the hour costing vessel traffic an extra hour. Even sailboats could make both bridges and the locks on the suggested schedule, saving congestion and fuel''.*

For these comments, the Coast Guard responds by stating that this change is only temporary and will allow adjustments and set opening periods for the bridge to vessels during the day to continue from June 19, 2011 until December 20, 2013. At 6:30 p.m. on December 20, 2013, the temporary regulations will end and the existing operating regulations will be reinstated.

The sixth and seventh comments were submitted by the same respondent. This commenter is opposed to the temporary regulations, the delayed operation of the adjacent Norfolk & Southern Railway Bridge, and the ineffective operating staff at the Gilmerton Bridge.

For these comments, the Coast Guard again responds by stating that this change is only temporary and will allow adjustments and set opening periods for the bridge to vessels during the day to continue from June 19, 2011 until December 20, 2013. At 6:30 p.m. on December 20, 2013, the temporary regulations will end and the existing operating regulations, set out 33 CFR 117.997(c), will be reinstated.

In addition, there are general penalty procedures to facilitate the safe passage of vessels through bridges by deterring any inconvenience or impediment to navigation which may result from the ineffective operation of bridges across navigable waters of the United States. Complainants should forward a report of alleged violations to the district Bridge Program Manager who conducts an investigation to determine if there is sufficient evidence to establish a ''prima facie'' case. If the material then available indicates that there is not a prima facie case, yet a violation appears imminent, the district Bridge Program Manager may issue a cautionary notice by letter or telephone. If it is determined that a prima facie case does exist, a case file is prepared and forwarded to the Hearing Officer, with a recommended action.

The Coast Guard reviewed the bridge data supplied by the Virginia Department of Transportation (VDOT). The City gathered data during the month of April 2011 to analyze the effect of the temporary deviation on roadway and maritime traffic. According to the City, April was chosen as it falls during the ''snowbird season'', when maritime traffic is at its peak. The test regulations had been in effect for three months, providing roadway and maritime traffic time to adjust to the new test regulations. The data was compared to data from April 2010. In summary, the data showed that in April 2011 the bridge made on average 0.7 fewer bridge lifts per day during morning rush hour restrictions (6:30 a.m. to 9:30 a.m.), 1.3 fewer lifts per day during the 9:30 a.m. to 3:30 p.m. timeframe, and 1.7 fewer lifts during the evening rush hour restrictions (3:30 p.m. to 6:30 p.m.).

Vehicular traffic count information, from the VDOT count station on Military Highway near Shell Road, showed an average daily traffic count of 24,717 vehicles crossing the structure during the weekdays in April 2011. This is an increase of approximately 4,700 vehicles per day crossing the bridge since the test regulations went into effect. In conclusion, the test regulation appears to be reducing the number of bridge openings during the weekdays, allowing more vehicles to cross the bridge, and therefore helping to reduce vehicular traffic congestion in the area. The test regulation also appears to be having a minimal impact on maritime traffic. The City would like to continue to institute this temporary regulation until construction on the new Gilmerton Bridge is completed sometime in 2013.

Based on the information provided, we will implement a final rule with minimal changes to the NPRM.

Regulatory Analyses

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

Regulatory Planning and Review

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

We reached this conclusion based on the fact that the changes are expected to have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings to minimize delays.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: Owners and operators of vessels other than certain commercial cargo vessels needing to transit the bridge. This rule will not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, by expanding the morning and evening rush hour periods by one hour on the weekdays and implementing scheduled bridge openings between the rush hour periods on weekdays and on the weekends. Mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay.

We received comments about delay issues and have determined that a 10-minute delay of the opening for vessels that are unable to make the half-hour opening is reasonable. In addition, for those vessels whose transit is delayed due to an opening of the Norfolk & Southern Railroad Bridge #7, the Gilmerton (US13/460) Bridge drawtender may provide a single opening after the Norfolk & Southern Railroad Bridge #7 reopens such that those vessels may continue their transit without further delay.

Though two comments were received regarding vessel transit time to Belhaven, NC: (i) This change is only temporary; (ii) this change only adds one hour in the morning and one hour in the evening when the draw need not open for recreational and some commercial vessels; (iii) mariners may pre-plan their trips in accordance with this regulation; (iv) this regulation has been tested for approximately the past three months, thereby providing additional notice to mariners and providing a time-period for them to acquaint themselves with any necessary scheduling alterations for their planned trips; and (v) this change is meant to assist with better facilitating rush hour vehicular traffic for the approximately 20,000 vehicles transiting the bridge while not unreasonably interfering with maritime transiting.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and

have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction as this rule is related to the promulgation of operating regulations or procedures for drawbridges.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. From June 19, 2011, to December 20, 2013, in § 117.997, suspend paragraph (c) and temporarily add a new paragraph (j) to read as follows:

§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal.

* * * * *

(j) The draw of the Gilmerton (US13/460) Bridge, mile 5.8, in Chesapeake:

(1) Shall open on signal at any time for commercial vessels carrying liquefied flammable gas or other hazardous materials.

(2) From 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Friday, except Federal holidays:

(i) Need not open for the passage of recreational or commercial vessels that do not qualify under paragraph (j)(2)(ii) of this section.

(ii) Need not open for commercial cargo vessels, including tugs, and tugs with tows, unless 2 hours advance notice has been given to the Gilmerton Bridge at (757) 545–1512.

(3) From 9:30 a.m. to 3:30 p.m. Monday through Friday and from 6:30 a.m. to 6:30 p.m. Saturdays, Sundays and Federal holidays, the draw need only be opened every hour on the half hour, except the draw shall open on signal for commercial vessels that qualify under paragraphs (j)(1) and (j)(2)(ii) of this section.

(4) If any vessel is approaching the bridge and cannot reach the draw exactly on the half hour per paragraph (j)(3) of this section, the draw tender may delay the opening up to 10 minutes past the half hour for passage of the approaching vessel and any other vessels that are waiting to pass.

(5) If the Norfolk & Southern Railroad Bridge #7, at mile 5.8, is not opened during a particular scheduled opening for the Gilmerton Bridge and vessels were delayed, the draw tender at the Gilmerton Bridge may provide a single opening for waiting vessels, once the Norfolk & Southern Railroad Bridge #7 reopens for vessels.

(6) Shall open on signal at all other times.

Dated: June 2, 2011.

William D. Lee,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2011–14824 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0448]

RIN 1625–AA00

Safety Zones; Fireworks Displays in the Sector Columbia River Area of Responsibility

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing safety zones on the Columbia River, Willamette River, Lewis River, and Pacific Ocean at the mouth of the Chetco River for 4th of July fireworks displays. The safety zones are necessary to help ensure the safety of the maritime public during the displays and will do so by prohibiting persons and vessels from entering the safety zones unless authorized by the Captain of the Port or his designated representatives.

DATES: This rule is effective from 8 p.m. until 11:30 p.m. on July 2, 2011 through July 4, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0448 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0448 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail MST1 Jaime Sayers, Waterways Management Division, Coast Guard MSU Portland; telephone 503–240–9319, e-mail *Jaime.A.Sayers@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because to do so would be contrary to public interest since the event will have taken place by the time the notice could be published and comments taken.

Background and Purpose

Fireworks displays create hazardous conditions for the maritime public because of the large number of vessels that congregate near the displays as well as the noise, falling debris, and explosions that occur during the event. The establishment of a safety zone helps ensure the safety of the maritime public by prohibiting persons and vessels from coming too close to the fireworks display and other associated hazards.

Discussion of Rule

This rule establishes four safety zones. The four safety zones are on the Columbia River, Willamette River, Lewis River, and the Pacific Ocean at the mouth of the Chetco River in the specific locations detailed in the rule. All persons and vessels will be prohibited from entering the safety zones during the dates and times they are effective unless authorized by the Captain of the Port or his designated representative.

Regulatory Analyses

We developed this rule after considering numerous statutes and

executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard has made this determination based on the fact that the safety zones will only be in effect for three hours on one day in July and maritime traffic may be permitted to transit them with permission from the Captain of the Port or his designated representative.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities some of which may be small entities: The owners or operators of vessels wishing to transit the safety zones established by this rule. The rule will not have a significant economic impact on a substantial number of small entities, however, because the safety zones will only be in effect for three hours on one day in July and maritime traffic may be permitted to transit them with permission from the Captain of the Port or his designated representative.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human

environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of safety zones. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0448 to read as follows:

§ 165.T13–0448 Safety Zones; Fireworks Displays in the Sector Columbia River Area of Responsibility

(a) *Location.* The following are safety zones:

(1) *Stevenson, Washington Fireworks Display:* All waters of the Columbia River in the vicinity of Stevenson, Washington within the following points: starting from the shore at 45°41′26.70″ N/121°53′36.80″ W; thence continuing to 45°41′24.62″ N/121°53′40.85″ W; thence continuing to 45°41′18.10″ N/121°53′27.86″ W; thence continuing to 45°41′25.32″ N/121°53′19.42″ W; thence continuing to 45°41′30.32″ N/121°53′27.14″ W; thence continuing back to the starting point at 45°41′26.70″ N/121°53′36.80″ W.

(2) *The Lynch Company Fireworks Display, West Linn, Oregon:* All waters of the Willamette River in the vicinity of West Linn, Oregon within the following points: starting from the shore at 45°23′39.66″ N/122°37′56.32″ W; thence continuing to 45°23′43.51″ N/122°37′49.01″ W; thence continuing to 45°23′05.46″ N/122°37′30.18″ W; thence continuing to 45°23′09.02″ N/122°37′17.54″ W; thence continuing back to the starting point at 45°23′39.66″ N/122°37′56.32″ W.

(3) *The Pekin Ferry Road Fireworks Display, Lewis River, Washington:* All waters of the Lewis River in the vicinity of Ridgefield, Washington within the following points: starting from the shore at 45°52′18.26″ N/122°44′14.68″ W; thence continuing to 45°52′12.47″ N/122°44′17.27″ W; thence continuing to 45°52′08.15″ N/122°43′39.61″ W; thence continuing to 45°52′04.55″ N/122°43′43.28″ W; thence continuing back to the starting point at 45°52′18.26″ N/122°44′14.68″ W.

(4) *Brookings, Oregon Fireworks Display:* All waters of the Pacific Ocean in the vicinity of the mouth of the Chetco River within the following points: the tip of the south jetty of the Chetco River (Point 1), extending offshore to the Chetco River Entrance Lighted Bell Buoy 2 (Point 2), and returning from point 2 to a point on the shore south of the jetty (Point 3). The latitude and longitudes of the three points are: Point 1: 42°02′37.43″ N/124°16′14.66″ W, Point 2: 42°02′05.12″ N/124°16′36.54″ W, and Point 3: 42°02′17.70″ N/124°15′46.01″ W.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, Subpart C, no person or vessel may enter or remain in the safety zone created by this section without the permission of the Captain of the Port or his designated representative. Designated representatives are Coast Guard Personnel authorized by the Captain of the Port to grant persons or vessels permission to enter or remain in the safety zone created by this section. See 33 CFR part 165, Subpart C, for additional information and requirements.

(c) *Enforcement period.* The safety zones created by this section will be in effect as follows:

(1) *Stevenson, Washington, Fireworks Display:* 8 p.m. until 11:30 p.m. on July 4, 2011.

(2) *The Lynch Company Fireworks Display, West Linn, Oregon:* 8 p.m. until 11:30 p.m. on July 3, 2011.

(3) *The Pekin Ferry Road Fireworks Display, Lewis River, Washington:* 8 p.m. until 11:30 p.m. on July 2, 2011.

(4) *Brookings, Oregon Fireworks Display:* will be enforced from 8 p.m. until 11:30 p.m. on July 4, 2011.

Dated: June 3, 2011.

D.E. Kaup,

Captain, U.S. Coast Guard, Captain of the Port, Columbia River.

[FR Doc. 2011–14781 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0458]

RIN 1625–AA00

Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Navy Pier Southeast Safety Zone in Chicago Harbor from July 2, 2011 through July 30, 2011. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after fireworks events. This rule will establish restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and immediately after fireworks events. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port, Sector Lake Michigan.

DATES: The regulations in 33 CFR 165.931 will be enforced at various times and on various dates between 10 p.m. on July 2, 2011 to 10:30 p.m. on July 30, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail BM1 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at 414–747–7154, e-mail *Adam.D.Kraft@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL listed in 33 CFR 165.931 for the following events:

(1) *Navy Pier Fireworks;* on July 2, 2011 from 10 p.m. through 10:30 p.m.; on July 4, 2011 from 9:15 p.m. through 9:45 p.m.; on July 6, 2011 from 9:15 p.m. through 9:45 p.m.; on July 9, 2011 from 10 p.m. through 10:30 p.m.; on July 13, 2011 from 9:15 p.m. through 9:45 p.m.; on July 16, 2011 from 10 p.m. through 10:30 p.m.; on July 20, 2011 from 9:15 p.m. through 9:45 p.m.; on July 23, 2011 from 10 p.m. through 10:30 p.m.; on July 27, 2011 from 9:15 p.m. through 9:45 p.m.; and on July 30, 2011 from 10 p.m. through 10:30 p.m.

All vessels must obtain permission from the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative to enter, move within or exit the safety zone. Vessels and persons

granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.931 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port, Sector Lake Michigan, will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. If the Captain of the Port, Sector Lake Michigan, determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone. The Captain of the Port, Sector Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: June 3, 2011.

L. Barndt,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2011–14829 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0470]

RIN 1625–AA00

Safety Zones; Marine Events in Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing 17 temporary safety zones for marine events within the Captain of the Port (COTP) Long Island Sound Zone for firework displays. This action is necessary to provide for the safety of life on navigable waters during the events. Entry into, transit through, mooring or anchoring within these zones is prohibited unless authorized by the Captain of the Port Sector Long Island Sound.

DATES: This rule is effective in the CFR on June 15, 2011 through 10:30 p.m. on July 16, 2011. This rule is effective with actual notice for purposes of enforcement beginning at 8:30 p.m. on June 11, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0470 and are available online by going to *http://www.regulations.gov*, inserting USCG–2011–0470 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Petty Officer Joseph Graun, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468–4544, *joseph.l.graun@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to provide for the safety of life and property on navigable waters from the hazardous nature of fireworks including unexpected detonation and burning debris. We spoke with each event sponsor and each indicated they were unable and unwilling to move their event date to a later time for the following reasons. Sponsors for Sag Harbor, Mason's Island Yacht Club, Lawrence Beach Club, Cancer Center for Kids, Barnum Festival, Devon Yacht Club, Independence Day Celebration, Go 4th on the Bay, Dolan Family Fourth, City of Long Beach, Shelter Island, Point O'Woods Fire Company, South Bay Go 4th on the Bay Davis Park, North Bay Go 4th on the Bay, and Montauk Yacht Club Independence Day fireworks displays stated they are unwilling to reschedule these events because they are held in conjunction with the Fourth of July holiday and various holiday festivities. Many community members have made holiday plans based on these fireworks events, changing the date would cause numerous cancelations and hurt small businesses. Rescheduling would not be a viable option because most event venues, entertainers and venders have fully booked summer schedules making rescheduling nearly impossible. These fireworks displays are all reoccurring marine events with a proposed permanent rule currently in a public comment period under docket number USCG–2008–0384 titled, Special Local Regulations; Safety and Security Zones; Recurring Events in Captain of the Port Long Island Sound Zone. Additionally, the Coast Guard has ordered safety zones or special local regulations for all of these areas for past events and has not received public comments or concerns regarding the impact to waterway traffic from those events.

The sponsor of the Claim Shell Foundation Fireworks stated they are unwilling to reschedule their event due to other activities being held in conjunction with their fireworks display, including a large community fund raising festival and many festivals put on by local small businesses. Many community members have made plans based on these events and changing the date would cause numerous cancelations and hurt small businesses. This event is a reoccurring marine events with a proposed permanent rule currently in a public comment period under docket number USCG–2008–0384 titled, Special Local Regulations; Safety and Security Zones; Recurring Events in Captain of the Port Long Island Sound Zone. Additionally, the Coast Guard has ordered safety zones or special local regulations for this area for past events and has not received public comments or concerns regarding the impact to waterway traffic from events.

The sponsor for the Chezzam Entertainment Group Fireworks was not aware of the requirements for submitting a marine event application 135 days in advance resulting in a late notification to the Coast Guard. The sponsor is now aware of this for future events. It is not viable for the sponsor to reschedule the event due to other activities being held in conjunction with their fireworks display, including a

birthday party celebration involving many out of town guests.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** Delaying the effective date by first publishing a NPRM would be contrary to the rule's objectives of ensuring safety of life on the navigable waters during these scheduled events as immediate action is needed to protect persons and vessels from the hazardous nature of fireworks including unexpected detonation and burning debris.

Basis and Purpose

The legal basis for the temporary rule is 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define safety zones.

Marine events are frequently held on the navigable waters within the COTP Long Island Sound Zone. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the COTP Long Island has determined that fireworks launches proximate to watercrafts pose significant risk to public safety and property. The combination of increased numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, and debris falling into the water has the potential to result in serious injuries or fatalities. In order to protect the safety of all waterway users including event participants and spectators, this temporary rule establishes temporary safety zones for the time and location of each event.

This rule prevents vessels from entering, transiting, mooring or anchoring within areas specifically designated as regulated areas during the periods of enforcement unless authorized by the COTP, or designated on-scene patrol personnel.

Discussion of Rule

This temporary rule creates safety zones for all navigable waters within a 1000 foot zone around each firework displays. These events are listed below in the text of the regulation.

Because large numbers of spectator vessels are expected to congregate around the location of these events, the regulated areas are needed to protect both spectators and participants from the safety hazards created by fireworks displays including unexpected detonation and burning debris. During the enforcement period of the regulated areas, persons and vessels are prohibited from entering, transiting through, remaining, anchoring or mooring within the zone unless specifically authorized by the COTP or his designated representatives. The Coast Guard may be assisted by other Federal, state and local agencies in the enforcement of these regulated areas.

The Coast Guard determined that these regulated areas will not have a significant impact on vessel traffic due to their temporary nature and limited size and the fact that vessels are allowed to transit the navigable waters outside of the regulated areas. Additionally, The Coast Guard has ordered safety zones or special local regulations for all of these 17 areas for past events and has not received public comments or concerns regarding the impact to waterway traffic from events.

Advanced public notifications will also be made to the local maritime community by the Local Notice to Mariners as well as Broadcast Notice to Mariners.

Regulatory Analyses

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

Executive Order 12866 and Executive Order 13563

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

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: The regulated areas will be of limited duration, they cover only a small portion of the navigable waterways, and the events are designed to avoid, to the extent possible, deep draft, fishing, and recreational boating traffic routes. In addition, vessels requiring entry into the area of the regulated areas may be authorized to do so by the Captain of the Port.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the designated regulated area during the enforcement periods stated for each event in the List of Subjects.

The temporary safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The regulated areas will be of limited size and of short duration, and vessels that can safely do so may navigate in all other portions of the waterways except for the areas designated as regulated areas. Additionally, before the effective period, the Coast Guard will issue notice of the time and location of each regulated area through a Local Notice to Mariners and Broadcast Notice to Mariners.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of temporary safety zones. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapters 701, 3306, 3703; 33 CFR 1.05–1 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0470 to read as follows:

§ 165.T01–0470 Safety Zones; Maine Events in Captain of the Port Long Island Sound Zone

(a) Regulations.

The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the fireworks displays listed in TABLE 1 of T01–0470.

These regulations will be enforced for the duration of each event. Notifications of exact dates and times of the enforcement period will be made to the local maritime community through the Local Notice to Mariners and Broadcast Notice to Mariners. First Coast Guard District Local Notice to Mariners can be found at *http://www.navcen.uscg.gov/*.

(b) Definitions. The following definitions apply to this section:

(1) Designated Representative. A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port, Sector Long Island Sound (COTP), to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) Vessel operators desiring to enter or operate within the regulated areas should contact the COTP or the designated representative via VHF channel 16 to obtain permission to do so.

(d) Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, or

dates and times as modified through the Local Notice to Mariners, unless authorized by COTP or designated representative.

(e) Upon being hailed by a U.S. Coast Guard vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(f) The COTP or designated representative may delay or terminate any marine event in this subpart at any time it is deemed necessary to ensure the safety of life or property.

(g) The regulated area for all fireworks displays listed in TABLE 1 of T01–0470 is that area of navigable waters within a 1000 foot radius of the launch platform or launch site for each fireworks display.

(h) Fireworks barges used in these locations will also have a sign on their port and starboard side labeled ''FIREWORKS—STAY AWAY.'' This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background. Shore sites used in these locations will display a sign labeled ''FIREWORKS—STAY AWAY'' with the same dimensions.

TABLE 1 OF T01–0470

6	June
6.1 Chezzam Entertainment Group Fireworks Display	• Date: June 11, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: All water of Great South Bay, Ocean Bay Park, NY in approximate position 40°39′06.45″ N, 073°8′45.26″ W (NAD 83).
7	July
7.1 Sag Harbor Fireworks	• Date: July 2, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Sag Harbor Bay off Havens Beach, Sag Harbor, NY in approximate position 41°00′26″ N, 072°17′9″ W (NAD 83).
7.2 Mason's Island Yacht Club Fireworks	• Date: July 2, 2011. • Rain date: July 3, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Fisher's Island Sound, Noank, CT in approximate position 41°19′30.61″ N, 071°57′48.22″ W (NAD 83).
7.3 Lawrence Beach Club Fireworks	• Date: July 2, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of the Atlantic Ocean off Lawrence Beach Club, Atlantic Beach, NY in approximate position 40°34′42.65″ N, 073°42′56.02″ W (NAD 83).
7.4 Cancer Center for Kids Fireworks	• Date: July 2, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Long Island Sound, Bayville, NY in approximate position 40°54′38.20″ N, 073°34′56.88″ W (NAD 83).
7.5 Barnum Festival Fireworks	• Date: July 3, 2011. • Rain Date: following day. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Bridgeport Harbor, Bridgeport, CT in approximate position 41°9′04″ N, 073°12′49″ W (NAD 83).
7.6 Devon Yacht Club	• Date: July 3, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Water of Napeague Bay, Block Island Sound, Amagansett, NY in approximate position 40°59′41.4″ N, 072°6′8.7″ W (NAD 83).
7.7 Independence Day Celebration Fireworks	• Date: July 4, 2011. • Rain date: July 5, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Atlantic Ocean off Umbrella Beach, Montauk, NY in approximate position 41°01′44″ N, 071°57′13″ W (NAD 83).
7.8 Go 4th on the Bay	• Date: July 4, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Water of the Great South Bay, Blue Point, NY in approximate position 40°44′06.28″ N, 073°01′02.50″ W (NAD 83).
7.9 Dolan Family Fourth	• Date: July 4, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Water of Long Island Sound, Oyster Bay Harbor, Oyster Bay, NY in approximate position 40°53′42.50″ N, 073°30′04.30″ W (NAD 83).

TABLE 1 OF T01–0470—Continued

7.10 City of Long Beach Fireworks	• Date: July 4, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters off Riverside Blvd, City of Long Beach, NY in approximate position 40°34′38.77″ N, 073°39′41.32″ W (NAD 83).
7.11 Shelter Island Fireworks	• Date: July 4, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Gardiner Bay, Shelter Island, NY in approximate position 41°04′39.11″ N, 072°22′01.07″ W (NAD 83).
7.12 Point O'Woods Fire Company Summer Fireworks	• Date: July 3, 2011. • Rain date: July 4, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of the Great South Bay, Point O'Woods, NY in approximate position 40°39′18.57″ N, 073°08′5.73″ W (NAD 83).
7.13 South Bay Go 4th on the Bay Davis Park Fireworks	• Date: July 4, 2011. • Rain date: July 5, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of the Great South Bay, Davis Park, NY in approximate position, 40°41′38.23″ N, 073°00′21.54″ W (NAD 83).
7.14 North Bay Go 4th on the Bay Fireworks	• Date: July 4, 2011. • Rain date: July 5, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of the Great South Bay, Blue Point, NY in approximate position, 40°44′06.28″ N, 073°01′02.50″ W (NAD 83).
7.15 Montauk Yacht Club Independence Day Fireworks	• Date: July 2, 2011. • Rain date: July 3, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Lake Montauk, Montauk, NY in approximate position, 41°03′58.80″ N, 071°55′42.83″ W (NAD 83).
7.16 Clam Shell Fireworks	• Date: July 16, 2011. • Rain date: July 17, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Three Mile Harbor, East Hampton, NY in approximate position, 41°01′14.58″ N, 072°11′11.38″ W (NAD 83).

Dated: June 3, 2011.

J.M. Vojvodich,

Captain, U. S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2011–14828 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0438]

RIN 1625–AA00

Safety Zone; Augusta Southern Nationals Drag Boat Race, Savannah River, Augusta, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Savannah River in Augusta, Georgia during the Augusta Southern Nationals Drag Boat Race. The Augusta Southern Nationals Drag Boat Race will consist of a series of high-speed boat races. The event is scheduled to take place from Thursday, July 14, 2011 through Sunday, July 18, 2011. The temporary safety zone is necessary for the safety of race participants, participant vessels, spectators, and the general public during the event. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Savannah or a designated representative.

DATES: This rule is effective from 6 a.m. on July 14, 2011 through 8 p.m. on July 18, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0438 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0438 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail Lieutenant Junior Grade Deidre R. Harrison, Marine Safety Unit Savannah, Coast Guard; telephone 912–652–4353, e-mail *Deidre.R.Harrison@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary

to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive necessary information about the event until May 10, 2011. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the event. Although this event occurs annually, and special local regulations for this event are in the Code of Federal Regulations at 33 CFR 100.701, this year the event host changed the date of the event from the third weekend in July to July 14 through July 17, thereby rendering the special local regulations set forth in 33 CFR 100.701 inapplicable for this year's event. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize the potential danger to race participants, participant vessels, spectators, and the general public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest since immediate action is needed to ensure the safety of the event participants, spectator craft, and other vessels transiting the event area.

Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to protect race participants, participant vessels, spectators, and the general public from the hazards associated with the high-speed boat races.

Discussion of Rule

From July 14, 2011 through July 17, 2011 Augusta Southern Nationals, Inc. is hosting the Augusta Southern Nationals Drag Boat Race, a series of high-speed boat races. The races will take place from 7 a.m. until 7 p.m. If the event is postponed on any of these dates, then the event will also take place on July 18, 2011. The event will be held on the waters of the Savannah River south of Augusta, Georgia. Approximately 125 high-speed power boats will be participating in the races. The high speed of the participant vessels poses a safety hazard to race participants, participant vessels, spectators, and the general public.

The safety zone encompasses certain waters of the Savannah River in Augusta, Georgia. The safety zone will be enforced daily from 6 a.m. until 8 p.m. on July 14, 2011 through July 17, 2011. If the event is postponed due to inclement weather on any of these dates, then the safety zone will be enforced from 6 a.m. until 8 p.m. on July 18, 2011.

Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Savannah or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Savannah by telephone at 912–652–4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Savannah or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

Regulatory Analyses

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

Executive Order 12866 and Executive Order 13563

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

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will be enforced for only 14 hours per day for five days; (2) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Savannah or a designated representative; and (3) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Savannah River encompassed within the safety zone from 6 a.m. until 8 p.m. on July 14, 2011 through July 18, 2011. For the reasons discussed in the Executive Order 12866 and Executive Order 13563 section above, this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a temporary safety zone that will be enforced for a total of 56 hours. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0438 to read as follows:

§ 165.T07–0438 Safety Zone; Augusta Southern Nationals Drag Boat Race, Savannah River, Augusta, GA.

(a) *Regulated Area.* The following regulated area is a safety zone. All waters of the Savannah River encompassed between 5th Street Bridge, located in approximate position 33°28′36″ N, 81°57′25″ W, and the Palmetto Parkway Bridge, located in approximate position 33°27′43″ N, 81°55′34″ W. All coordinates are North American Datum 1983.

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

(c) *Regulations.*

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

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Savannah by telephone at 912–652–4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Savannah or a designated representative.

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

(d) *Effective Date and Enforcement Periods.* This rule is effective from 6

a.m. on July 14, 2011 through 8 p.m. on July 18, 2011. This rule will be enforced daily from 6 a.m. until 8 p.m. on July 14, 2011 through July 17, 2011. If the event is postponed due to inclement weather on any of these dates, then this rule will be enforced from 6 a.m. until 8 p.m. on July 18, 2011.

Dated: June 7, 2011.

J.B. Loring,

Commander, U.S. Coast Guard, Captain of the Port Savannah.

[FR Doc. 2011–14826 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–1096]

Safety Zones: Fireworks Displays in the Captain of the Port Columbia River Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zones in 33 CFR 165.1315 for fireworks displays in the Captain of the Port Zone from May through September 2011. This action is necessary to ensure the safety of the crews onboard the vessels involved in the fireworks displays, the maritime public, and all observers. During the enforcement period for each specific safety zone, no person or vessel may enter or remain in the safety zone without permission of the Captain of the Port, Columbia River or his designated representative.

DATES: The regulations in 33 CFR 165.1315 will be enforced as follows:

(1) Portland Rose Festival Fireworks Display, Portland, OR: From 8:30 p.m. until 11:30 p.m. on May 27, 2011.

(2) Tri-City Chamber of Commerce Fireworks Display, Columbia Park, Kennewick, WA: From 8:30 p.m. until 11:30 p.m. on July 4, 2011.

(3) Cedco Inc. Fireworks Display, North Bend, OR: From 8:30 p.m. until 11:30 p.m. on July 3, 2011.

(4) Astoria 4th of July Fireworks, Astoria, OR: From 8:30 p.m. until 11:30 p.m. on July 4, 2011.

(5) Oregon Food Bank Blues Festival Fireworks, Portland, OR: From 8:30 p.m. until 11:30 p.m. on July 4, 2011.

(6) Florence Chamber 4th of July Fireworks Display, Florence, OR: On July 4, 2011 from 9 p.m. to 11 p.m.

(7) Oaks Park July 4th Celebration, Portland, OR: On July 4, 2011 from 9 p.m. to 11 p.m.

(8) Rainier Days Fireworks Celebration, Rainier, OR: On July 9, 2011 from 9 p.m. to 11 p.m.

(9) Ilwaco July 4th Committee Fireworks, Ilwaco, WA: On July 2, 2011 from 9 p.m. to 11 p.m.

(10) Milwaukie Centennial Fireworks Display, Milwaukie, OR: On July 23, 2011 from 9 p.m. to 11 p.m.

(11) Splash Aberdeen Waterfront Festival, Aberdeen, WA: On July 4, 2011 from 9 p.m. to 11 p.m.

(12) Arlington Chamber of Commerce Fireworks Display, Arlington, OR: On July 4, 2011 from 8:30 p.m. to approximately 11:30 p.m.

(13) East County 4th of July Fireworks, Gresham, OR: On July 4, 2011 from 8:30 p.m. to approximately 11:30 p.m.

(14) Port of Cascade Locks July 5th Fireworks Display, Cascade Locks, OR: On July 4, 2011 from 8:30 p.m. to approximately 11:30 p.m.

(15) Astoria Regatta Association Fireworks Display, Astoria, OR: On August 13, 2011 from 8:30 p.m. to approximately 11:30 p.m.

(16) City of Washougal July 4th Fireworks Display, Washougal, WA: On July 4, 2011 from 8:30 p.m. to approximately 11:30 p.m.

(17) City of St. Helens 4th of July Fireworks Display, St. Helens, OR: On July 4, 2011 from approximately 8:30 p.m. to approximately 11:30 p.m.

(18) Waverly Country Club 4th of July Fireworks Display, Milwaukie, OR: On July 4, 2011 from 8:30 p.m. to approximately 11:30 p.m.

(19) Hood River 4th of July, Hood River, OR: On July 4, 2011 from 8:30 p.m. to approximately 11:30 p.m.

(20) Rufus 4th of July Fireworks, Rufus, OR: On July 2, 2011 from 8:30 p.m. to approximately 11:30 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail MST1 Jaime Sayers, Waterways Management Division, MSU Portland, Coast Guard; telephone 503–240–9327, e-mail *Jaime.a.Sayers@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the safety zone regulation in 33 CFR 165.1315 for fireworks displays in the Columbia River Captain of the Port Zone during the dates and times listed in **DATES**.

Under the provisions of 33 CFR 165.1315 and 33 CFR 165 Subparts C, no person or vessel may enter or remain in the safety zones without permission of the Captain of the Port, Columbia River or his designated representative. See 33 CFR 165.1315 and 33 CFR 165 subparts C for additional information and prohibitions. Persons or vessels wishing to enter the safety zones may request permission to do so from the on-scene Captain of the Port representative via VHF Channel 16 or 13. The Coast Guard may be assisted by other Federal, State, or local enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.1315 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via the Local Notice to Mariners.

Dated: June 3, 2011.

D.E. Kaup,

Captain, U.S. Coast Guard Captain of the Port, Columbia River.

[FR Doc. 2011–14832 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0939]

RIN 1625–AA00

Safety Zone; M/V DAVY CROCKETT, Columbia River

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The U.S. Coast Guard is extending the enforcement of a safety zone established on the waters of the Columbia River surrounding the M/V DAVY CROCKETT at approximate river mile 117. The original safety zone was established on January 28, 2011. The safety zone is necessary to help ensure the safety of the response workers and maritime public from the hazards associated with ongoing salvage operations involving the M/V DAVY CROCKETT. All persons and vessels are prohibited from entering or remaining in the safety zone unless authorized by the Captain of the Port, Columbia River or his designated representative.

DATES: This rule is effective from June 15, 2011 through July 31, 2011. This rule is effective with actual notice for purposes of enforcement on May 23, 2011. This rule will remain in effect through July 31, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0939 and are available online by going

to *http://www.regulations.gov,* inserting USCG–2010–0939 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail MST1 Jaime Sayers, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503–240–9319, e-mail *Jaime.A.Sayers@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because to do so would be contrary to public interest. The safety zone is immediately necessary to help ensure the safety of the response workers and the maritime public due to the ongoing salvage operations involving the M/V DAVY CROCKETT.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because the safety zone is immediately necessary to help ensure the safety of the response workers and the maritime public due to the ongoing salvage operations involving the M/V DAVY CROCKETT.

Background and Purpose

The M/V DAVY CROCKETT, a 431 ft barge, is anchored on the Washington State side of the Columbia River at approximately river mile 117. The vessel is in a severe state of disrepair. The Coast Guard, other state and Federal agencies, and Federal contractors are working to remove the vessel. The salvage operations require a minimal wake in the vicinity of the vessel to help ensure the safety of response workers on or near the vessel and in the water. In addition, due the deleterious state of the vessel only authorized persons and/or vessels can be safely allowed on or near it.

A 300 ft safety zone is necessary to keep vessels clear of the ongoing salvage operations surrounding the M/V DAVY CROCKETT. The previous 300 ft safety zone expired on May 17, 2011.

Discussion of Rule

The Coast Guard is extending the enforcement of the safety zone created by this rule until July 31, 2011. The safety zone will cover all waters of the Columbia River encompassed within the following four points: point one at 45°34′59.74″ N., 122°28′35.00″ W. on the Washington bank of the Columbia River then proceeding into the river to point two at 45°34′51.42″ N., 122°28′35.47″ W., then proceeding upriver to the third point at 45°34′51.02″ N., 122°28′07.32″ W., then proceeding to the shoreline to the fourth point on the Washington Bank at 45°34′56.06″ N., 122°28′07.36″ W., then back along the shoreline to point one. Geographically this encompasses all the waters within an area starting at approximately 300 ft upriver from the M/V DAVY CROCKETT extending to 300 ft abreast of the M/V DAVY CROCKETT and then ending 300 ft down river of the M/V DAVY CROCKETT.

Regulatory Analyses

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

Regulatory Planning and Review

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

The Coast Guard has made this determination based on the fact that the safety zones created by this rule will not significantly affect the maritime public because the areas covered are limited in size and/or have little commercial or recreational activity. In addition, vessels may enter the safety zones with the permission of the Captain of the Port, Columbia River or his designated representative.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities some of which may be small entities: The owners and operators of vessels intending to operate in the areas covered by the safety zones created in this rule. The safety zones will not have a significant economic impact on a substantial number of small entities because the areas covered are limited in size. In addition, vessels may enter the safety zones with the permission of the Captain of the Port, Columbia River or his designated representative.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the creation of safety zones. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Revise § 165.T13–175 to read as follows:

§ 165.T13–175 Safety Zone; M/V DAVY CROCKETT, Columbia River

(a) *Location:* The following area is a safety zone:

(1) All waters of the Columbia River encompassed within the following four points: point one at 45°34′59.74″ N, 122°28′35.00″ W on the Washington bank of the Columbia River then proceeding into the river to point two at 45°34′51.42″ N, 122°28′35.47″ W, then proceeding upriver to the third point at 45°34′51.02″ N, 122°28′07.32″ W, then proceeding to the shoreline to the fourth point on the Washington Bank at 45°34′56.06″ N, 122°28′07.36″ W, then back along the shoreline to point one. Geographically this encompasses all the waters within an area starting at approximately 300 ft upriver from the M/V DAVY CROCKETT extending to 300 ft abreast of the M/V DAVY CROCKETT and then ending 300 ft down river of the M/V DAVY CROCKETT.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person may enter or remain in the safety zone created in this section or bring, cause to be brought, or allow to remain in the safety zone created in this section any vehicle, vessel, or object unless authorized by the Captain of the Port, Columbia River or his designated representative.

(c) *Enforcement period.* The safety zone created in this section will be in effect from May 23, 2011 through July 31, 2011 unless cancelled sooner by the Captain of the Port, Columbia River.

Dated: May 23, 2011.

L.R. Tumbarello,

Captain, U.S. Coast Guard, Acting Captain of the Port, Columbia River.

[FR Doc. 2011–14775 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0374]

RIN 1625–AA00

Safety Zone; Rochester Harbor Festival, Genesee River, Rochester, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Genesee River, Rochester, NY for the Rochester Harbor Festival fireworks. This zone is intended to restrict vessels from the mouth of the Genesee River in Rochester during the Rochester Harbor Festival fireworks on June 25, 2011. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a firework display.

DATES: This rule is effective from 10 p.m. until 10:30 p.m. on June 25, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket USCG–2011–0374 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0374 in the ''Keyword'' box, and then clicking ''Search.'' This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail MST3 Rory Boyle, Marine Events Coordinator, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, e-mail *Rory.C.Boyle@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency, for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because waiting for a notice and comment period to run would be impracticable and contrary to the public interest in that it would inhibit the Captain of the Port (COTP) Buffalo from protecting the public and vessels from the hazards associated with fireworks displays on navigable waters.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, a 30-day notice period would also be impracticable and contrary to the public interest.

Background and Purpose

The Rochester Harbor Festival is an event intended to celebrate the Independence of the United States. The festival will include fireworks, which be launched on June 25, 2011 between 10 p.m. and 10:30 p.m. from a waterborne location. The COTP Buffalo has determined that waterborne fireworks displays present significant hazards to vessels and spectators in the vicinity of the lunch site.

Discussion of Rule

Because of the aforesaid hazards, the COTP Buffalo has determined that a temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading, and launching of the fireworks display. Accordingly, all waters within a 1,120-ft radius of 43°15′42.48″ N, 77°36′3.24″ W (NAD83) Genesee River, Rochester, NY.

All persons and vessels shall comply with the instructions of the COTP Buffalo or the designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the COTP Buffalo or his designated representative. The COTP Buffalo or his designated representative may be contacted via VHF Channel 16.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the mouth of the Genesee River in Rochester, NY on June 25, 2011 from 10 p.m. until 10:30 p.m.

This safety zone will not have a significant economic impact on a substantial number of small entities because of the minimal amount of time in which the safety zone will be enforced. This safety zone will only be enforced for 90 minutes in a low vessel traffic area. Vessel traffic can pass safely around the zone. Before the effective period, we will issue maritime advisories, which include a Broadcast Notice to Mariners.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman

and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0374 to read as follows:

§ 165.T09–0374 Safety zone; Rochester Harbor Festival, Genesee River, Rochester, NY.

(a) *Location.* The following area is a temporary safety zone: All waters within a 1,120-ft radius of 43°15′42.48″ N, 77°36′3.24″ W Genesee River, Rochester, NY.

(b) *Effective and enforcement period.* This zone will be effective and enforced from 10 p.m. until 10:30 p.m. on June 25, 2011.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated representative.

(3) The ''designated representative'' of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The designated representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall

contact the Captain of the Port Buffalo or his designated representative to obtain permission to do so. The Captain of the Port or his designated representative may be contacted via VHF Channel 16.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo or his designated representative.

Dated: May 31, 2011.

R.S. Burchell,

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

[FR Doc. 2011–14780 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0451]

Safety Zone Regulations, Seafair Blue Angels Air Show Performance, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the annual Seafair Blue Angels Air Show safety zone on Lake Washington, Seattle, WA from 9 a.m. on August 4, 2011 to 4 p.m. on August 7, 2011. This action is necessary to ensure the safety of the public from inherent dangers associated with these annual aerial displays. During the enforcement period, no person or vessel may enter or transit this safety zone unless authorized by the Captain of the Port or Designated Representative.

DATES: The regulations in 33 CFR 165.1319 will be enforced from 9 a.m. on August 4, 2011 to 4 p.m. on August 7, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Ensign Anthony P. LaBoy, Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206–217–6323, e-mail *SectorSeattleWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Seafair Blue Angels Air Show Performance safety zone in 33 CFR 165.1319 daily from 9 a.m. until 4 p.m. from August 4, 2011 through August 7, 2011 unless canceled sooner by the Captain of the Port.

Under the provisions of 33 CFR 165.1319, the following area is designated as a safety zone: All waters of Lake Washington, Washington State, enclosed by the following points: Near the termination of Roanoke Way 47°35′44″ N, 122°14′47″ W; thence to 47°35′48″ N, 122°15′45″ W; thence to 47°36′02.1″ N, 122°15′50.2″ W; thence to 47°35′56.6″ N, 122°16′29.2″ W; thence to 47°35′42″ N, 122°16′24″ W; thence to the east side of the entrance to the west high-rise of the Interstate 90 bridge; thence westerly along the south side of the bridge to the shoreline on the western terminus of the bridge; thence southerly along the shoreline to Andrews Bay at 47°33′06″ N, 122°15′32″ W; thence northeast along the shoreline of Bailey Peninsula to its northeast point at 47°33′44″ N, 122°15′04″ W; thence easterly along the east-west line drawn tangent to Bailey Peninsula; thence northerly along the shore of Mercer Island to the point of origin. [Datum: NAD 1983].

In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person or vessel may enter or remain in the zone except for support vessels and support personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or Designated Representatives. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions made by the Captain of the Port or Designated Representative.

The Captain of the Port may be assisted by other Federal, state and local law enforcement agencies.

This notice is issued under authority of 33 CFR 165.1319 and 5 U.S.C. 552(a). If the COTP determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 25, 2011.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2011–14779 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0407]

Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various safety zones for annual fireworks events in the Captain of the Port Detroit zone from 8:30 p.m. on June 23, 2011 through 11:30 p.m. on September 5, 2011. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after fireworks events. This rule will establish restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and immediately after fireworks events. During each enforcement period, no person or vessel may enter the respective safety zone without permission of the Captain of the Port.

DATES: The regulations in 33 CFR 165.941 will be enforced at various times between 8:30 p.m. on June 23, 2011 and 11:30 p.m. on September 5, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail LT Katie Stanko, Prevention, U.S. Coast Guard Sector Detroit, 110 Mount Elliot Ave., Detroit, MI 48207; telephone (313)–568–9508, e-mail *katie.r.stanko@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the following safety zones at the following dates and times:

Section 165.941(a)(30) Bay-Rama Fishfly Festival Fireworks, New Baltimore, MI

This safety zone will be enforced from 9:30 p.m. to 11:30 p.m. on June 23, 2011. In the case of inclement weather on June 23, 2011, this safety zone will be enforced from 9:30 p.m. to 11:30 p.m. on June 24, 2011.

Section 165.941(a)(35) City of Wyandotte Fireworks, Wyandotte, MI

This safety zone will be enforced from 10 p.m. to 11 p.m. on June 24, 2011.

Section 165.941(a)(40) St. Clair Shores Fireworks, St. Clair Shores, MI

This safety zone will be enforced from 9:30 p.m. to 11 p.m. on June 24, 2011. In the case of inclement weather on June 24, 2011, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on June 25, 2011.

Section 165.941(a)(51) Target Fireworks, Detroit, MI

The first safety zone will be enforced from 7 a.m. on June 24, 2011 to 6 p.m. on June 27, 2011. In the event of inclement weather, the first safety zone will be enforced from 7 a.m. to 6 p.m. on June 28, 2011.

The second safety zone will be enforced from 5 p.m. on June 27, 2011 through 12:15 a.m. on June 28, 2011. In the event of inclement weather, the second safety zone will be enforced from 5 p.m. on June 28, 2011 to 12:15 a.m. on June 29, 2011.

The third safety zone will be enforced from 8 p.m. on June 27, 2011 through 12:15 a.m. on June 28, 2011. In the event of inclement weather, the third safety zone will be enforced from 8 p.m. on June 28, 2011 to 12:15 a.m. on June 29, 2011.

Section 165.941(a)(52) Sigma Gamma Fireworks, Grosse Pointe Farms, MI

This safety zone will be enforced from 9 p.m. to 10 p.m. on June 27, 2011.

Section 165.941(a)(54) Bay City Fireworks Festival, Bay City, MI

This safety zone will be enforced daily from 9:30 p.m. to 11:30 p.m. on June 30, 2011, July 1, 2011, and July 2, 2011. In the case of inclement weather on June 30, 2011, July 1, 2011, and July 2, 2011, this safety zone will be enforced from 9:30 p.m. to 11:30 p.m. on July 3, 2011.

Section 165.941(a)(8) Harrisville Fireworks, Harrisville, MI

This safety zone will be enforced from 8 p.m. to 11:30 p.m. on July 2, 2011. In the case of inclement weather on July 2, 2011, this safety zone will be enforced from 8 p.m. to 11:30 p.m. on July 3, 2011.

Section 165.941(a)(3) Au Gres City Fireworks, Au Gres, MI

This safety zone will be enforced from 9:30 p.m. to 11:15 p.m. on July 2, 2011. In the case of inclement weather on July 2, 2011, this safety zone will be enforced from 9:30 p.m. to 11:15 p.m. on July 3, 2011.

Section 165.941(a)(37) Caseville Fireworks, Caseville, MI

This safety zone will be enforced from 8 p.m. to 11:30 p.m. on July 3, 2011. In the case of inclement weather on July 3, 2011, this safety zone will be enforced from 8 p.m. to 11:30 p.m. on July 4, 2011.

Section 165.941(a)(45) Grosse Isle Yacht Club Fireworks, Grosse Isle, MI

This safety zone will be enforced from 9:45 p.m. to 10:45 p.m. on July 3, 2011.

Section 165.941(a)(43) Lexington Independence Festival Fireworks, Lexington, MI

This safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 2, 2011. In the case of inclement weather on July 2, 2011, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 3, 2011.

Section 165.941(a)(38) Algonac Pickerel Tournament Fireworks, Algonac, MI

This safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 2, 2011. In the case of inclement weather on July 2, 2011, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 3, 2011.

Section 165.941(a)(36) Grosse Pointe Farms Fireworks, Grosse Pointe Farms, MI

This safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 2, 2011. In the case of inclement weather on July 2, 2011, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 3, 2011.

Section 165.941(a)(47) Bell Maer Harbor 4th of July Fireworks, Harrison Township, MI

This safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 3, 2011. In the case of inclement weather on July 3, 2011, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 4, 2011.

Section 165.941(a)(32) City of St. Clair Fireworks, St. Clair, MI

This safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 4, 2011. In the case of inclement weather on July 4, 2011, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 5, 2011.

Section 165.941(a)(34) Port Austin Fireworks, Port Austin, MI

This safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 4, 2011. In the case of inclement weather on July 4, 2011, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 5, 2011.

Section 165.941(a)(46) Trenton Fireworks, Trenton, MI

This safety zone will be enforced from 10 p.m. to 11:30 p.m. on July 4, 2011. In the case of inclement weather on July 4, 2011, this safety zone will be enforced from 10 p.m. to 11:30 p.m. on July 5, 2011.

Section 165.941(a)(42) Grosse Pointe Yacht Club 4th of July Fireworks, Grosse Pointe Shores, MI

This safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 4, 2011. In the case of inclement weather on July 4, 2011, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 5, 2011.

Section 165.941(a)(10) Trenton Rotary Roar on the River Fireworks, Trenton, MI

This safety zone will be enforced from 9:30 p.m. until 11 p.m. on July 23, 2011.

Section 165.941(a)(14) Marine City Maritime Festival Fireworks, Marine City, MI

This safety zone will be enforced from 9:30 p.m. until 11 p.m. on August 13, 2011.

Section 165.941(a)(13) Detroit International Jazz Festival Fireworks, Detroit, MI

This safety zone will be enforced from 9:30 p.m. to 11:30 p.m. on September 3, 2011. In the case of inclement weather on September 3, 2011, this safety zone will be enforced from 9:30 p.m. to 11:30 p.m. on September 4, 2011. In the case of inclement weather on September 4, 2011, this safety zone will be enforced from 9:30 p.m. to 11:30 p.m. on September 5, 2011.

Under the provisions of 33 CFR 165.23, entry into, transiting, or anchoring within anyone of these safety zones during the enforcement period is prohibited unless authorized by the Captain of the Port Detroit or his designated representative. Vessels that wish to transit through the safety zones may request permission from the Captain of the Port Detroit. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. Approvals will be granted on a case by case basis. The Captain of the Port may be contacted via U.S. Coast Guard Sector Detroit on channel 16, VHF–FM. The Coast Guard will give notice to the public via a Local Notice to Mariners that the regulation is in effect.

This notice is issued under authority of 33 CFR 165.23 and 5 U.S.C. 552(a). If the Captain of the Port determines that any of these safety zones need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone.

Dated: May 31, 2011.

E.J. Marohn,

Commander, U.S. Coast Guard, Acting Captain of the Port Detroit.

[FR Doc. 2011–14776 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0199]

RIN 1625–AA00

Safety Zone; Truman-Hobbs Alteration of the Elgin Joliet & Eastern Railroad Drawbridge; Illinois River, Morris, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Illinois River near Morris, Illinois. This zone is intended to restrict vessels from a portion of the Illinois River due to the Truman-Hobbs alteration of the Elgin Joliet & Eastern Railroad Drawbridge. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the alteration of the Elgin Joliet & Eastern Railroad Drawbridge.

DATES: This rule is effective from 7 a.m. on June 23, 2011, until 7 a.m. on June 30, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0199 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0199 in the ''Keyword'' box, and then clicking ''search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or e-mail BM1 Adam Kraft, U.S. Coast Guard Sector Lake Michigan, at 414–747–7154 or *Adam.D.Kraft@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when an agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because waiting for a notice and comment period to run would be impracticable and contrary to the public interest in that it would prevent the Coast Guard from protecting the public and vessels on navigable waters.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the reasons discussed in the preceding paragraph, a 30-day notice period would be impracticable and contrary to the public interest.

Background and Purpose

The Truman-Hobbs alteration of the Elgin Joliet & Eastern Railroad Drawbridge will begin on June 23, 2011. This temporary safety zone is necessary to protect vessels from the hazards associated with those alteration efforts. The falling debris associated with the removal and replacement of the bridge spans poses a serious risk of injury to persons and property. As such, the Captain of the Port, Sector Lake Michigan, has determined that the alteration project of the Elgin Joliet & Eastern Railroad Drawbridge poses significant risks to public safety and property and that a safety zone is necessary.

Discussion of Rule

The safety zone will encompass all U.S. navigable waters of the Illinois River in the vicinity of the Elgin Joliet & Eastern Railroad Drawbridge between Mile Marker 270.1 and Mile Marker 271.5 of the Illinois River in Morris, IL. [DATUM: NAD 83].

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, Sector Lake Michigan, or his or her designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative. The Captain of the Port, Sector Lake Michigan, or his or her designated representative may be contacted via VHF Channel 16.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone around the bridge project will be relatively small and exist for relatively short duration. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor on a portion of the Illinois River between 7 a.m. on June 23, 2011 and 7 a.m. on June 30, 2011.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be enforced while unsafe conditions exist. Vessel traffic will be minimal due to the public and commercial outreach that has been made the by D8 Bridge Branch over the last 18 months.

In the event that this temporary safety zone affects shipping, commercial

vessels may request permission from the Captain of The Port, Sector Lake Michigan, or his or her designated representative to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone and is therefore categorically excluded under paragraph 34(g) of the Instruction.

A final environmental analysis checklist and categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0199 to read as follows:

§ 165.T09–0199 Safety Zone; Truman-Hobbs alteration of the Elgin Joliet & Eastern Railroad Drawbridge, Morris, Illinois

(a) *Location.* The safety zone will encompass all U.S. navigable waters of the Illinois River in the vicinity of the Elgin Joliet & Eastern Railroad Drawbridge between Mile Marker 270.1

and Mile Marker 271.5 of the Illinois River in Morris, IL. [DATUM: NAD 83].

(b) *Effective and enforcement period.* This rule is effective and will be enforced from 7 a.m. on June 23, 2011, until 7 a.m. on June 30, 2011. If the alteration project is completed before June 30, 2011, the Captain of the Port, Sector Lake Michigan, or his or her designated representative, may suspend the enforcement of this safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

(3) The ''designated representative'' of the Captain of the Port, Sector Lake Michigan, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Lake Michigan, to act on his or her behalf. The designated representative of the Captain of the Port, Sector Lake Michigan, will be on land in the vicinity of the safety zone and will have constant communications with the involved safety vessels that will be provided by the contracting company, James McHugh Construction, and will have communications with a D8 Bridge Branch representative, who will be on scene as well.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Sector Lake Michigan, or his or her designated representative to obtain permission to do so. The Captain of the Port, Sector Lake Michigan, or his or her designated representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

Dated: June 3, 2011.

L. Barndt,

Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.

[FR Doc. 2011–14773 Filed 6–14–11; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Mobile Barcode Promotion

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising the Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®) 709.4 to add a temporary promotion for First-Class Mail® cards, letters and flats, and Standard Mail® letters and flats bearing two-dimensional mobile barcodes.

DATES: *Effective Date:* July 5, 2011.

FOR FURTHER INFORMATION CONTACT: Krista Becker at 202–268–7345 or *mobilebarcode@usps.gov;* or Bill Chatfield at 202–268–7278.

SUPPLEMENTARY INFORMATION: On April 12, 2011, the Postal Service filed a notice with the Postal Regulatory Commission to temporarily reduce the prices for certain types of First-Class Mail and Standard Mail that contain, in or on the mailpiece, a two-dimensional mobile barcode readable by consumer smartphones. The Commission has completed its review.

In this final rule, the Postal Service provides a description of the conditions for eligibility for the price reduction for the mobile barcode promotion, and the new mailing standards to implement the promotion. To be eligible, each mailpiece in the mailing (and listed on the postage statement) must have a qualifying two-dimensional mobile barcode on the outside of each piece or on the contents within each piece. The barcodes, when scanned, must be used for consumer interaction and be relevant to the contents of the mailpiece. The mobile barcodes must be used for marketing, promotional or educational purposes. They may not be used for internal corporate operational processes or for postage evidencing purposes. Barcodes that link consumers to sites that encourage enrollment to online bill paying or paperless statement services are not considered marketing, promotional or educational for the purposes of this initiative and are not eligible for the discount.

A price reduction of three percent of the total postage cost for a mailing in which all mailpieces contain a two-dimensional mobile (also known as a ''QR'' barcode) barcode that is readable by consumer smartphones will apply to presort and automation mailings of First-Class Mail cards, letters, and flats; and Standard Mail (including nonprofit) letters and flats. Commingled, co-mailed and combined mailings are allowed, but a separate postage statement is required for mailpieces with mobile barcodes. Eligible mailings must be accompanied by electronic documentation under existing mailing standards for submission of electronic documentation.

Other than the full-service Intelligent Mail® barcode discount, mailpieces are ineligible to receive any other incentive if claiming the mobile barcode promotion three percent discount.

Promotion Dates and More Information

The Postal Service will implement the promotion and temporary price reduction effective for mailings made on July 1, 2011 through August 31, 2011. Plant-verified drop shipment (PVDS) mailings may be accepted at origin on or after June 26, 2011 for mail to be entered at a destination facility on or after July 1. PVDS shipments accepted no later than August 31 may be entered at destinations through September 15, 2011. Program requirements, including updated FAQs, are available on the RIBBS® Web site at *https://ribbs.usps.gov/index.cfm?page=mobilebarcode* or by e-mail to *mobilebarcode@usps.gov.*

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), which is incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM):

* * * * *

700 Special Standards

* * * * *

709 Experimental and Temporary Classifications

* * * * *

[Add new 4.0 as follows:]

4.0 Two-Dimensional Mobile Barcode Promotion

4.1 Program Description and Scope

The two-dimensional mobile barcode promotion provides a three percent discount for presorted and automation mailings of First-Class Mail cards, letters, and flats and Standard Mail (including Nonprofit) letters and flats that include a two-dimensional mobile barcode when the mailpieces meet all the conditions in these standards. The promotion is valid for mailings entered from July 1, 2011 through August 31, 2011. Plant-verified drop shipment (PVDS) mailings meeting all relevant standards may qualify for participation in this promotion as follows:

a. PVDS mailings may be accepted at origin as early as June 26, 2011 if they are entered on or after July 1, 2011 at the destination.

b. PVDS mailings may be accepted at origin as late as August 31, 2011 if they are entered no later than September 15, 2011 at the destination.

4.2 Eligibility Standards

To be eligible for the three percent discount, mailpieces must be mailed under the following conditions:

a. A two-dimensional mobile barcode must be on each mailpiece, either on the outside or printed on the contents of the piece. One-dimensional barcodes do not qualify.

b. The barcode must be readable by a mobile smartphone with a two-dimensional barcode reader application. The barcode must be used for marketing, promotional or educational purposes and be relevant to the contents of the mailpiece. Barcodes with links that direct consumers to sites that encourage enrollment to online bill paying or paperless statement services are not considered marketing, promotional or educational for the purposes of this initiative and are not eligible for the discount. Mailpieces with mobile barcodes that convey postage information, destination, sender or machinable serial number for security also are not eligible for the discount.

c. The mailpieces with mobile barcodes must be one of the following:

1. Presorted or automation First-Class Mail cards, letters, or flats.

2. Standard Mail (including nonprofit) letters or flats.

d. Postage must be paid with a permit imprint, and the postage statement and mailing documentation must be submitted electronically. All pieces on a postage statement must contain a mobile barcode that qualifies for the discount.

e. Participating mailers must provide the acceptance unit with a sample of the mailpiece that contains a mobile barcode. Mailers must also retain, until October 31, 2011, a sample of each mailpiece claiming a discount.

f. Other than a full-service Intelligent Mail discount (see 705.23), no other incentives apply for mailpieces claiming a discount under this promotion.

4.3 Discount

Mailers must claim the three percent postage discount on the postage statement at the time the statement is electronically submitted. The electronic equivalent of the mailer's signature on the postage statement will certify that each mailpiece claimed on the postage statement contains a qualifying two-dimensional mobile barcode.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2011–14251 Filed 6–14–11; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0046; FRL–9318–1]

Approval and Promulgation of Implementation Plans; State of California; Regional Haze and Interstate Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Clean Air Act (''CAA'' or ''Act''), EPA is approving a State Implementation Plan (''SIP'') revision submitted by the State of California on November 16, 2007, for the purpose of addressing the interstate transport provisions of CAA section 110(a)(2)(D)(i)(I) for the 1997 8-hour ozone National Ambient Air Quality Standards (''NAAQS'' or ''standards'') and the 1997 fine particulate matter (''$PM_{2.5}$'') NAAQS. Section 110(a)(2)(D)(i) of the CAA requires that each State have adequate provisions to prohibit air emissions from adversely affecting air quality in other States through interstate transport. Specifically, EPA is finalizing approval of California's SIP revision for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS as meeting the requirements of CAA section 110(a)(2)(D)(i)(I) to prohibit emissions that will contribute significantly to nonattainment of these standards in any other State and to prohibit emissions that will interfere with maintenance of these standards by any other State. EPA proposed to approve these SIP revisions on March 17, 2011 (76 FR 14616).

DATES: *Effective Date:* This rule is effective on July 15, 2011.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2011–0046 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rory Mays, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3227, *mays.rory@epa.gov.*

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

Table of Contents

I. Background

On July 18, 1997, EPA promulgated new standards for 8-hour ozone (62 FR 38856) and $PM_{2.5}$ (62 FR 38652). We are taking this action in response to the promulgation of these standards (the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS) to address the requirements of CAA section 110(a)(2)(D)(i)(I). This action does not address the requirements of the 2006 $PM_{2.5}$ NAAQS or the 2008 8-hour ozone NAAQS; those standards will be addressed in future actions.

Section 110(a)(1) of the CAA requires States to submit SIPs to address a new or revised NAAQS within three years after promulgation of such standards, or within such shorter period as the EPA Administrator may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions. On August 15, 2006, EPA issued a guidance memorandum that

provides recommendations to States for making submissions to meet the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone and $PM_{2.5}$ standards (2006 Guidance).[1]

On November 16, 2007, the California Air Resources Board (CARB) submitted the ''Proposed State Strategy for California's 2007 State Implementation Plan'' to attain the 1997 8-hour ozone and $PM_{2.5}$ NAAQS (2007 State Strategy).[2] Appendix C of the 2007 State Strategy, as modified by Attachment A,[3] contains California's SIP revision to address the Transport SIP requirements of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS (2007 Transport SIP). The State based its submittal on EPA's 2006 Guidance. As explained in the 2006 Guidance, the ''good neighbor'' provisions in section 110(a)(2)(D)(i) require each State to submit a SIP that contains adequate provisions to prohibit emissions from sources within that State from adversely affecting another State in the ways contemplated in the statute. Section 110(a)(2)(D)(i) identifies four distinct elements related to the evaluation of impacts of interstate transport of air pollutants. In this rulemaking EPA is addressing the first two elements: (1) Significant contribution to nonattainment of these NAAQS in any other State, and (2) interference with maintenance of these NAAQS by any other State.

II. Proposed Action

On March 17, 2011, EPA proposed to find that the California SIP is adequate to prevent significant contribution to nonattainment of, and interference with maintenance of, the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in any other State, as required by CAA section 110(a)(2)(D)(i)(I). *See* 76 FR 14616. Our proposed action did not address the remaining two elements of CAA section 110(a)(2)(D)(i) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another State. We intend to evaluate and act upon these remaining elements of California's SIP submittal in separate actions, subject to notice and comment and publication in the **Federal Register.**

For a more detailed discussion of the 2007 Transport SIP, the requirements of CAA section 110(a)(2)(D)(i), and the rationale for our proposed action, please see our March 17, 2011 proposed rule (76 FR 14616) and related Technical Support Document, both of which can be found in the docket for today's action.

III. Public Comments and EPA Responses

The publication of EPA's proposed rule on March 17, 2011 (76 FR 14616) started a 30-day public comment period that ended on April 18, 2011. During this period, we received a comment letter from the Morongo Band of Mission Indians (Morongo) and a comment letter from the Pechanga Band of Luiseño Mission Indians (Pechanga). We have summarized the comments from the Morongo and Pechanga (collectively the ''Tribes'' or ''commenters'') and provided our responses below.

Comment #1: The Tribes assert that neither California nor EPA analyzed potential impacts of transported ozone and $PM_{2.5}$ air pollution on their respective reservations or on other Indian country immediately downwind of California nonattainment areas, and that EPA did not acknowledge their existence as affected, downwind governments. The Tribes assert that they are each ''comparable to a state'' with respect to the effect of upwind emission sources in California, which contribute overwhelmingly to nonattainment in their reservations, and that they are both in the process of seeking ''Treatment in the Same Manner as a State (TAS)'' under the CAA. The Tribes also assert that they have either received TAS or completed the application process for TAS under the Clean Water Act. Finally, the Tribes claim that, if EPA were to require that the California SIP ''treat the Tribe[s] equitably'' in addressing the provisions of CAA section 110(a)(2)(D)(i)(I), then additional control measures for the South Coast Air Basin would be needed to prohibit emissions that would contribute significantly to nonattainment of the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS or interfere with maintenance of these standards in their respective reservations, analogous to the prohibition against having such effect in any other State.

Response #1: Section 110(a)(2)(D)(i)(I) of the CAA requires that each SIP contain adequate provisions to prohibit any source or other type of emissions activity within the State from ''contribut[ing] significantly to nonattainment'' of the NAAQS or ''interfer[ing] with maintenance'' of the NAAQS in ''any other State.''[4] The commenters provide no specific factual or analytical support for their claim that emissions from California sources contribute significantly to nonattainment or interfere with maintenance of the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS in their respective reservations or other Indian country, nor do they provide any support for their assertion that evaluation of such impacts under CAA section 110(a)(2)(D)(i) for these standards would have resulted in a requirement for California to adopt additional control measures for sources in the South Coast Air Basin.[5] Nevertheless, in response to these comments, EPA has considered whether emissions from California sources could have the prohibited adverse impacts in the Morongo or Pechanga reservations in accordance with the methodologies we use to evaluate SIP submittals for these standards under section 110(a)(2)(D)(i) with respect to transport impacts on states. Based on this evaluation, we conclude that California's SIP currently contains adequate provisions to prohibit such impacts for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS.

We began our analysis by reviewing the ozone and $PM_{2.5}$ air quality monitors that we identified as ''receptor'' locations for purposes of evaluating SIPs submitted to address the requirements of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS. As described in our proposed rule (76 FR 14616), EPA evaluated data from existing monitors over three overlapping 3-year periods (*i.e.,* 2003–2005, 2004–2006, and 2005–2007), as well as air quality modeling data, to

[1] Memorandum from William T. Harnett entitled ''Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' August 15, 2006.

[2] *See* transmittal letter dated November 16, 2007, from James N. Goldstene, Executive Officer, CARB, to Wayne Nastri, Regional Administrator, EPA Region 9, with enclosures, and CARB Resolution No. 07–28 (September 27, 2007).

[3] *See* ''Technical and Clarifying Modifications to April 26, 2007 Revised Draft Air Resources Board's Proposed State Strategy for California's 2007 State Implementation Plan and May 7, 2007 Revised Draft Appendices A through G,'' included as Attachment A to CARB's Board Resolution 07–28 (September 27, 2007).

[4] The term ''State'' is defined in the Clean Air Act as ''a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and includes the Commonwealth of the Northern Mariana Islands.'' CAA section 302(d).

[5] Both Tribes acknowledge that they do not currently have TAS status under the CAA. As described below, however, EPA has evaluated the sufficiency of the State's SIP submission in light of potential impacts on the Tribes' reservations from sources located in surrounding State areas. Thus, we do not need to address in this action the question whether CAA section 110(a)(2)(D)(i)(I) requires that a SIP address impacts on Indian country geographically located within the submitting State or how the TAS status of the potentially-affected Tribe(s) may be relevant to that issue. Similarly, we also do not need to address the Tribes' comment regarding TAS under the Clean Water Act as that does not affect the analysis of CAA requirements EPA conducted for this action.

determine which areas are predicted to be violating these NAAQS in 2012, and which areas are predicted potentially to have difficulty maintaining attainment as of that date. 76 FR 14616 at 14618. We identified as ''nonattainment receptors'' those monitoring sites that are projected to be violating the NAAQS in 2012, based on the average of these three overlapping periods. Id. Separately, we identified as ''maintenance receptors'' those monitoring sites that were violating the NAAQS based on the highest *single* three-year period during 2003–2007, but not over the average of the three periods. *Id.* at 14619, 14623. We described these ''maintenance receptors'' as those monitoring sites that remain at risk of slipping into nonattainment in 2012 if there are adverse variations in meteorology or emissions. *Id.*

These methodologies for identifying ''nonattainment receptors'' and ''maintenance receptors'' take into account historic variability of emissions at specific monitoring sites to analyze whether or not the relevant areas are expected to be violating or attaining the NAAQS in 2012. In both the 1998 NO_X SIP Call [6] and the 2005 Clean Air Interstate Rule,[7] EPA evaluated significant contribution to nonattainment as measured or predicted at monitors in a comparable fashion. EPA believes that this approach to evaluating significant contribution is correct under CAA section 110(a)(2)(D), and EPA's general approach to this threshold determination has not been disturbed by the courts.[8] As explained in the proposal, EPA is addressing interference with maintenance separately in order to address concerns that the Agency had not previously given sufficient independent meaning to that requirement.

Consistent with these methodologies, to determine whether emissions from California sources contribute significantly to nonattainment or interfere with maintenance of the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS in any other State, EPA evaluated air quality monitoring data from the eastern portion of the U.S. under consideration in EPA's Transport Rule Proposal (75 FR 45210) without regard to the jurisdictional status of different areas within each State. *See* 76 FR 14616 at 14618–14619. EPA conducted a similar analysis of air quality data for the western U.S. not covered by the Transport Rule Proposal. *Id.* This analysis for western States is embodied in the ''Timin Memo.'' [9] [10]

Although by its terms CAA section 110(a)(2)(D)(i)(I) explicitly addresses impacts on States, in response to the commenters' concerns, EPA reviewed air quality monitoring data from monitors located on the Morongo Reservation and on the Pechanga Reservation. For both reservations, EPA found that ozone and $PM_{2.5}$ air quality monitoring data is not available for the full 2003–2007 period, the time period that provided the basis for our evaluation methodology under CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS.[11] Thus, neither reservation has a monitor for ozone or for $PM_{2.5}$ that EPA projected to be violating either NAAQS in 2012, based on the average of the three overlapping periods that EPA evaluated for these purposes (*i.e.,* 2003–2005, 2004–2006, and 2005–2007). Additionally, neither reservation has a monitor that EPA projected to remain at risk of slipping into nonattainment of either NAAQS in 2012, based on the highest *single* three-year period during 2003–2007. *Id.* EPA therefore did not identify any ''nonattainment receptors'' or ''maintenance receptors'' for these standards on either reservation.[12] [13]

Because neither the Morongo Reservation nor the Pechanga Reservation contains any ''nonattainment receptor'' or ''maintenance receptor'' appropriate for purposes of evaluating California's 2007 Transport SIP in accordance with the requirements of CAA section 110(a)(2)(D)(i)(I) and the analytical approach that EPA is using to evaluate potential transport impacts between states, we do not have a basis for concluding that emissions from California sources ''contribute significantly to nonattainment'' or ''interfere with maintenance'' of the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS in either reservation at this time. The Tribes' comments provide no specific information to support such a conclusion.

Furthermore, we note that the Morongo Reservation and most of the Pechanga Reservation are located within the geographic borders of the Los Angeles-South Coast Air Basin in southern California, which is currently designated and classified as an ''extreme'' nonattainment area for the 1997 8-hour ozone NAAQS. *See* 40 CFR 81.305; *see also* 75 FR 24409 (May 5, 2010) (reclassifying South Coast Air Basin from ''severe-17'' to ''extreme'' nonattainment for 8-hour ozone NAAQS but deferring reclassification of Indian country pertaining to Morongo and Pechanga).[14] As such, California is already subject to the most stringent air quality planning and control requirements for ozone nonattainment areas under subpart 2 of part D, title I of the CAA. For example, ''extreme'' ozone nonattainment areas are subject to the most stringent New Source Review regulatory threshold and offset ratio (CAA sections 182(e), 182(f)) and must require that certain electric utility and

[6] *See* ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' 63 FR 57356, 57371–57372 (October 27, 1998) (''NO_X SIP Call'').

[7] *See* ''Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162 at 25167 (May 12, 2005) (''CAIR'').

[8] *Michigan* v. *U.S. EPA,* 213 F.3d 663, 674–681 (DC Cir. 2000); *North Carolina* v. *EPA,* 531 F.3d 896, 913–916 (DC Cir. 2008) (upholding EPA approach to determining threshold despite remanding other aspects of CAIR).

[9] *See* Memorandum from Brian Timin, EPA Office of Air Quality Planning and Standards, ''Documentation of Future Year Ozone and Annual $PM_{2.5}$ Design Values for Monitors in Western States,'' August 23, 2010 (Timin Memo).

[10] In addition to relying upon these methodologies for identifying ''nonattainment receptors'' and ''maintenance receptors'' based on 2003–2007 monitoring data, EPA reviewed more recent, preliminary monitoring data for the 2007–2009 period available in EPA's Air Quality System (AQS) database from all ozone and $PM_{2.5}$ monitoring sites in Oregon, Nevada, and Arizona and found no violations of the 1997 8-hour ozone or 1997 $PM_{2.5}$ standards in these adjacent States during this period. See 76 FR 14616 at 14621, 14623, and 14625. These data further support our findings but are not a necessary basis for our conclusion that emissions from California sources do not have the prohibited adverse impacts on any other State for the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS.

[11] For the Morongo Reservation, EPA's AQS database contains ozone monitoring data starting in 2006. *See* U.S. EPA AQS, Quick Look Report for 8-hour ozone, Site ID TT–582–1016 (2003–2011). For the Pechanga Reservation, EPA's AQS database contains ozone monitoring data starting in 2008 and $PM_{2.5}$ monitoring data starting in 2010. *See* U.S. EPA AQS, Quick Look Report for 8-hour ozone and $PM_{2.5,}$ Site ID TT–586–0009 (2003–2011).

[12] *See* Timin Memo at Appendix A and Appendix B.

[13] We note that data from the ozone monitor on the Morongo Reservation during the more recent 2006–2011 period appear to indicate that the area is violating the 1997 8-hour ozone NAAQS (*see* U.S. EPA AQS, Quick Look Report for 8-hour ozone, Site ID TT–582–1016 (2003–2011)). However, EPA has not yet verified the validity of these data for regulatory purposes in accordance with section 2.5 of 40 CFR part 58, Appendix A. In the event that EPA confirms this data is valid and this monitor continues to show violations of the 1997 8-hour ozone NAAQS in the future, EPA may evaluate whether additional actions are appropriate or necessary under the CAA to bring this area into attainment, based upon subsequently available data and analyses.

[14] The entire Los Angeles-South Coast Air Basin, including Indian country located within its borders, is also designated and classified as ''extreme'' nonattainment for the 1-hour ozone NAAQS. 40 CFR 81.305.

industrial and commercial boilers either primarily burn low-polluting fuels or use advanced control technology to reduce emissions of NO_X (CAA section 182(e)(3)).

The Los Angeles-South Coast Air Basin is also designated as nonattainment for the 1997 $PM_{2.5}$ NAAQS and, therefore, subject to stringent air quality planning and control requirements for $PM_{2.5}$ nonattainment areas under subpart 1 of part D, title I of the CAA. For example, CAA section 172(c)(1) requires that California adopt and implement all reasonably available control measures (including, at a minimum, reasonably available control technology for stationary sources) that will provide for attainment of the $PM_{2.5}$ NAAQS in this area as expeditiously as practicable. *See* 40 CFR 51.1010. EPA is currently evaluating the nonattainment plans for the Los Angeles-South Coast Air Basin submitted by the State of California and the South Coast Air Quality Management District to meet these requirements of part D, title I of the CAA for the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS.

Although the fact that areas adjacent to the Morongo Reservation and Pechanga Reservation are subject to stringent planning and control requirements does not eliminate the possibility of pollution transport from these areas, the stringency of the control requirements in this particular geographic area would be an important element of EPA's analysis under CAA section 110(a)(2)(D)(i)(I). EPA evaluates ''significant contribution to nonattainment'' and ''interference with maintenance'' under section 110(a)(2)(D)(i)(I) by considering not only the potential for pollution transport and the amount of such transport if it exists, but also the level and cost of control in an upwind area that would be necessary to prohibit such transport to the downwind area. *See* Transport Rule Proposal, 75 FR 45210 at 45273–45274 (August 2, 2010) (citing *North Carolina* v. *EPA,* 531 F.3d 896 at 908, 917–920 (DC Cir. 2008), in which the court confirmed that EPA may use cost of control as a factor in evaluating interstate transport). Thus, a technical finding that pollutants from an upwind area are transported to a downwind area does not, in itself, constitute a finding of ''significant contribution to nonattainment'' or ''interference with maintenance'' for regulatory purposes under section 110(a)(2)(D)(i)(I) of the CAA. Given these considerations, even if we were to conclude that emissions from California sources adversely impact air quality at monitors suitable for treatment as nonattainment receptors or maintenance receptors in the Pechanga or Morongo Reservations, section 110(a)(2)(D)(i)(I) of the CAA would not necessarily require that California adopt additional control measures to address such pollution impacts. We could not disapprove California's SIP submission without having completed that analysis and concluded that the state needed to impose additional controls in order to eliminate significant contribution or prevent interference with maintenance, which is a determination which is partially dependent upon the cost of control.

In sum, although by its terms section 110(a)(2)(D)(i)(I) explicitly addresses States, in response to these specific comments from Morongo and Pechanga, we have conducted a preliminary evaluation of potential impacts on the Tribes' reservations based on our current methodology for evaluating SIPs submitted to address the requirements of CAA section 110(a)(2)(D)(i)(I) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS. Based on this evaluation and available air quality monitoring data, we have determined that California's SIP contains provisions adequate to satisfy the requirements of CAA section 110(a)(2)(D)(i)(I) for these NAAQS. This determination does not, however, apply to California's obligations to address interstate transport of pollution under CAA section 110(a)(2)(D)(i)(I) for other NAAQS, which EPA intends to evaluate in separate actions, in accordance with applicable requirements and available air quality monitoring data, as appropriate. Moreover, if subsequent facts or analyses indicate that further action is necessary in this area to address nonattainment throughout the South Coast Air Basin, EPA can act at a later time after the initial section 110(a)(2)(D) submissions to call for revisions of the SIP to provide for additional emissions controls if such action is warranted. EPA recognizes the commenters' concerns about the impacts of air pollutant emissions throughout the South Coast Air Basin and is committed to working with the Tribes and the State to address these air quality concerns.

Comment #2: The Tribes assert that EPA failed to consult with them regarding potential impacts on their reservations or other Federally recognized tribal lands immediately downwind of California nonattainment areas, referencing EPA's ''Proposed Final Policy on Consultation and Coordination With Indian Tribes,'' 75 FR 78198 (December 15, 2010) in support of this comment. The Tribes assert that this failure to consult or to consider the Tribes as ''affected 'state[s]' subject to overwhelming transport emissions from California'' is a major flaw in EPA's proposed rulemaking.

Response #2: EPA endeavors to consult with Federally recognized tribal governments when Agency actions and decisions may have ''tribal implications'' or affect tribal interests, pursuant to long-standing EPA policy on consultation and coordination with Indian Tribes. *See* ''EPA Policy for the Administration of Environmental Programs on Indian Reservations'' (November 8, 1984); Executive Order 13175, ''Consultation and Coordination With Indian Tribal Governments,'' 65 FR 67249 (November 9, 2000); ''EPA Policy on Consultation and Coordination with Indian Tribes'' (May 4, 2011).

Because the California SIP is not approved to apply in Indian country located in the State, this action has no regulatory consequences for emission sources in Indian country and will not impose substantial direct costs on tribal governments or preempt tribal law. We note, however, that EPA is currently consulting with both Morongo and Pechanga in response to their requests for boundary changes to establish separate nonattainment areas or, in the alternative, to extend the boundaries of adjacent, lower-classified nonattainment areas to include the Tribes' Indian country. *See* 75 FR 24409, 24411 (May 5, 2010) (deferring reclassification of the Morongo and Pechanga Reservations within the South Coast Air Basin pending EPA's final decisions on the Tribes' boundary change requests). EPA has also initiated a process to consult with interested Indian Tribes on issues related to the Transport Rule Proposal (75 FR 45210, August 2, 2010) and will conclude this consultation before making final decisions on those issues. *See* 76 FR 1109 at 1118 (January 7, 2011) (requesting comment on options for allocating allowances to covered units that might in the future be constructed in Indian country located within the Transport Rule region).

Due to a court-ordered deadline to take final action on California's 2007 Transport SIP by May 10, 2011,[15] we are proceeding with this rulemaking action at this time. We encourage both Tribes, however, to participate in other processes that are already underway to address their concerns regarding cross-boundary air pollution impacts.

[15] *See WildEarth Guardians* v. *U.S. EPA* (Case No. 4:09–CV–02453–CW), Consent Decree dated November 10, 2009.

As to the Tribes' assertion that EPA's failure to consider them affected ''States'' subject to overwhelming transport of emissions from California is a major flaw in our proposed rule, we disagree for the reasons discussed above in Response #1.

IV. Final Action

Under CAA section 110(k)(3), EPA is fully approving the 2007 Transport SIP submitted by CARB on November 17, 2007, as adequate to prohibit emissions from California sources that will contribute significantly to nonattainment of the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS in any other State, as required by CAA section 110(a)(2)(D)(i)(I). EPA is also approving the 2007 Transport SIP as adequate to prohibit emissions from California sources that will interfere with maintenance of these NAAQS by any other State, as required by section 110(a)(2)(D)(i)(I). Accordingly, we find that the California SIP contains provisions adequate to prevent significant contribution to nonattainment of, and interference with maintenance of, these NAAQS.

EPA will address in separate actions, subject to notice and comment and publication in the **Federal Register**, the remaining two elements of CAA section 110(a)(2)(D)(i) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in any other State.

V. Statutory and Executive Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 15, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 10, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(386)(ii)(A)(*3*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(386) * * *

(ii) * * *

(A) * * *

(*3*) 2007 Transport SIP at pages 19–20 (Attachment A) (''Evaluation of Significant Contribution to Nonattainment or Interference with Maintenance of Attainment Standards in Another State'').

* * * * *

■ 3. Section 52.283 is amended by adding paragraph (a)(2) to read as follows:

§ 52.283 Interstate Transport.

(a) * * *

(2) The requirements of CAA section 110(a)(2)(D)(i)(I) regarding significant contribution to nonattainment of the 1997 standards in any other State and interference with maintenance of the 1997 standards by any other State.

* * * * *

[FR Doc. 2011–14480 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0296; FRL–8876–4]

Difenoconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of difenoconazole in or on aspirated grain fractions; carrot; chickpea; fruits, stone, group 12; soybean, hulls; soybean, seed; strawberry; and turnip greens. Syngenta Crop Protection, Inc., requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). This regulation also increases the existing tolerances for cattle, liver; goat, liver; hog, liver; horse, liver; sheep, liver; and decreases the existing tolererance for egg and revises the tolerance expression for animal commodities.

DATES: This regulation is effective June 15, 2011. Objections and requests for hearings must be received on or before August 15, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0296. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Rose Mary Kearns, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (703) 305–5611; *e-mail address: kearns.rosemary@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0296 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 15, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0296, by one of the following methods:

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of August 4, 2010 (75 FR 46924) (FRL–8834–9), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F7676) by Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419–8300. The petition requested that 40 CFR 180.475 be amended by establishing tolerances for residues of the fungicide difenoconazole, in or on carrot at 0.45 parts per million (ppm); chickpeas at 0.05 ppm; fruits, stone, group 12 at 2.5 ppm; soybean, seed, at 0.2 ppm; soybean, aspirated grain fraction at 95 ppm; strawberry at 2.5 ppm; turnip greens at 35 ppm; and increasing the existing milk tolerance from 0.01 to 0.08 ppm. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA has: Increased the proposed tolerance for carrot from 0.45 ppm to 0.50 ppm, and for chickpea from 0.05 ppm to 0.08 ppm; decreased the proposed soybean, seed tolerance from 0.20 ppm to 0.15 ppm; established a tolerance that was not proposed for soybean, hulls at 0.20 ppm; changed the proposed tolerance terminology for ''soybean, aspirated grain fractions'' to ''aspirated grain fractions;'' revised the tolerance

expression for animal commodities; increased the existing animal tolerances from 0.20 ppm to 0.40 ppm for the livers of cattle, goat, hog, horse, and sheep; decreased the existing tolerance for eggs from 0.10 ppm to 0.02 ppm; not granted the proposed tolerance increase for milk from 0.01 to 0.08 ppm. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *.''

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for difenoconazole including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with difenoconazole follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Difenoconazole possesses low acute toxicity by the oral, dermal and inhalation routes of exposure. It is not an eye or skin irritant and is not a sensitizer. Subchronic and chronic studies with difenoconazole in mice and rats showed decreased body weights, decreased body weight gains and effects on the liver. In an acute neurotoxicity study in rats, reduced fore-limb grip strength was observed on day 1 in males and clinical signs of neurotoxicity were observed in females at the limit dose of 2,000 milligrams/kilograms (mg/kg). In a subchronic neurotoxicity study in rats, decreased hind limb strength was observed in males only at the mid- and high-doses. However, the effects observed in acute and subchronic neurotoxicity studies are transient, and the dose-response is well characterized with identified no observed adverse effect level (NOAELs). No systemic toxicity was observed at the limit dose in the most recently submitted 28-day rat dermal toxicity study.

There is no concern for increased qualitative and/or quantitative susceptibility after exposure to difenoconazole based on developmental toxicity studies in rats and rabbits, and a reproduction study in rats as fetal/offspring effects occurred in the presence of maternal toxicity. There are no indications in the available studies that organs associated with immune function, such as the thymus and spleen, are affected by difenoconazole.

In accordance with the Agency's current policy, difenoconazole is classified as ''Suggestive Evidence of Carcingenic Potential'' and EPA is using the Margin of Exposure (MOE) approach to assess cancer risk. Difenoconazole is not mutagenic, and no evidence of carcinogenicity was seen in rats. Evidence for carcinogenicity was seen in mice (liver tumors), but these tumors were only induced at doses which were considered to be excessively high for carcinogenicity testing. Based on excessive toxicity observed at the two highest doses in the study, the absence of tumors at the study's lower doses, and the absence of genotoxic effects, EPA has concluded that the chronic point of departure (POD) from the chronic mouse study will be protective of any cancer effects. The POD from this study is the NOAEL of 30 ppm (4.7 and 5.6 mg/kg/day in males and females, respectively) which was chosen based upon only those biological endpoints which were relevant to tumor development (*i.e.,* hepatocellular hypertrophy, liver necrosis, fatty changes in the liver and bile stasis).

Specific information on the studies received and the nature of the adverse effects caused by difenoconazole as well as the NOAEL and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Difenoconazole Human Health Risk Assessment for Amended Section 3 Registration to Add Uses on Carrots, Chickpeas, Soybeans, Stone Fruits (Group 12), Strawberries, Turnip Greens and Golf Course Turf Grass,'' pp. 13–19 in docket ID number EPA–HQ–OPP–2010–0296.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological POD and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which the NOAEL and the lowest dose at which adverse effects of concern are identified the LOAEL. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe MOE. For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for chemical name used for human risk assessment is shown in the Table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR DIFENOCONAZOLE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary—General population including infants and children.	NOAEL = 25 mg/kg ..... UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 0.25 mg/kg/day. aPAD = 0.25 mg/kg/day	Acute Neurotoxicity study in Rats LOAEL = 200 mg/kg/day based on reduced fore-limb grip strength in males on day 1.
Chronic dietary—All populations.	NOAEL= 0.96 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.01 mg/kg/day. cPAD = 0.01 mg/kg/day	Combined chronic toxicity/carcinogenicity (rat; dietary) LOAEL = 24.1/32.8 mg/kg/day based on cumulative decreases in body-weight gains.
Incidental oral short-term—1 to 30 days.	NOAEL= 1.25 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = < 100	Reproduction and fertility Study (rat; dietary) Parental/Offspring LOAEL = 12.5 mg/kg/day based on decreased pup weight in males on day 21 and reduction in body-weight gain of F_0 females prior to mating, gestation and lactation.
Inhalation short- and intermediate-term inhalation and oral absorption assumed equivalent.	Inhalation (or oral) study NOAEL = 1.25 mg/kg/day inhalation absorption rate = 100%. UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = < 100	Reproduction and fertility study (rat; dietary) Parental/Offspring LOAEL = 12.5 mg/kg/day based on decreased pup weight in males on day 21 and reduction in body-weight gain of F_0 females prior to mating, gestation and lactation.
Cancer, Oral, dermal, inhalation.	Difenoconazole is classified ''Suggestive Evidence of Carcinogenic Potential'' with a non-linear (MOE) approach for human risk characterization.		

POD = A data point or an estimated point that is derived from observed dose-response data and used to mark the beginning of extrapolation to determine risk associated with lower environmentally relevant human exposures. NOAEL = No observed adverse effect level. LOAEL = lowest observed adverse effect level. UF = uncertainty factor. UFA = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL. UF_S = use of a short-term study for long-term risk assessment. UF_{DB} = to account for the absence of data or other data deficiency. FQPA SF = Food Quality Protection Act Safety Factor. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. MOE = margin of exposure. LOC = level of concern.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to difenoconazole. EPA considered exposure under the petitioned-for tolerances as well as all existing difenoconazole tolerances in 40 CFR 180.475. EPA assessed dietary exposures from difenoconazole in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for difenoconazole. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed tolerance-level residues, 100 percent crop treated (PCT), and the available empirical or dietary exposure evaluation model (DEEM™) (ver. 7.81) default processing factors.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA assumed tolerance-level residues for some commodities, average field trial residues (*i.e.,* anticipated residues) for the majority of commodities, and the available empirical or DEEM™ (ver. 7.81) default processing factors, and 100 PCT.

iii. *Cancer.* EPA determines whether quantitative cancer exposure and risk assessments are appropriate for a food-use pesticide based on the weight of the evidence from cancer studies and other relevant data. Cancer risk is quantified using a linear or nonlinear approach. If sufficient information on the carcinogenic mode of action is available, a threshold or non-linear approach is used and a cancer RfD is calculated based on an earlier noncancer key event. If carcinogenic mode of action data are not available, or if the mode of action data determines a mutagenic mode of action, a default linear cancer slope factor approach is utilized. Based on the data summarized in Unit III.A., EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk difenoconazole. However, EPA determined that a quantitative cancer exposure assessment is unnecessary since the NOAEL (4.7 and 5.6 mg/kg/day in males and females, respectively) to assess cancer risk is higher than the NOAEL (0.96 and 1.27 mg/kg/day in males and females, respectively) to assess chronic risks and the cancer exposure assessment would not exceed the chronic exposure estimate. Therefore, the chronic dietary risk estimate will be protective of potential cancer risk.

Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use PCT information in the dietary assessment of difenoconazole. EPA used anticipated residues including average field trial residues for the majority of commodities, the available empirical or DEEM™ (ver. 7.81) default processing factors; and 100 PCT information in the chronic dietary assessment for difenoconazole.

Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins

as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for difenoconazole in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of difenoconazole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models the estimated drinking water concentrations (EDWCs) of difenoconazole for surface water are estimated to be 15.8 parts per billion (ppb) for acute exposures and 10.4 ppb for chronic exposures. For ground water, the EDWCs are estimated to be 0.0128 ppb for both acute and chronic exposures.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. The water concentration of 15.8 ppb and 10.4 ppb were used to assess the contribution to drinking water in the acute and chronic dietary risk assessments, respectively.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Difenoconazole is currently registered for the following uses that could result in residential exposures: Application to ornamentals. There is a potential for exposure to difenoconazole during mixing, loading, and application activities through the dermal and inhalation routes. Difenoconazole products are applied by homeowners using handheld spray equipment. Exposure duration is considered short-term (1–30 days). In addition, residential post-application exposure to treated golf course turf is possible for recreational golfers. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

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

Difenoconazole is a member of the triazole-containing class of pesticides. Although conazoles act similarly in plants (fungi) by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same, sequence of major biochemical events (EPA, 2002). With triazole type fungicides however, a variable pattern of toxicological responses is found. Some are hepatotoxic and hepatocarcinogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no evidence to indicate that conazoles share common mechanisms of toxicity and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the conazoles. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

Difenoconazole is a triazole-derived pesticide. This class of compounds can form the common metabolite 1,2,4-triazole and two triazole conjugates (triazolylalanine and triazolylacetic acid). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, including difenoconazole, EPA conducted a human health risk assessment for exposure to 1,2,4-triazole, triazolylalanine, and triazolylacetic acid resulting from the use of all current and pending uses of any triazole-derived fungicide. The risk assessment is a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (*e.g.,* use of a maximum combination of uncertainty factors) and potential dietary and non-dietary exposures (*i.e.,* high end estimates of both dietary and non-dietary exposures). In addition, the Agency retained the additional 10x FQPA safety factor for the protection of infants and children. The assessment includes evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's complete risk assessment is found in the reregistration docket at *http://www.regulations.gov,* docket ID number EPA–HQ–OPP–2005–0497.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10x) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10x, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* EPA determined that the available data indicated no increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to difenoconazole. In the prenatal developmental toxicity studies in rats and rabbits and the 2-generation reproduction study in rats, toxicity to the fetuses/offspring, when observed, occurred at equivalent or higher doses than in the maternal/parental animals. In the prenatal developmental toxicity study in rats, maternal toxicity was manifested as decreased body weight gain and food consumption at the LOAEL of 85 mg/kg/day; the NOAEL was 16 mg/kg/day. The developmental toxicity was manifested as alterations in fetal ossifications at 171 mg/kg/day; the developmental NOAEL was 85 mg/kg/day. In a developmental toxicity study in rabbits, maternal and developmental toxicity were seen at the same dose level (75 mg/kg/day). Maternal toxicity in rabbits were manifested as decreased in body weight gain and decreased in food consumption, while developmental toxicity was manifested as decreased fetal weight. In a 2-generation reproduction study in rats, there were decreases in maternal body weight gain and decreases in body weights of F_1 males at the LOAEL of 12.5 mg/kg/day; the parental systemic and off spring toxicity NOAEL was 1.25 mg/kg/day.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x. That decision is based on the following findings:

i. The toxicity database for difenoconazole is adequate for conducting a FQPA risk assessment. At this time, an immunotoxicity study is not available. However, the toxicology database for difenoconazole does not show any evidence of treatment-related effects on the immune system. The overall weight of evidence suggests that this chemical does not directly target the immune system. An immunotoxicity study is now required as a part of new data requirements in the 40 CFR part 158 for conventional pesticide registration; however, the Agency does not believe that conducting a functional immunotoxicity study will result in a lower POD than that currently in use for overall risk assessment, and therefore, a database uncertainty factor (UFDB) is not needed to account for lack of this study.

ii. The acute and subchronic neurotoxicity studies in rats are available. These data show that difenoconazole exhibits some evidence of neurotoxicity in the database, but the effects are transient or occur at doses exceeding the limit dose. EPA concluded that difenoconazole is not a neurotoxic compound. Based on the toxicity profile, and lack of neurotoxicity, a developmental neurotoxicity study in rats is not required nor is an additional database uncertainty factor needed to account for the lack of this study.

iii. There is no evidence that difenoconazole results in increased susceptibility of rats or rabbit fetuses to *in utero* and/or postnatal exposure in the developmental and reproductive toxicity data.

iv. There are no residual uncertainties identified in the exposure databases. A conservative dietary food exposure assessment was conducted. Acute dietary food exposure assessments were performed based on tolerance-level residues, 100 PCT, and the available empirical or DEEM™ (ver. 7.81) default processing factors.

Chronic dietary exposure assessments were based on tolerance-level residues for some commodities, average field trial residues for the majority of commodities, the available empirical or DEEM™ (ver. 7.81) default processing factors, and 100 PCT. These are conservative approaches and are unlikely to understate the residues in food commodities.

EPA also made conservative (protective) assumptions in the ground water and surface water modeling used to assess exposure to difenoconazole in drinking water. Post-application exposure of children as well as incidental oral exposure of toddlers is not expected. These assessments will not underestimate the exposure and risks posed by difenoconazole.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to difenoconazole will occupy 19% of the aPAD for children, 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to difenoconazole from food and water will utilize 49% of the cPAD for children 1–2 years old the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Difenoconazole is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to difenoconazole.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 260. Because EPA's level of concern for difenoconazole is a MOE of 100 or below, these MOEs are not of concern.

4. *Aggregate cancer risk for U.S. population.* Based on the discussion in Unit III.A and the toxicological endpoints described in Unit III.B, EPA has concluded that the cPAD is protective of possible cancer effects; therefore, given the results of the chronic risk assessment described in this unit, cancer risk resulting from exposure to difenoconazole is not of concern.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to difenoconazole residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement method, gas chromatography/nitrogen- phosphorus detection (GC/NPD) method AG–575B, is available for the determination of residues of difenoconazole *per* se in/on plant commodities. An adequate enforcement method, liquid chromatography mass spectrometry (LC/MS/MS) method REM 147.07b, is available for the determination of residues of difenoconazole and CGA–205375 in livestock commodities. Adequate confirmatory methods are also available. This is the first difenoconazole petition since the new livestock method (147.07b) was approved by the Agency and this new method has lower level of quantitation than the previous enforcement method.

The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; *telephone number:* (410) 305–2905; e-mail address: *residuemethods@epa.gov.*

B. International Residue Limits

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

requires that EPA explain the reasons for departing from the Codex level.

Codex maximum residue levels (MRLs) for residues of difenoconazole per se have been established at 0.2 ppm for carrot; 0.02 ppm for soya bean (dry); 0.2 ppm for cherries and plums (including prunes); and 0.5 ppm for nectarines and peaches. Canadian and Mexican MRLs have been established for difenoconazole; however, no MRLs have been established for the commodities included in the current petition. Codex MRLs for residues of difenoconazole and its metabolite CGA–205375, expressed as difenoconazole have been established at 0.2 ppm for edible offal (mammalian) and 0.01 for eggs. Also, Canadian MRLs have been established for difenoconazole at 0.05 ppm for meat byproducts of cattle, goats, hogs, and sheep and at 0.05 ppm in eggs. Based on the submitted/available magnitude of the residue data, harmonization with established Codex MRLs is not possible for carrots, soya bean (dry), cherries, plums (including prunes), nectarines, peaches, edible offal (mammalian), and eggs because the Codex MRLs are too low, due to differences in the use patterns, called Good Agricultural Practices or GAPs.

Harmonization with the established Canadian MRLs for eggs and meat byproducts of cattle, goats, hogs, and sheep is not possible due to differences in the regulated residue expression.

C. Response to Comments

One anonymous comment was received on August 7, 2010. This commenter opposes the establishment of any numerical tolerance other than zero. No information was submitted to support the commenter's position.

D. Revisions to Petitioned-For Tolerances

1. Tolerances for carrot, chickpea, and soybean, seed were corrected to use the recommendation from the EPA tolerance spreadsheet (January 2008 version).

2. No tolerance proposal was made for soybean, hulls, which is a regulated commodity. A tolerance is being established for this commodity, because difenoconazole residues concentrate in this commodity.

3. Commodity names for proposed tolerances are being corrected to be consistent with EPA's standard commodity vocabulary definitions: ''Chickpeas'' to ''Chickpea;'' ''Soybean, aspirated grain fractions'' to ''Aspirated Grain Fractions;'' ''Fruits, stone, group 12'' to ''Fruit, stone, group 12''.

4. The animal commodity tolerance expression is being changed slightly to express the metabolite CGA 205375 as a difenoconazole stoichoimetric equivalent.

5. There are a number of livestock feedstuffs associated with the proposed uses and currently established livestock tolerances were reassessed. Due primarily to the significant change in the beef diet from the proposed use on soybeans and the residues of difenoconazole found in/on soybean aspirated grain fractions, the tolerance levels for residues of concern in liver of cattle, goat, hog, horse, and sheep need to be increased from 0.20 ppm to 0.40 ppm.

6. Although there was little change in the poultry diet from the proposed new uses, due to the lower level of quantitation from the new animal commodity enforcement analytical method (method 147.07b), the tolerance level for residues of concern in egg needs to be decreased from 0.10 ppm to 0.02 ppm. Furthermore, the existing commodity name for ''eggs'' is being corrected to ''egg'' consistent with EPA's standard commodity vocabulary definition.

7. The proposed increased tolerance for milk is not needed because the calculations for changes in the dietary burden due to the new uses indicate no change is needed.

V. Conclusion

Therefore, tolerances are established for residues of difenoconazole, 1-([2-[2-chloro-4-(4-chlorophenoxy)phenyl]-4-methyl-1,3-dioxolan-2-yl]methyl)-1*H*-1,2,4-triazole, in or on: Aspirated grain fractions at 95 ppm; carrot at 0.50 ppm; chickpea at 0.08 ppm; fruit, stone, group 12 at 2.5 ppm; soybean, hulls at 0.20; soybean, seed at 0.15; strawberry at 2.5 ppm; turnip greens at 35 ppm. The existing animal commodity tolerance expression is being revised, and tolerances are being increased for liver of cattle/goat/hog/horse/sheep from 0.20 ppm to 0.40 ppm. The existing egg tolerance is being decreased from 0.10 ppm to 0.02 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

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

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. 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: June 7, 2011.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Section 180.475 is amended as follows:

■ i. In the table to paragraph (a)(1), by alphabetically adding the following commodities; and

■ ii. In paragraph (a)(2), by revising the introductory text and the following commodities in the table.

The amendments read as follows:

§ 180.475 Difenoconazole; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Aspirated grain fractions	95
* * * * *	
Carrot	0.50
Chickpea	0.08
* * * * *	
Fruits, stone, group 12	2.5
* * * * *	
Soybean, hulls	0.20
Soybean, seed	0.15
Strawberry	2.5
Turnip, greens	35
* * * * *	

(2) Tolerances are established for residues of difenoconazole, including its metabolites and degradates, in the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring the sum of difenoconazole, 1-[2-[2-chloro-4-(4-chlorophenoxy)phenyl]-4-methyl-1,3-dioxolan-2-ylmethyl]-1*H*-1,2,4-triazole, and its metabolite, CGA–205375, 1-[2-chloro-4-(4-chloro-phenoxy)phenyl]-2-[1,2,4]triazol-1-yl-ethanol, calculated as the stoichiometric equivalent of difenoconazole, in the following commodities:

Commodity	Parts per million
* * * * *	
Cattle, liver	0.40
* * * * *	
Egg	0.02
* * * * *	
Goat, liver	0.40
* * * * *	
Hog, liver	0.40
* * * * *	
Horse, liver	0.40
* * * * *	
Sheep, liver	0.40
* * * * *	

* * * * *

[FR Doc. 2011–14770 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–1081; FRL–8875–4]

Pesticide Tolerances; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has reviewed its pesticide regulations and is making changes in a number of areas. These changes will correct cross-references, remove expired tolerances, ''reserve'' paragraphs within sections that no longer have any tolerances listed due to the removal of expired tolerances, and remove sections that no longer have any tolerances due to the removal of expired tolerances. These changes have no substantive impact on any requirements. As such, notice and public comment procedures are unnecessary.

DATES: This final rule is effective June 15, 2011.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–1081. 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: Andrew Ertman, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9367; e-mail address: *ertman.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

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

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

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

the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What does this amendment do?

This amendment makes changes in a number of areas within 40 CFR part 180, subpart C. In several sections within 40 CFR part 180, subpart C, there is a paragraph (c) to address tolerances with regional registrations that incorrectly cross-references 40 CFR 180.1(m) as providing the definition of the phrase ''tolerances with regional registrations.'' EPA recently made several changes to 40 CFR 180.1 that resulted in a redesignating of the paragraphs in the section, including changing 40 CFR 180.1(m) (defining the term ''tolerances with regional registrations'') to 40 CFR 180.1(l). 75 FR 76284 (December 8, 2010) (FRL–8853–8). No amendments were made to the body of 40 CFR 180.1(m). In the same rulemaking that resulted in the redesignating of 40 CFR 180.1(m), EPA should have amended the cross-references to 40 CFR 180.1(m) that appear throughout part 180. That change, however, was inadvertently not done. In this rule, EPA is now correcting that cross-reference wherever it appears in 40 CFR part 180 by changing it from ''§ 180.1(m)'' to ''§ 180.1(l).''

This amendment revises certain sections in 40 CFR part 180, subpart C, to remove those time-limited tolerances that have expired based on the terms set in the tolerance. Since the tolerance is expired, it is no longer effective and should not appear in the regulation.

This amendment reserves those paragraphs within specific sections in 40 CFR part 180, subpart C that no longer have any tolerances listed due to the removal of expired tolerances. In some cases, this also results in some paragraphs being redesignated as well.

This amendment removes those sections in 40 CFR part 180, subpart C that no longer have any tolerances listed due to the removal of expired tolerances.

III. Why is this amendment 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 amendment final without prior proposal and opportunity for comment, because notice and public comment are unnecessary. EPA is making only technical changes to correct cross-references rendered incorrect by a prior rulemaking, remove expired tolerances, reserve paragraphs within sections, and remove sections for which there are no longer any tolerances. None of these changes have a substantive effect on any requirement, or otherwise impose any new requirement, 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?

This rule makes technical changes to 40 CFR part 180, subpart C to correct cross-references, remove expired tolerances, improve the presentation and format of the regulation, and make other minor, non-substantive improvements to the regulation. Other than clarifying EPA regulations, these amendments are not expected to have any impact on regulated parties or the public because they do not change existing requirements or impose any new requirements. Accordingly, these amendments were not designated a significant regulatory action under Executive Orders 12866 (58 FR 51735, October 4, 1993) and Executive Order 13653 (76 FR 3821, January 21, 2011). Nor does it impose or change any information collection burden that requires additional review by OMB under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (See Unit III.), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538). In addition, this action does not significantly or uniquely affect small governments or impose a significant inter-governmental mandate, as described in sections 203 and 204 of UMRA.

This rule will not have substantial direct effect on Tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). In addition, the agency has determined that his action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

Since this action is not economically significant under Executive Order 12866, it is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), and Executive Order 13211 (66 FR 28355, May 22, 2001). Nor does it require any special considerations to address environmental justice under Executive Order 12898 (55 FR 7629, February 16, 1994).

In addition, this action does not involve technical standards that would require the consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272).

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 the 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 procedures, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 3, 2011.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

§§ 180.106, 180.114, 180.123, 180.142, 180.145, 180.153, 180.169, 180.184, 180.185, 180.191, 180.204, 180.205, 180.222, 180.241, 180.253, 180.259, 180.275, 180.284, 180.291, 180.304, 180.314, 180.330, 180.342, 180.378, 180.399, 180.412, 180.434, 180.447, 180.448, 180.451, 180.503, 180.573, 180.579, 180.587 [Amended]

■ 2. In §§ 180.106, 180.114, 180.123, 180.142, 180.145, 180.153, 180.169, 180.184, 180.185, 180.191, 180.204, 180.205, 180.222, 180.241, 180.253, 180.259, 180.275, 180.284, 180.291, 180.304, 180.314, 180.330, 180.342, 180.378, 180.399, 180.412, 180.434, 180.447, 180.448, 180.451, 180.503, 180.573, 180.579, 180.587, in paragraph (c), remove the reference ''§ 180.1 (m)'' and add, in its place ''§ 180.1 (l)''.

■ 3. In § 180.106, revise paragraph (b) to read as follows:

§ 180.106 Diuron; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 4. In § 180.110, revise paragraph (b) to read as follows:

§ 180.110 Maneb; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

§ 180.145 [Amended]

■ 5. In § 180.145, remove paragraph (a)(2) and redesignate paragraph (a)(3) as paragraph (a)(2).

■ 6. In § 180.190, revise paragraph (d) to read as follows:

§ 180.190 Diphenylamine; tolerances for residues.

* * * * *

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.228 [Removed]

■ 7. Remove § 180.228.

■ 8. In § 180.242, revise paragraph (b) to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 9. In § 180.276, revise paragraph (b) to read as follows:

§ 180.276 Formetanate hydrochloride; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 10. In § 180.284, revise paragraph (b) to read as follows:

§ 180.284 Zinc phosphide; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

§ 180.294 [Removed]

■ 11. Remove § 180.294.

§ 180.296 [Removed]

■ 12. Remove § 180.296.

§ 180.312 [Removed]

■ 13. Remove § 180.312.

§ 180.325 [Removed]

■ 14. Remove § 180.325.

■ 15. In § 180.328, in paragraph (a), in the table, remove the commodities Artichoke, globe; Avocado; Fig; Fruit, citrus; Fruit, pome; Fruit, stone; Olive and Pistachio; and revise paragraph (c) to read as follows:

§ 180.328 Napropamide; tolerances for residues.

* * * * *

(c) *Tolerances with regional registrations.* [Reserved]

* * * * *

§ 180.345 [Amended]

■ 16. In § 180.345, in paragraph (c), remove the reference ''40 CFR 180.1(m)'' and add, in its place ''§ 180.1(l)''.

§ 180.368 [Amended]

■ 17. In § 180.368, in paragraph (c)(1), remove the reference ''180.1(m)'' and add, in its place ''§ 180.1(l)''.

§ 180.377 [Amended]

■ 18. In § 180.377, in paragraph (b), in the table, remove the commodities Wheat, aspirated grain fractions; Wheat, bran; Wheat, flour; Wheat, germ; Wheat, middlings and Wheat, shorts.

§ 180.379 [Removed]

■ 19. Remove § 180.379.

■ 20. Section 180.401 is amended as follows:

■ a. Add a heading to paragraph (a);

■ b. Redesignate paragraph (b) as paragraph (c) and add a heading; in newly designated paragraph (c), remove the reference ''§ 180.1(m)'' and add, in its place ''§ 180.1 (l)''; and

■ c. Add new paragraphs (b) and (d).

The amendments read as follows:

§ 180.401 Thiobencarb; tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* * * *

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.406 [Removed]

■ 21. Remove § 180.406.

■ 22. In § 180.410, in paragraph (a), in the table, remove the commodities Apple; Apple, wet pomace; Grape and Pear; and revise paragraph (c) to read as follows:

§ 180.410 Triadimefon; tolerances for residues.

* * * * *

(c) *Tolerances with regional registrations.* [Reserved]

* * * * *

■ 23. In § 180.412, revise paragraph (b) to read as follows:

§ 180.412 Sethoxydim; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 24. In § 180.438, revise paragraph (b) to read as follows:

§ 180.438 Lambda-cyhalothrin and an isomer gamma-cyhalothrin; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 25. In § 180.443, revise paragraph (b) to read as follows:

§ 180.443 Myclobutanil; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

§ 180.450 [Amended]

■ 26. In § 180.450, in paragraph (a), in the table, remove the commodities Sorghum, grain, forage; Sorghum, grain, grain and Sorghum, grain, stover.

§ 180.456 [Removed]

■ 27. Remove § 180.456.

■ 28. In § 180.476, revise paragraph (b) to read as follows:

§ 180.476 Triflumizole; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 29. In § 180.479, revise paragraph (b) to read as follows:

§ 180.479 Halosulfuron-methyl; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 30. In § 180.480, revise paragraph (b) to read as follows:

§ 180.480 Fenbuconazole; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

§ 180.483 [Removed]

■ 31. Remove § 180.483.

■ 32. In § 180.493, revise paragraph (d) to read as follows:

§ 180.493 Dimethomorph; tolerances for residues.

* * * * *

(d) *Indirect or inadvertent residues.* [Reserved]

■ 33. In § 180.515, revise paragraph (b) to read as follows:

§ 180.515 Carfentrazone-ethyl; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 34. In § 180.544, revise paragraph (d) to read as follows:

§ 180.544 Methoxyfenozide; tolerances for residues.

* * * * *

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.549 [Amended]

■ 35. In § 180.549, remove paragraph (a)(2) and redesignate paragraph (a)(1) as paragraph (a).

■ 36. In § 180.561, revise paragraph (b) to read as follows:

§ 180.561 Acibenzolar-S-methyl; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 37. In § 180.571, revise paragraph (b) to read as follows:

§ 180.571 Mesotrione; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

■ 38. In § 180.586, revise paragraph (b) to read as follows:

§ 180.586 Clothianidin; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

[FR Doc. 2011–14569 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 539 and 552

[GSAR Amendment 2011–02; GSAR Case 2011–G503; (Change 50); Docket 2011–0012, Sequence 1]

RIN 30900–AJ15

General Services Administration Acquisition Regulation; Implementation of Information Technology Security Provision

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

ACTION: Interim rule.

SUMMARY: The General Services Administration (GSA) is issuing an interim rule amending the General Services Administration Acquisition Regulation (GSAR) to revise sections to implement policy and guidelines for contracts and orders that include information technology (IT) supplies, services and systems with security requirements.

DATES: *Effective Date:* June 15, 2011.

Applicability Date: This amendment applies to contracts and orders awarded after the effective date that include information technology (IT) supplies, services and systems with security requirements.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat at the address shown below on or before August 15, 2011 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by GSAR Case 2011–G503, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''GSAR Case 2011–G503'' under the heading ''Enter Keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''GSAR Case 2011–G503.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''GSAR Case 2011–G503'' on your attached document.
- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street, NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite GSAR Case 2011–G503, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lague, Procurement Analyst, at (202) 694–8149, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite GSAR Case 2011–G503.

SUPPLEMENTARY INFORMATION:

I. Background

To verify that GSA has met the requirements of the Federal Information Security Management Act of 2002 (FISMA), GSA's Office of the Inspector General (OIG) conducted an audit of GSA's information and information technology systems. In regards to the regulatory process, a recommendation was made by the OIG to strengthen the requirements in contracts and orders for information technology supplies, services and systems. Working with the Office of the Chief Information Officer (CIO), the Office of Acquisition Policy developed the policy, guidance and requirements that would be utilized to protect GSA's information and information technology systems, regardless of the location. The actual requirements are currently being utilized in solicitations, contracts and orders issued by the CIO; however, they were not included in the GSAR. By revising the GSAR to include these requirements, GSA is agreeing with the recommendation of the OIG and strengthens the protection of information and information systems.

II. GSAR Changes

The following are the changes to GSAR part 507, Acquisition Planning; Subpart 511.1, Selecting and Developing Requirement Documents; part 539,

Acquisition of Information Technology; and part 552, Solicitation Provisions and Contract Clauses.

This interim rule amends the title of GSAM Subpart 507.70 to clarify that this part only applies to requirements for the purchase of information technology in support of national security systems involving weapons systems. The GSAM is a non-regulatory portion of the manual.

GSAM 511.102 is being added to provide the policy as it relates to contracts and orders for government data, information technology, supplies, services and systems in accordance with GSA policy and procedures guide. The GSAM is a non-regulatory portion of the manual.

GSAM 539.001 is amended to indicate that this subpart does not apply to information technology supplies, services and systems in support of national security systems. The GSAM is a non-regulatory portion of the manual.

New subpart 539.70 is added to provide the policy as it relates to contracts and orders for information technology supplies, services and systems that do not involve national security systems.

GSAR part 552 was amended to add a new provision, 552.239–70, Information Technology Security Plan and Security Authorization; and a new clause, 552.239–71, Security Requirements for Unclassified Information Technology Resources, that relates to the policy requirements described in GSAR Part 539.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

This interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* because the rule requires contractors, within 30 days after contract award to submit an IT Security Plan to the Contracting Officer and Contracting Officer's Representative that describes the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under the contract. The rule will also require that contractors submit written proof of IT security authorization six months after award, and verify that the IT Security Plan remains valid annually. Where this information is not already available, this may mean small businesses will need to become familiar with the requirements, research the requirements, develop the documents, submit the information, and create the infrastructure to track, monitor and report compliance with the requirements. However, GSA expects that the impact will be minimal, because the clause includes requirements that IT service contractors should be familiar with through other agency clauses, existing GSA IT security requirements, and Federal laws and guidance. Small businesses are active providers of IT services.

The Regulatory Secretariat has submitted a copy of the Initial Regulatory Flexibility Analysis (IRFA) to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. The Councils invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (GSAR Case 2011–G503) in correspondence.

The analysis is summarized as follows:

This rule will require that contractors submit an IT Security Plan that complies with applicable Federal laws including, but are not limited to, 40 U.S.C. 11331, the Federal Information Security Management Act (FISMA) of 2002, and the E–Government Act of 2002. The plan shall meet IT security requirements in accordance with Federal and GSA policies and procedures.

GSA will use this information to verify that the contractor is securing GSA's information technology data and systems from unauthorized use, as well as use the information to assess compliance and measure progress in carrying out the requirements for IT security.

The requirements for submission of the plan will be inserted in solicitations that include information technology supplies, services or systems in which the contractor will have physical or electronic access to government information that directly supports the mission of GSA. As such it is believed that contract actions awarded to small business will be identified in FPDS under the Product Service Code D—ADP and Telecommunication Services. The requirements of the plan apply to all work performed under the contract; whether performed by the prime contractor or subcontractor.

Based on the average of Fiscal Years 2009 and 2010 Federal Procurement Data System retrieved, it is estimated that 80 small businesses will be affected annually.

GSA did not identify any significant alternatives that would accomplish the objectives of the rule. Collection of information on a basis other than by individual contractors is not practical. The contractor is the only one who has the records necessary for the collection.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies because the interim rule contains information collection requirements. Accordingly, the Regulatory Secretariat will submit a request for approval of a new information collection requirement concerning Security Requirements for Unclassified Information Technology Resources (GSAR 552.239–70) to the Office of Management and Budget.

Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

Respondents: 147.
Responses per respondent: 2.
Total annual responses: 294.
Preparation hours per response: 5.
Total response burden hours: 1,470.

VI. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than August 15, 2011 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by inputting ''GSAR case 2011–G503'' under the heading ''Enter Keyword or ID'' and selecting ''Search''. Select the link ''Submit a Comment'' that corresponds with ''GSAR case 2011–G503''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your

name, company name (if any), and ''GSAR case 2011–G503'' on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417. ATTN: Hada Flowers/GSAR case 2011–G503.

Instructions: Please submit comments only and cite GSAR case 2011–G503, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the GSAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requester may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., 7th Floor, Washington, DC 20417. Please cite OMB Control Number 3090–0294, Title: Security Requirements for Unclassified Information Technology Resources (GSAR 552.239–71), in correspondence.

VII. Determination To Issue an Interim Rule

A determination has been made under the authority of the Administrator of General Services (GSA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because GSA must provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source. Section 3544(a)(1)(A)(ii) of the Federal Information Security Management Act (FISMA) describes Federal agency security responsibilities as including ''information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency.''

However, pursuant to 41 U.S.C. 418b and FAR 1.501, GSA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 539 and 552

Government procurement.

Dated: June 9, 2011.

Joseph A. Neurauter,

Senior Procurement Executive, Office of Acquisition Policy, General Services Administration.

Therefore, GSA amends 48 CFR parts 539 and 552 as set forth below:

■ 1. Part 539 is added to read as follows:

PART 539—ACQUISITION OF INFORMATION TECHNOLOGY

Subpart 539.70—Additional Requirements for Purchases Not in Support of National Security Systems

Sec.

Authority: 40 U.S.C. 121(c).

Subpart 539.70—Additional Requirements for Purchases Not in Support of National Security Systems

539.7000 Scope of subpart.

This subpart prescribes acquisition policies and procedures for use in acquiring information technology supplies, services and systems not in support of national security systems, as defined by FAR part 39.

539.7001 Policy.

(a) GSA must provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source. Section 3544(a)(1)(A)(ii) of the Federal Information Security Management Act (FISMA) describes Federal agency security responsibilities as including ''information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency.''

(b) Employees responsible for or procuring information technology supplies, services and systems shall possess the appropriate security clearance associated with the level of security classification related to the acquisition. They include, but are not limited to contracting officers, contract specialists, project/program managers, and contracting officer representatives.

(c) Contracting activities shall coordinate with requiring activities and program officials to ensure that the solicitation documents include the appropriate information security requirements. The information security requirements must be sufficiently detailed to enable service providers to fully understand the information security regulations, mandates, and requirements that they will be subject to under the contract or task order.

(d) GSA's Office of the Senior Agency Information Security Officer issued CIO IT Security Procedural Guide 09–48, ''Security Language for Information Technology Acquisitions Efforts,'' to provide IT security standards, policies and reporting requirements that shall be inserted in all solicitations and contracts or task orders where an information system is contractor owned and operated on behalf of the Federal Government. The guide can be accessed at *http://www.gsa.gov/portal/category/25690.*

539.7002 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the provision at 552.239–70, Information Technology Security Plan and Security Authorization, in solicitations that include information technology supplies, services or systems in which the contractor will have physical or electronic access to government information that directly supports the mission of GSA.

(b) The contracting officer shall insert the clause at 552.239–71, Security Requirements for Unclassified Information Technology Resources, in solicitations and contracts containing the provision at 552.239–70. The provision and clause shall not be inserted in solicitations and contracts for personal services with individuals.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 2. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

■ 3. Add sections 552.239–70 and 552.239–71 to read as follows:

552.239–70 Information Technology Security Plan and Security Authorization.

As prescribed in 539.7002(a), insert the following provision:

Information Technology Security Plan and Security Authorization (JUN 2011)

All offers/bids submitted in response to this solicitation must address the approach for completing the security plan and certification and security authorization requirements as required by the clause at 552.239–71, Security Requirements for

Unclassified Information Technology Resources.

(End of provision)

552.239–71 Security Requirements for Unclassified Information Technology Resources.

As prescribed in 539.7002(b), insert the following clause:

Security Requirements for Unclassified Information Technology Resources (JUN 2011)

(a) *General.* The Contractor shall be responsible for information technology (IT) security, based on General Services Administration (GSA) risk assessments, for all systems connected to a GSA network or operated by the Contractor for GSA, regardless of location. This clause is applicable to all or any part of the contract that includes information technology resources or services in which the Contractor has physical or electronic access to GSA's information that directly supports the mission of GSA, as indicated by GSA. The term information technology, as used in this clause, means any equipment, including telecommunications equipment that is used in the automatic acquisition, storage, manipulation, management, control, display, switching, interchange, transmission, or reception of data or information. This includes major applications as defined by OMB Circular A–130. Examples of tasks that require security provisions include:

(1) Hosting of GSA e-Government sites or other IT operations;

(2) Acquisition, transmission, or analysis of data owned by GSA with significant replacement cost should the Contractors copy be corrupted;

(3) Access to GSA major applications at a level beyond that granted the general public; *e.g.*, bypassing a firewall; and

(4) Any new information technology systems acquired for operations within the GSA must comply with the requirements of HSPD–12 and OMB M–11–11. Usage of the credentials must be implemented in accordance with OMB policy and NIST guidelines (*e.g.,* NIST SP 800–116). The system must operate within the GSA's access management environment. Exceptions must be requested in writing and can only be granted by the GSA Senior Agency Information Security Officer.

(b) *IT Security Plan.* The Contractor shall develop, provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract. The plan shall describe those parts of the contract to which this clause applies. The Contractors IT Security Plan shall comply with applicable Federal laws that include, but are not limited to, 40 U.S.C. 11331, the Federal Information Security Management Act (FISMA) of 2002, and the E-Government Act of 2002. The plan shall meet IT security requirements in accordance with Federal and GSA policies and procedures. GSA's Office of the Chief Information Officer issued ''CIO IT Security Procedural Guide 09–48, Security Language for Information Technology Acquisitions Efforts,'' to provide IT security standards, policies and reporting requirements. This document is incorporated by reference in all solicitations and contracts or task orders where an information system is contractor owned and operated on behalf of the Federal Government. The guide can be accessed at *http://www.gsa.gov/portal/category/25690.* Specific security requirements not specified in ''CIO IT Security Procedural Guide 09–48, Security Language for Information Technology Acquisitions Efforts'' shall be provided by the requiring activity.

(c) *Submittal of IT Security Plan.* Within 30 calendar days after contract award, the Contractor shall submit the IT Security Plan to the Contracting Officer and Contracting Officers Representative (COR) for acceptance. This plan shall be consistent with and further detail the approach contained in the contractors proposal or sealed bid that resulted in the award of this contract and in compliance with the requirements stated in this clause. The plan, as accepted by the Contracting Officer and COR, shall be incorporated into the contract as a compliance document. The Contractor shall comply with the accepted plan.

(d) *Submittal of a Continuous Monitoring Plan.* The Contractor must develop a continuous monitoring strategy that includes:

(1) A configuration management process for the information system and its constituent components;

(2) A determination of the security impact of changes to the information system and environment of operation;

(3) Ongoing security control assessments in accordance with the organizational continuous monitoring strategy;

(4) Reporting the security state of the information system to appropriate GSA officials; and

(5) All GSA general support systems and applications must implement continuous monitoring activities in accordance with this guide and NIST SP 800–37 Revision 1, *Guide for Applying the Risk Management Framework to Federal Information Systems: A Security Life Cycle Approach.*

(e) *Security authorization.* Within six (6) months after contract award, the Contractor shall submit written proof of IT security authorization for acceptance by the Contracting Officer. Such written proof may be furnished either by the Contractor or by a third party. The security authorization must be in accordance with NIST Special Publication 800–37. This security authorization will include a final security plan, risk assessment, security test and evaluation, and disaster recovery plan/continuity of operations plan. This security authorization, when accepted by the Contracting Officer, shall be incorporated into the contract as a compliance document, and shall include a final security plan, a risk assessment, security test and evaluation, and disaster recovery/continuity of operations plan. The Contractor shall comply with the accepted security authorization documentation.

(f) *Annual verification.* On an annual basis, the Contractor shall submit verification to the Contracting Officer that the IT Security plan remains valid.

(g) *Warning notices.* The Contractor shall ensure that the following banners are displayed on all GSA systems (both public and private) operated by the Contractor prior to allowing anyone access to the system:

Government Warning

WARNINGWARNING**WARNING**

Unauthorized access is a violation of U.S. law and General Services Administration policy, and may result in criminal or administrative penalties. Users shall not access other users or system files without proper authority. Absence of access controls IS NOT authorization for access! GSA information systems and related equipment are intended for communication, transmission, processing and storage of U.S. Government information. These systems and equipment are subject to monitoring by law enforcement and authorized Department officials. Monitoring may result in the acquisition, recording, and analysis of all data being communicated, transmitted, processed or stored in this system by law enforcement and authorized Department officials. Use of this system constitutes consent to such monitoring.

WARNINGWARNING**WARNING**

(h) *Privacy Act notification.* The Contractor shall ensure that the following banner is displayed on all GSA systems that contain Privacy Act information operated by the Contractor prior to allowing anyone access to the system:

This system contains information protected under the provisions of the Privacy Act of 1974 (Pub. L. 93–579). Any privacy information displayed on the screen or printed shall be protected from unauthorized disclosure. Employees who violate privacy safeguards may be subject to disciplinary actions, a fine of up to $5,000, or both.

(i) *Privileged or limited privileges access.* Contractor personnel requiring privileged access or limited privileges access to systems operated by the Contractor for GSA or interconnected to a GSA network shall adhere to the specific contract security requirements contained within this contract and/or the Contract Security Classification Specification (DD Form 254).

(j) *Training.* The Contractor shall ensure that its employees performing under this contract receive annual IT security training in accordance with OMB Circular A–130, FISMA, and NIST requirements, as they may be amended from time to time during the term of this contract, with a specific emphasis on the rules of behavior.

(k) *Government access.* The Contractor shall afford the Government access to the Contractor's and subcontractors' facilities, installations, operations, documentation, databases, IT systems and devices, and personnel used in performance of the contract, regardless of the location. Access shall be provided to the extent required, in the Government's judgment, to conduct an IT inspection, investigation or audit, including vulnerability testing to safeguard against

threats and hazards to the integrity, availability and confidentiality of GSA data or to the function of information technology systems operated on behalf of GSA, and to preserve evidence of computer crime. This information shall be available to GSA upon request.

(l) *Subcontracts.* The Contractor shall incorporate the substance of this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

(m) *Notification regarding employees.* The Contractor shall immediately notify the Contracting Officer when an employee either begins or terminates employment when that employee has access to GSA information systems or data. If an employee's employment is terminated, for any reason, access to GSA's information systems or data shall be immediately disabled and the credentials used to access the information systems or data shall be immediately confiscated.

(n) *Termination.* Failure on the part of the Contractor to comply with the terms of this clause may result in termination of this contract.

(End of clause)

[FR Doc. 2011–14728 Filed 6–14–11; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. FRA–2009–0007, Notice No. 3]

RIN 2130–AC01

Track Safety Standards; Concrete Crossties

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; delay of effective date.

SUMMARY: This document delays the effectiveness of the final rule, which mandates specific requirements for effective concrete crossties, for rail fastening systems connected to concrete crossties, and for automated inspections of track constructed with concrete crossties. The Track Safety Standards were amended via final rule on April 1, 2011, and the final rule was scheduled to take effect on July 1, 2011. FRA received two petitions for reconsideration in response to the final rule that contain substantive issues requiring a detailed response. Accordingly, in order to fully respond to the petitions for reconsideration, this document delays the effective date of the final rule until October 1, 2011.

DATES: The effective date for the final rule published April 1, 2011, at 76 FR 18073, effective July 1, 2011, is delayed until October 1, 2011.

FOR FURTHER INFORMATION CONTACT: Kenneth Rusk, Staff Director, Office of Railroad Safety, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone: (202) 493–6236); or Veronica Chittim, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20950 (telephone: (202) 493–0273).

SUPPLEMENTARY INFORMATION: On April 1, 2011, FRA published a final rule mandating specific requirements for effective concrete crossties, for rail fastening systems connected to concrete crossties, and for automated inspections of track constructed with concrete crossties. See 76 FR 18073. The effective date of this final rule was to be July 1, 2011. FRA received two petitions for reconsideration in response to the final rule that contain substantive issues requiring a detailed response from FRA. Accordingly, in order to allow FRA appropriate time to consider and fully respond to the petitions for reconsideration, this document delays the effective date of the final rule until October 1, 2011. Therefore, any requirements imposed by the final rule need not be complied with until October 1, 2011.

List of Subjects in 49 CFR Part 213

Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

In consideration of the foregoing, FRA delays the effective date of the final rule until October 1, 2011.

Issued in Washington, DC, on June 9, 2011.

Joseph C. Szabo,

Administrator.

[FR Doc. 2011–14835 Filed 6–10–11; 4:15 pm]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 110601314–1313–01]

RIN 0648–BA99

Pacific Halibut Fisheries; Limited Access for Guided Sport Charter Vessels in Alaska

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

ACTION: Interpretative rule.

SUMMARY: This rule clarifies regulations that apply to vessels operating in the guided sport (charter) fishery for halibut in International Pacific Halibut Commission Regulatory Area 2C (Southeast Alaska) and Area 3A (Central Gulf of Alaska). Under regulations implementing the charter halibut limited access program, operators of a vessel in Area 2C or Area 3A with one or more charter vessel anglers onboard that catch and retain halibut must have an Alaska Department of Fish and Game (ADF&G) Saltwater Charter Logbook onboard which specifies the person named on the charter halibut permit(s) being used onboard the vessel, and the charter halibut permit number(s) being used onboard the vessel. This interpretation clarifies that a charter operator may use the ADF&G Saltwater Charter Logbook issued for the vessel to record the charter halibut permit information. A charter vessel operator is not required to have a separate ADF&G Saltwater Charter Logbook issued in the name of the charter halibut permit holder.

DATES: This rule is effective on June 15, 2011.

ADDRESSES: Electronic copies of this action and other related documents are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Gwen Herrewig, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). Sections 773c(a) and (b) of the Halibut Act provide the Secretary of Commerce (Secretary) with general responsibility to carry out the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea and the Halibut Act. Section 773c(c) of the Halibut Act also authorizes the North Pacific Fishery Management Council (Council) to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Such Council-developed regulations may be implemented by NMFS only after approval by the Secretary. The Council has exercised this authority in the development of its limited access program for charter vessels in the

guided sport fishery, codified at 50 CFR 300.67.

Charter Halibut Limited Access Program

In March 2007, the Council recommended a limited access program for charter vessels in IPHC Regulatory Area 2C and Area 3A. The intent of the program was to manage growth of fishing capacity in the charter sector by limiting the number of charter vessels that may participate in the guided sport fishery for halibut in Areas 2C and 3A. NMFS published a final rule implementing the program on January 5, 2010 (75 FR 554). Under the program, NMFS initially issued a charter halibut permit (CHP) to qualified applicants. A person who was not initially issued a CHP may obtain a transferable CHP from another person by submitting a transfer application and meeting CHP transfer requirements. A permit holder may use a CHP onboard any vessel that meets Federal and state requirements to operate as a charter vessel in the guided sport fishery for halibut in Areas 2C and 3A.

Beginning February 1, 2011, any person operating a vessel on which charter vessel anglers catch and retain halibut in Area 2C or Area 3A must complete an ADF&G Saltwater Charter Logbook (charter logbook) that contains information on the CHP authorizing the charter vessel fishing trip. The preamble for the proposed rule to implement the charter halibut limited access program, published on April 21, 2009 (74 FR 18178), provided the rationale underlying this requirement. The Council originally recommended a prohibition on the leasing of CHPs. NMFS did not implement this prohibition because (1) the Council did not provide a specific definition of leasing; and (2) such a prohibition likely would have disrupted the operation of many charter businesses and be difficult to enforce. After additional consideration on this issue, the Council recommended three specific charter logbook reporting requirements, in place of the prohibition on leasing, to promote involvement by the CHP holder with the charter halibut fishing operation:

1. Prohibit the CHP from being used onboard a vessel unless that vessel is identified in an ADF&G Saltwater Charter Logbook;

2. Require that a charter vessel operator have onboard the vessel an ADF&G Saltwater Charter Logbook issued in the name of the CHP holder; and

3. Require the authorizing CHP number to be recorded in the ADF&G Saltwater Charter Logbook for each trip.

In the final rule implementing the charter halibut limited access program (75 FR 554, January 5, 2010), NMFS implemented the Council's charter logbook reporting recommendations in regulations at § 300.66(v). Section 300.66(v) states that is unlawful for any person to:

(v) Be an operator of a vessel in Area 2C or Area 3A with one or more charter vessel anglers onboard that are catching and retaining halibut without having onboard the vessel a State of Alaska Department of Fish and Game Saltwater Charter Logbook that specifies the following:

(1) The person named on the charter halibut permit or permits being used onboard the vessel;

(2) The charter halibut permit or permit number(s) being used onboard the vessel; and

(3) The name and State issued boat registration (AK number) or U.S. Coast Guard documentation number of the vessel.

This interpretive rule is administrative and clarifies that NMFS is relying on the regulatory text at § 300.66(v) for management purposes, and not the preamble text. This interpretive rule would not change requirements, or long standing procedures, for charter halibut businesses to obtain charter logbooks from ADF&G. The regulatory language in § 300.66(v)(1) does not explicitly require a charter vessel operator to have onboard the vessel a charter logbook issued in the name of the CHP holder, despite what was stated in the preamble to the limited access program proposed rule.

NMFS also determined that in some circumstances, a CHP holder may be unable to obtain a charter logbook for the vessel. This is because CHPs may be issued in the name of an individual, community quota entity, or other owners and not necessarily the business in which the charter logbooks are issued. The State of Alaska issues a charter logbook for a vessel in the name of the Sport Fishing Business on a charter operator's State of Alaska Business License. Although the State of Alaska Business License lists the names of the owner and business, only the business name is recorded in the 2011 charter logbook. It is ADF&G's policy that charter fishing activity on one vessel should be recorded in the charter logbook issued for that vessel. NMFS assigns a CHP to the individual or non-individual entity who was the owner of the business that qualified for the CHP or who received the CHP by transfer. The person named on the CHP may or may not have provided NMFS a business name associated with their CHP. Therefore the names on the CHP and the charter logbook may not match since CHP applicants were not required to provide the business name in which the charter logbook was issued. Consequently, the requirement for a charter vessel operator to have onboard the vessel a charter logbook issued in the name of the CHP holder may not be consistent with the manner in which ADF&G issues charter logbooks.

Additionally, requiring a charter vessel operator to have onboard the vessel a charter logbook issued in the name of the CHP holder, as stated in the Council's recommendation and in the preamble to the limited access program proposed rule, may compromise charter logbook data quality. For example, a charter operator may use multiple CHPs onboard a vessel to increase the number of anglers on a charter vessel fishing trip. If the CHPs onboard the vessel are issued to different persons, the operator would be required to record information for that charter vessel fishing trip in more than one charter logbook. This would result in information for one charter vessel fishing trip being recorded in multiple charter logbooks. ADF&G could receive data pages for charter trip information from each charter logbook, potentially resulting in duplicate data for halibut and other species. Duplicate data would increase the potential for data entry error and could ultimately result in less reliable charter harvest estimates. ADF&G uses the logbook data received from the charter vessel operators to project the charter harvest estimates for the season. This projection is presented to the Council and the IPHC in October each year.

Interpretation

This rule clarifies that Federal regulations in § 300.66(v)(1), (2), and (3) require operators of a vessel using one or more CHPs to complete the charter logbook as follows:

- Record the person(s) named on the CHP(s) on the front of the ADF&G Saltwater Charter Logbook in the space provided for the CHP holder name;
- Record the CHP number on the charter logbook page for the trip it was used. If multiple CHPs are used for the same charter vessel fishing trip, the operator should (1) check the box indicating ''more than one CHP is being used on this trip'', (2) fill out a second page for the trip with the second CHP number, associated anglers, and activity, and (3) continue until all CHPs numbers, associated anglers, and activity for the trip are recorded on separate logbook pages.

• Verify that the name and state issued boat registration (AK number) or U.S. Coast Guard documentation number of the vessel on which the logbook is used is recorded in the charter logbook.

NMFS did not intend for the prohibition at § 300.66(v) to conflict with the collection of charter logbook data. It was meant to promote involvement by the CHP holder with the charter halibut fishing operation and the collection of accurate logbook data. The requirement to identify the vessel in the logbook was intended to be consistent with an existing ADF&G requirement that a charter vessel operator have onboard the vessel a charter logbook. Therefore, this interpretation clarifies that a charter vessel operator must record in the charter logbook issued for the vessel the person named on the CHP(s) and the CHP number(s) used for each charter vessel fishing trip.

Classification

The Assistant Administrator for Fisheries, NOAA has determined that this interpretation is consistent with the Halibut Act and other applicable law.

This action is administrative in nature and is exempt from the requirement to prepare an environmental assessment in accordance with NAO 216–6 because this interpretive rule will have no effect on the environment. As stated earlier in the preamble, this action ensures that the issuance of charter logbooks remains the same as before the implementation of the limited access program for guided sport charter vessels and clarifies confusion about who could be issued a charter logbook.

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

The notice and comment requirements and the 30-day delay in the effective date requirements of the Administrative Procedure Act do not apply to this interpretive rule as provided in 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(d)(2).

This interpretive rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

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

Dated: June 9, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 2011–14854 Filed 6–14–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 622

[Docket No. 110422261–1309–02]

RIN 0648–BA70

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Snapper-Grouper Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the approved actions identified in a regulatory amendment (Regulatory Amendment 9) to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) prepared by the South Atlantic Fishery Management Council (Council). This final rule reduces the recreational bag limit for black sea bass, increases the commercial trip limit for greater amberjack, and establishes commercial trip limits for vermilion snapper and gag. This rule also implements a minor revision to the mailing address for the NMFS Southeast Regional Administrator (RA), revises commercial trip limit codified text for greater amberjack to be consistent with respect to the commercial quota, and corrects two closed area coordinates published in a previous rulemaking. The intended effect of this final rule is to address derby-style fisheries for black sea bass, gag, and vermilion snapper while reducing the rate of harvest to extend the fishing seasons of these three species, to achieve optimum yield (OY) for greater amberjack, and to implement technical corrections to the regulations.

DATES: This rule is effective July 15, 2011, except for the amendment to § 622.39, which is effective June 22, 2011.

ADDRESSES: Electronic copies of the regulatory amendment, which includes an environmental assessment, a regulatory impact review, and a regulatory flexibility act analysis may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm.*

FOR FURTHER INFORMATION CONTACT: Kate Michie, 727–824–5305, e-mail: *Kate.Michie@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On April 29, 2011, NMFS published a proposed rule for Regulatory Amendment 9 and requested public comment (76 FR 23930). The proposed rule and the regulatory amendment outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule are provided below.

This final rule sets the black sea bass recreational bag limit at 5-fish per person per day. This bag limit is projected to slow the rate of recreational harvest to allow for a longer recreational fishing season. The effective date for the implementation of the bag limit reduction is June 22, 2011, which is earlier than the effective date for the other actions within this final rule. This earlier date of implementation will allow for adequate notice to recreational fishers to plan their fishing activities without delaying the implementation of the bag limit reduction, and will minimize unnecessary economic impacts to snapper-grouper fisherman by allowing for a longer fishing season and more fishing trips.

To increase the probability of the greater amberjack commercial sector achieving OY, this final rule increases the commercial trip limit to 1,200 lb (544 kg). This increased trip limit is expected to increase harvest opportunities within the commercial sector.

This final rule implements commercial trip limits for vermilion snapper and gag. These commercial trip limits are intended to slow the rate of harvest, extend commercial harvest opportunities during the fishing year, and reduce the risk of commercial quota closures early in the fishing year.

This final rule also revises an outdated mailing address for the NMFS Southeast Regional Administrator (RA) and corrects two closed area coordinates published in the final rule implementing Comprehensive Ecosystem-Based Amendment 1 in the South Atlantic (CE–BA1) (75 FR 35330, June 22, 2010). The final rule for CE–BA1 contained one latitudinal and one longitudinal coordinate that were incorrectly identified. These additional measures are unrelated to the actions contained in Regulatory Amendment 9.

Partial Approval of Regulatory Amendment 9

Under the Magnuson-Stevens Act, the Secretary of Commerce (Secretary) may approve, disapprove or partially approve an amendment upon submission of an amendment by the Council. The Secretary shall disapprove or partially approve an amendment if the Secretary finds that the amendment, or parts of the amendment, are inconsistent with the requirements of applicable law.

NMFS disapproved the proposed management measure that would have implemented split season quotas for commercial black sea bass because it finds the administrative record for that measure insufficient under the Administrative Procedure Act because NMFS received additional information that impacted its decision to implement a split season quota. The Council had proposed splitting the commercial quota into two 6-month seasons; from June–November the quota would be 128,547 lb (58,308 kg), and from December–May the quota would be 180,453 lb (81,852 kg), and any unharvested quota from the June–November season would be added to the quota for the following December–May season. During the comment period on the proposed rule, NMFS received several comments opposed to the split season quota. Two commenters were concerned about the proposed measure's possible negative impacts on North Atlantic right whales. North Atlantic right whales are listed as endangered under the Endangered Species Act, and the commenters indicated that right whales may be at particular risk to entanglement with vertical lines in the South Atlantic exclusive economic zone (EEZ). Splitting the commercial black sea bass quota to specifically allow for fishing in December through May would result in the presence of numerous vertical black sea bass pot buoy lines within the North Atlantic right whale winter migration route along the Southeast coast. The commenter additionally cited recent information from an April 2011 Atlantic Large Whale Take Reduction Team (ALWTRT) meeting that validated there is a risk to North Atlantic right whales from vertical black sea bass buoy gear in the South Atlantic EEZ. Another commenter indicated that implementation of a split season would increase the derby nature of the black sea bass commercial sector.

The information in these comments led NMFS to reconsider information regarding marine mammal entanglements in black sea bass pot gear. Recent scientific information suggests North Atlantic right whales are potentially more vulnerable to entanglements in South Atlantic fisheries gear than previously thought. New data suggest the coastal waters of South Carolina, North Carolina, and possibly Virginia may be used as birthing and calving areas for right whales, and that some right whales make multiple intra-season trips between the U.S. Northeast and Southeast regions. Saving the largest portion of the black sea bass commercial quota for the December through May time period would reintroduce vertical black sea bass pot buoy lines during the time of the year when the right whales are transiting and residing off the South Atlantic coast, and would undermine the ongoing efforts of the ALWTRT to reduce the entanglement risk for large whales.

Thus, while the administrative record for Regulatory Amendment 9 now contains the information discussed above, it is clear that the Council did not have the opportunity to consider this information prior to making their decision to approve the split season, thus overlooking an important aspect of the implications of a split season implementation. Therefore, after considering public comments opposed to the split season for socio-economic reasons, concerns undermining the efforts of the ALWTRT to reduce the risk of entanglement to large whales, and new information that has become available from the ALWTRT, NMFS has disapproved the commercial black sea bass split season action within Regulatory Amendment 9, and is not implementing that provision as indicated in the proposed rule.

As a result of the partial approval of Regulatory Amendment 9, the quota for the black sea bass commercial sector remains at 309,000 lb (140,160 kg) for the entire fishing year of June through May.

Comments and Responses

The following is a summary of the comments NMFS received on the proposed rule and Regulatory Amendment 9, and NMFS's respective responses. During the comment period, NMFS received a total of 22 comments from individuals, state and Federal agencies, and fishing associations. Of the 22 comments, two comments expressed general support, and eight individual comments opposed one or more actions contained in Regulatory Amendment 9. Two environmental organizations both provided a comment that was similar in its intent opposing one of the actions in Regulatory Amendment 9. NMFS received nine comments that did not support or oppose Regulatory Amendment 9, but suggested alternative means for managing components of the snapper-grouper fishery. One state and one Federal agency submitted comments on Regulatory Amendment 9. Specific comments related to the actions contained in the amendment and the rule as well as NMFS' respective responses, are summarized below.

Comment 1: Several commenters stated the data used to determine that black sea bass are overfished and undergoing overfishing are flawed because they are seeing numerous black sea bass while on fishing trips. One commenter stated the use of what is considered ''the best science available'' is a distorted interpretation of the true intent of the Magnuson-Stevens Act, and one commenter stated Regulatory Amendment 9 is an example of the Federal Government intruding into what should be considered a state issue.

Response: Black sea bass were most recently assessed through the Southeast, Data, Assessment, and Review process (SEDAR), the findings of which can be found in the 2006 SEDAR 2 update, which determined the black sea bass stock was overfished and undergoing overfishing.

SEDAR is a cooperative process initiated in 2002 to improve the quality and reliability of fishery stock assessments in the South Atlantic, Gulf of Mexico, and U.S. Caribbean. SEDAR is managed by the Caribbean, Gulf of Mexico, and South Atlantic Regional Fishery Management Councils (Councils) in coordination with NMFS and the Atlantic and Gulf States Marine Fisheries Commissions. SEDAR seeks improvements in the scientific quality of stock assessments and greater relevance of information available to address existing and emerging fishery management issues. SEDAR emphasizes constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments. SEDAR is organized around three workshops. The first is a data workshop where datasets are documented, analyzed, and reviewed and data for conducting assessment analyses are compiled. The second is an assessment workshop where quantitative population analyses are developed and refined and population parameters are estimated. The third is a review workshop where a panel of independent experts reviews the data and assessment, and recommends the most appropriate values of critical population and

management quantities. All SEDAR workshops are open to the public. Public testimony is accepted in accordance with each Council's standard operating procedures.

The findings and conclusions of each SEDAR workshop are documented in a series of reports, which are ultimately reviewed and discussed by the appropriate Council and its Scientific and Statistical Committee.

Recreational fishing data are collected by the Marine Recreational Fishing Statistics Survey (MRFSS), which conducts telephone surveys of coastal households and for-hire businesses, as well as in-person access-point angler intercept surveys. These surveys are used to collect information on recreational fishery participation, fishing effort and catch, in addition to the demographic, social, and economic characteristics of the participants. NMFS recognizes that within MRFSS data there may be uncertainty for infrequently encountered species and is working with recreational and for-hire fishermen to address this issue through the Marine Recreational Information Program (MRIP).

A new SEDAR stock assessment (SEDAR 25) is currently underway for black sea bass. This assessment is scheduled to be completed in October 2011. If results of SEDAR 25 indicate an increased level of commercial and recreational harvest could be allowed without negatively impacting rebuilding efforts, the Council may consider addressing black sea bass harvest limits in a future amendment.

National Standard 2 of the Magnuson-Stevens Act states: ''Conservation and management measures shall be based upon the best scientific information available.'' NMFS has not modified the intended interpretation of the National Standard 2 language. Black sea bass was assessed through the SEDAR process and the findings of the most recent SEDAR for black sea bass can be found in the SEDAR 2 2006 update. Additionally, vermilion snapper was assessed in SEDAR 17 (2008); gag was assessed in SEDAR 10 (2006); and greater amberjack was assessed in SEDAR 15 (2008). All SEDAR stock assessments can be found at the Internet site: *http://www.sefsc.noaa.gov/sedar/*. Though these stock assessments form the basis for many fishery management decisions, the actions in Regulatory Amendment 9 were largely supported by recent landings data derived from vessel logbooks, headboat logbooks, and MRFSS/MRIP data in order to determine which trip limits or bag limits would be most effective in extending fishing opportunities for the subject species. Landings data are provided by the NMFS Southeast Fisheries Science Center, which also certified the data used in Regulatory Amendment 9 as the best scientific information available in a memorandum dated May 2, 2011.

The Federal Government has jurisdiction over fisheries prosecuted in Federal waters, *i.e.,* the area 3 miles (4.8 km) to 200 miles (322 km) offshore in the South Atlantic. The snapper-grouper fishery, including black sea bass, gag, vermilion snapper, and greater amberjack, is included in the list of Federally-managed fisheries. Therefore, when modifications to Federal fisheries regulations are needed, NMFS, the government agency responsible for managing Federal fisheries, is the appropriate entity to carry out those changes.

Comment 2: One commenter opposed splitting the black sea bass commercial quota into two 6-month seasons because the December–May portion of the fishing year is likely to increase the risk of entanglement to endangered North Atlantic right whales that reside in the waters off the South Atlantic coast during the winter months. They additionally noted that a 2008 survey of black sea bass fishermen indicated black sea bass pots are deployed in closer proximity to each other during the winter months than during the summer months, which could increase the threat of entanglement in fishing gear to right whales. The commenter also lists ship strikes and entanglement in vertical lines as the top two factors responsible for preventing rebuilding of the North Atlantic right whale population. Furthermore, the ALWTRT convened a meeting in April 2011, where the issue of reducing risk to right whales from vertical lines in the South Atlantic was a significant focus of the meeting. The ALWTRT has determined that NMFS should reduce the risk of right whale entanglement associated with vertical line gear (which includes black sea bass pot buoy gear).

Response: NMFS has chosen not to approve the action to split the black sea bass commercial quota into two 6-month seasons. New information on the possible impacts of black sea bass pot fishing during the December through May split season was received by NMFS, after the Council had submitted Regulatory Amendment 9 for Secretarial approval, and NMFS has determined it is not appropriate to approve the split season commercial quota action at this time as previously explained. However, disapproval of the split season commercial quota in Regulatory Amendment 9 does not preclude the Council from considering the action in a future amendment, after a thorough analysis of all relevant data has been completed.

Splitting the commercial black sea bass quota to specifically allow for fishing in December through May would result in the presence of numerous vertical black sea bass pot buoy lines within the North Atlantic right whale winter migration route along the Southeast coast. The April 2011 ALWTRT meeting validated there is a risk to North Atlantic right whales from vertical black sea bass buoy gear in the South Atlantic EEZ.

Recent scientific information suggests North Atlantic right whales are potentially more vulnerable to entanglements in South Atlantic fisheries gear than previously thought. New data suggest the coastal waters of South Carolina, North Carolina, and possibly Virginia may be used as birthing and calving areas for right whales, and that some right whales make multiple intra-season trips between the U.S. Northeast and Southeast regions. Saving the largest portion of the black sea bass commercial quota for the December through May time period would reintroduce vertical black sea bass pot buoy lines during the time of the year when the right whales are transiting and residing off the South Atlantic coast, and would undermine the ongoing efforts of the ALWTRT to reduce the entanglement risk for large whales.

Comment 3: One commenter opposed splitting the commercial quota for black sea bass into two seasons without first implementing a catch share program or trip limits to prevent derby conditions in each of the two split seasons. Another commenter opposed splitting the black sea bass commercial quota because it would allow commercial fishing to occur while the black sea bass recreational sector is potentially closed.

Response: The Council considered commercial trip limits as part of the range of alternatives for addressing the derby nature of the black sea bass component of the snapper-grouper fishery. The trip limits analyzed in Regulatory Amendment 9 ranged from 340 lb (154.2 kg) gutted weight to 2,500 lb (1,134 kg) gutted weight. However, Amendment 18A to the FMP, currently under development by the Council and NMFS, includes a proposed action that would require fishermen to return pots to shore at the conclusion of a commercial fishing trip. If this action is implemented through subsequent rulemaking, there is a possibility that the trip limit could unintentionally be exceeded. As black sea bass pot fishermen go through the process of

retrieving the pots, they may find the trip limit has been met when only a portion of the pots they deployed have been retrieved. Therefore, the catch contained in each pot retrieved after the trip limit is met must be discarded, causing unnecessary biological and economic harm. For this reason, the Council did not select the alternative to implement a commercial trip limit for black sea bass in Regulatory Amendment 9.

Actions are under development by the Council and NMFS that could reduce the derby nature of the black sea bass commercial sector. In addition to the requirement of returning pots to shore at the conclusion of a commercial fishing trip, Amendment 18A to the FMP includes a proposed action to limit the number of black sea bass pots that can be fished. Additionally, a catch share program for several snapper-grouper species, including black sea bass, was under development in Amendment 21 to the FMP. However, at its March 2011 meeting, the Council reviewed public comments and testimony from scoping meetings held in January and February of 2011, and determined there was not enough public support to continue development of a catch share program for species in the snapper-grouper fishery. It is important to note, the Council's decision not to move forward with snapper-grouper catch shares at this time does not preclude the development of a catch share program in the future.

If the recreational sector were to meet the recreational annual catch limit (ACL) before the commercial sector reached the commercial quota during either of the two split seasons, there is a possibility that commercial fishing may occur while the recreational sector is closed. However, the previously established commercial and recreational ACLs would not change for either sector and, therefore, total allowable harvest would remain the same regardless of how the commercial season is configured or how quickly the recreational sector may harvest its ACL in a given fishing year.

Comment 4: Several commenters supported implementing split season commercial quotas for black sea bass and one commenter states the split season commercial quota for black sea bass would help rebuild the stock.

Response: NMFS agrees that split season quotas for the black sea bass component of the snapper-grouper fishery may benefit the fishing community by creating two distinct opportunities to fish for black sea bass rather than one season that has recently been relatively short. However, while split seasons may provide an opportunity for commercial harvest during some additional months of the year, the commercial quota has not increased. Therefore, if fishing effort remains consistent, the split season commercial quotas would be expected to be met early in each split season, which would result in periods of time where there would be no fishing for black sea bass with pots. These periods of no fishing effort would benefit the stock as would any early closure during the December–May season, which is when black sea bass are in spawning condition. However, for the reasons previously stated, NMFS is not approving the action to split the commercial black sea bass quota into two 6-month seasons.

Comment 5: Three commenters supported a black sea bass recreational bag limit reduction from 15-fish per person per day to 10-fish per person per day bag limit rather than 5-fish per person per day. One commenter supported reducing the black sea bass bag limit by the amount needed to avoid any recreational closure during the fishing year.

Response: Reducing the recreational bag limit to 10-fish per person per day would achieve a harvest reduction of between 2–4 percent, which is not enough to keep the recreational sector open significantly longer than the 2010–2011 recreational black sea bass season which closed in February 2011. A bag limit of 5-fish per person per day is expected to provide a reduction in recreational harvest of about 15.5 percent based on 2010 data, as well as extending the recreational fishing season through March. The Council had the option of choosing an even lower bag limit, in order to keep the recreational sector open longer than that expected under the 5-fish daily bag limit alternative. In order to keep the recreational sector open all year, the bag limit would need to be reduced from 15-fish per person per day to below 3-fish per person per day. However, the Council concluded a bag limit lower than five fish could remove the incentive to fish altogether for many potential passengers of for-hire vessels. Additionally, based on data indicating that a large percentage of recreational trips result in approximately five black sea bass being landed per person per day, and that the estimated closure date (based on a 5-fish bag limit) for the 2011–2012 season is the middle of March 2012, the Council chose to implement the 5-fish per person daily recreational bag limit. The Council considers the bag limit an interim measure to extend fishing opportunities farther into the fishing season until the SEDAR 25 stock assessment is completed. The Council may then chose to modify management measures for black sea bass based on the outcome of the new stock assessment.

Comment 6: Several commenters opposed the 5-fish per person daily bag limit for black sea bass, stating that it would be prohibitively expensive to run for-hire trips for such a small number of fish. One recreational fisher indicated he would not pay the same fishing trip cost when restricted to a 5-fish daily bag limit, implying that for-hire fishing operations may suffer negative economic consequences in the form of fewer paying passengers as a result of the lowered bag limit. One of the commenters opposed to the bag limit reduction stated that Regulatory Amendment 9 incorrectly states the length of time the smaller bag limit would extend the season, noting the trip limit is being reduced by two-thirds and therefore, the season should triple in length.

Response: The economic analysis conducted for Regulatory Amendment 9 evaluated the economic effects of the various bag limit alternatives relative to the no action alternative. The no action alternative consists of a 15-fish daily bag limit and an ACL based closure, which is longer than the closure would be under any of the lower bag limit alternatives. Although the for-hire sector would experience reduced profits due to the lower bag limit, it would gain profits through a closure of reduced duration with respect to the no action alternative. Profit gains due to a shorter closure relative to the profit losses due to the bag limit reduction under the 5-fish daily bag limit alternative were estimated to outweigh the profit losses due to the longer closed season experienced under the no action alternative. Based on actual catch of black sea bass by recreational fishermen, a reduction in the bag limit is expected to extend the recreational season through March in a June-May fishing year based on 2010 data. The Council decided that a bag limit of less than 5-fish per person might be too low to be worth taking a fishing trip and a bag limit greater than 5-fish per person would not extend the fishing season by a meaningful amount. Overall, profits of for-hire vessels under the 5-fish bag limit alternative with a shorter duration closure would be higher than those under the 15-fish daily bag limit with a longer duration closure.

The reduction in the black sea bass bag limit was considered by the Council to allow the recreational sector to operate over a longer season. This

measure would be expected to directly affect certain anglers who may eventually cancel fishing trips due to relatively higher fishing costs. However, a majority of anglers would remain relatively unaffected by the measure, because they did not catch more than five black seas bass on a fishing trip.

The reduction in harvest associated with a bag limit reduction is based on the actual catch of fishermen. According to the biological affects analysis, a reduction in the black sea bass bag limit from 15-fish per person to 5-fish per person would reduce recreational landings of black sea bass by 15.5 percent. The current recreational harvest would only be reduced by two-thirds under the bag limit reduction of 5-fish per person, if all fishermen caught the current bag limit of 15-fish per person per day.

Comment 7: Two commenters stated the intent of the bag limit reduction from 15-fish per person per day to 5-fish per person per day is to protect commercial fishermen at the expense of recreational fishermen. One of the same commenters recommends increasing the commercial minimum size limit from 10 inches (25.4 cm) to 12 inches (30.5 cm) total length, which is consistent with the recreational size limit.

Response: The intent of reducing the black sea bass bag limit is to extend recreational fishing opportunities farther into the fishing season than what is possible under the current 15-fish per person daily bag limit. Reducing the black sea bass bag limit is expected to extend recreational fishing for the species by approximately one and one-half months longer in the 2011–2012 season, compared to the closure in early February that occurred during the 2010–2011 fishing season. Because Amendment 17B to the FMP established separate ACLs for the commercial and recreational sectors, management measures that are implemented for one sector do not affect overall allowable harvest of the other sector. Therefore, adjustments to the black sea bass bag limit would independently affect the recreational sector and the commercial sector would not benefit from a reduced recreational bag limit.

Amendment 13C to the FMP increased the recreational minimum size limit for black sea bass from 10 inches (25.4 cm) to 12 inches (30.5 cm) total length and maintained the 10 inch (25.4 cm) size limit implemented in 1999 through Amendment 9 to the FMP for the commercial sector. The average size of black sea bass is largest for fish caught by commercial fishermen and smallest for black sea bass caught by the headboat component of the fishery. The black sea bass 2005 SEDAR Assessment Update #1, indicated that the 10 inch (25.4 cm) total length minimum size limit implemented in 1999 ensures that biomass persists even in a heavily fished environment because it is large enough to protect several year classes of spawning fish resulting in a spawning potential ratio equal to 25.8 percent. The Council did not consider adjusting the minimum size limit for commercially harvested black sea bass through Regulatory Amendment 9.

Comment 8: One commenter stated that lowering the black sea bass bag limit and implementing trip limits for other species would compel anglers to undertake more trips to catch the same amount of fish, thereby increasing their overall costs and exposing them to fishing hazards due to bad weather.

Response: The expectation is that the number of trips overall may increase, but that the trip limits for gag and vermilion snapper and a lower bag limit for black sea bass would effectively constrain the harvest of these three species so that reaching their respective ACLs would occur later in the fishing year than in 2011. For snapper-grouper commercial fishermen attempting to maintain overall harvest levels and associated profits, the number of trips may need to increase to compensate for lower catch-per-trip, which would increase overall costs.

In the case of black sea bass, for the majority of anglers who caught no more than 5-fish per trip, their relative cost of fishing would essentially remain the same. For for-hire vessels, the economic analysis compared the net operating (profit) losses under a higher bag limit with a longer closure against the 5-fish bag limit with a shorter closure. A major conclusion arrived at by this analysis is that profit losses would be lower under the 5-fish bag limit with shorter closure than under the 15-fish bag limit with longer closure. For the commercial sector, operating costs would be expected to increase if more trips are taken to compensate for lower per-trip harvest. The extent to which these costs may be affected is unknown and would fluctuate with fuel costs.

By extending the recreational season for black sea bass and the commercial fishing seasons for gag and vermilion snapper, anglers would be afforded a wider fishing window for undertaking trips so that they could schedule fishing trips to avoid hazardous inclement weather.

Comment 9: One commenter stated several of his for-hire passengers, who are part of a minority population, feel they are being discriminated against as a result of the reduced black sea bass bag limit in this final rule as well as the 2010–2011 early recreational seasonal closure for black sea bass.

Response: Executive Order 12898 requires Federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Appendix D of Regulatory Amendment 9 outlines the environmental justice considerations for the actions contained within the amendment, and a thorough social affects analysis was conducted for each action in the amendment. The regulation applies to all recreational sector participants in the South Atlantic region regardless of their socioeconomic or minority status. Available data does not indicate that minority or low-income populations comprise a disproportionate portion of the for-hire sector, or that minority or low-income populations are disproportionately dependent on black sea bass for subsistence consumption or other purposes. The commenter did not provide sufficient new information that alters NMFS' determination that no disproportionate impacts or environmental justice issues are anticipated as a result of the reduced bag limit.

Comment 10: One commenter supported changing the start date of the fishing year from June 1 to May 1 of each year in order to provide southern North Carolina for-hire vessels with greater opportunities to harvest a share of the recreational ACL.

Response: The June 1 start date for the black sea bass fishing year was implemented through Amendment 13C to the FMP with the intent that, if a closure should occur, it would most likely coincide with the black sea bass spawning season and thus, aid rebuilding efforts. The Council considered two start date alternatives, other than the no action alternative of maintaining the current start date for the fishing year. One alternative was a November 1 start date and the other was a January 1 start date. A May 1 start date was not considered as an alternative, and it would not be expected to significantly alter prosecution of the fishery when compared to the current June 1 start date for the fishing year. A January start date would provide more benefit to fishermen in Georgia and Florida, whereas a June start date would provide more benefit to fishermen in North Carolina and South Carolina. Without a system of regional or state-by-state quotas, different states are going to benefit from different fishing year start

dates disproportionately. Further, NMFS and the Council are committed to exploring the option of a regional management program for black sea bass and potentially other snapper-grouper species.

Comment 11: Three commenters supported the option of closing the black sea bass commercial pot sector once 90 percent of the quota has been caught.

Response: Regulatory Amendment 9 contained one alternative that would close the pot portion of the commercial black sea bass component of the snapper-grouper fishery once 90 percent of the commercial quota is met. The Council chose not to implement this action because of time lags in the data reporting process. Also, the rate at which the black sea bass commercial quota is harvested would make it difficult to determine when the small amount of the remaining commercial quota (10 percent) would be met.

Comment 12: One commenter suggested NMFS prohibit the use of black sea bass pots because they create navigation hazards, they are left to soak too long, and too many are allowed per vessel.

Response: Prohibiting the use of black sea bass pots was not considered by the Council in Regulatory Amendment 9 as an alternative to address derby conditions in the commercial sector. Most black sea bass pot activity is concentrated off the coasts of North Carolina and South Carolina and, to a lesser extent, northern Florida. Amendment 17B to the FMP established separate ACLs for the commercial and recreational sectors for black sea bass. Amendment 18A to the FMP, currently under development, contains several actions that could affect the overall prosecution of the black sea bass component of the snapper-grouper fishery. Amendment 18A to the FMP could limit participation in the commercial sector through an endorsement program and limit the number of pots allowed onboard black sea bass vessels. Amendment 18A to the FMP may also require black sea bass trap fishermen to bring in their pots at the end of each trip.

Comment 13: Three commenters suggested a 1,500-lb (680-kg) commercial trip limit for black sea bass should be implemented.

Response: The Council chose not to specify a trip limit for the commercial black sea bass component of the snapper-grouper fishery because actions in Amendment 18A to the FMP, currently under development, such as requiring fishermen to return pots to shore at the conclusion of a trip, may result in fishermen exceeding the trip limit when retrieving pots. Once a fisherman recognizes the trip limit has been met, all black sea bass caught in the pots ready to be retrieved would have to be discarded, resulting in unnecessary biological harm to the stock and economic harm to the fisherman.

Comment 14: One commenter suggested creating a seasonal commercial closure for black sea bass at the same time as the current shallow-water grouper closure in order to simplify the closure regulations.

Response: The Council considered four different spawning season closure alternatives for black sea bass, with the intent to extend fishing opportunities during the fishing season. However, public opposition to a spawning season closure was significant when considered with respect to the other measures proposed in Regulatory Amendment 9. While many fishermen are in favor of reducing harvest during the spawning season, they felt it would be best accomplished through a modification to the fishing year start date. Additionally, since SEDAR 25 is ongoing, the Council chose not to implement a spawning season closure at this time but may consider additional future black sea bass management measures if the stock assessment indicates such changes are warranted.

Comment 15: Three commenters suggested reducing the commercial trip limit for vermilion snapper when 75 percent of the split season quota is met.

Response: Three alternatives were considered for a vermilion snapper stepped-down trip limit triggered when 75 percent of the quota is harvested. The Council determined that reducing the vermilion snapper commercial trip limit once 75 percent of the quota is reached is not likely to extend the fishing season by a meaningful length of time. In addition, it would be difficult to monitor the small remaining portion of the commercial quota and project when the commercial quota closure should be implemented. Furthermore, trip limit step-downs during the fishing season can disproportionately affect larger vessels because the stepped-down trip limit of 75 percent of the quota would likely be too small to make profitable trips possible. For these reasons in-season trip limit step-downs were not selected by the Council for the vermilion snapper commercial component of the snapper-grouper fishery.

Comment 16: Three commenters suggested implementing a 100-lb (45-kg) commercial trip limit for gag and greater amberjack during the January–April 4-month spawning season closure for shallow-water groupers and the 1-month (April) spawning season closure for greater amberjack to allow for retention of incidentally captured gag and greater amberjack.

Response: Allowing a 100-lb (45-kg) commercial trip limit for gag and greater amberjack during the spawning season closures was not an action considered by the Council during the development of Regulatory Amendment 9. The actions in Regulatory Amendment 9 focused on extending the fishing seasons for black sea bass, gag, and vermilion snapper, and maximizing fishing opportunities for greater amberjack. Gag and greater amberjack are part of a multispecies fishery. Therefore, allowing any harvest of gag and greater amberjack during the spawning season closures could increase the risk of incidentally capturing other species such as red grouper and scamp, the harvest of which are also prohibited during the 4-month seasonal closure for shallow-water groupers.

Comment 17: Three commenters supported the implementation of a 1,500-lb (680-kg) commercial trip limit for gag and greater amberjack.

Response: A 1,500-lb (680-kg) trip limit for gag was not considered by the Council as an alternative within Regulatory Amendment 9 because it would not sufficiently reduce the rate of harvest to extend opportunities to fish during the fishing season by a meaningful length of time. A trip limit of 1,500 lb (680 kg) was analyzed in Regulatory Amendment 9 for greater amberjack. Industry representatives indicated that the trip limit should be increased by only a modest amount in order to avoid market disruption and price fluctuations. The Council determined that increasing the trip limit from 1,000 lb (453 kg) to 1,200 lb (544 kg) would be enough of an increase to optimize per-trip harvest, yet small enough to avoid any market disruption that may be caused by increasing the trip limit more than 200 lb (91 kg).

Comment 18: Three commenters opposed increasing the commercial trip limit for greater amberjack to 1,200 lb (544 kg) because it will increase fishing pressure on the species and create an unfair advantage to commercial fishermen.

Response: Greater amberjack is not overfished or undergoing overfishing, and the commercial quota of 1,169,931 lb (530,672 kg) has never been met since the commercial quota was implemented in 1999. The 1,169,931 lb (530,672 kg) commercial quota represents 63 percent of 1995 landings, and therefore, includes a significant reduction in

allowable harvest for the commercial sector from previous years. Increasing the trip limit for the commercial sector will not provide an unfair advantage to commercial fishermen since it does not increase the total amount they are allowed to harvest within a given fishing year, only their per-trip yield. Many commercially permitted snapper-grouper fishery participants have been negatively impacted by restrictive management measures recently implemented for red snapper and shallow-water grouper. Increasing the trip limit for greater amberjack by 200 lb (91 kg) will allow a portion of those affected fishermen to compensate for those impacts by increasing their per trip yield of greater amberjack.

Comment 19: Three commenters suggested reducing the recreational bag limits for all species addressed in Regulatory Amendment 9 when 75 percent of the recreational ACL is met or projected to be met.

Response: The current recreational landings data collection program is not capable of providing landings data in real-time for the purposes of tracking the recreational landings of species included in Regulatory Amendment 9. There is a time lag between the time fishermen report landings through the MRFSS/MRIP system and when fishery managers are notified of the estimated landings. This issue may be compounded in fisheries where the recreational ACL is caught very quickly, as is the case with black sea bass. Additionally, recreational landings data are associated with a degree of uncertainty that must be factored into final landings estimates. Therefore, it is not practical to implement in-season accountability measures (AMs) such as stepping-down the bag limits for the recreational sector of the snapper-grouper fishery at this time.

Comment 20: Three commenters suggested removing all size limits to manage the snapper-grouper species included in Regulatory Amendment 9.

Response: Removing the minimum size limits was not considered for any of the species addressed in Regulatory Amendment 9. Minimum size limits are generally used to maximize the yield of each fish recruited to the fishery and to protect a portion of a stock from fishing mortality. The idea behind maximizing yield through size limits is to identify the size that best balances the benefits of harvesting fish at larger, more commercially valuable sizes against losses due to natural mortality. Protecting immature and newly mature fish from fishing mortality provides them increased opportunities to reproduce and replace themselves before they are captured. The removal of minimum size limits is likely to increase the rate at which the quotas and ACLs are met, and is not likely to ease derby conditions for species addressed in Regulatory Amendment 9.

Comment 21: Two commenters, including the state of North Carolina, suggested dividing the commercial quotas and recreational ACLs on a state-by-state basis so that species can be managed for the greatest benefit to the citizens of each state.

Response: NMFS agrees that establishing state-by-state quotas for snapper-grouper species could be beneficial to fishery participants, including those in North Carolina. Due to winter weather conditions, many snapper-grouper species may not be available off North Carolina until well after the fishing season has begun and a large portion of the commercial quota or recreational ACL has been harvested. However, effectively managing and enforcing state-by-state quotas remains a key obstacle to implementing such a program. NMFS has identified the issue of the enforcement of interstate cross-boundary quotas as a concern in the South Atlantic region and the Council did not consider them as a reasonable alternative within Regulatory Amendment 9.

Comment 22: Three commenters suggested that for all species addressed in Regulatory Amendment 9, the AMs regarding any ACL overages should be deducted from the next season's ACL, and any unharvested portion of the ACL should be carried over to the next fishing season.

Response: AMs for black sea bass, gag, and vermilion snapper were addressed in Amendment 17B to the FMP. AMs for greater amberjack are being addressed in the Comprehensive ACL Amendment. The action to establish a split season quota for black sea bass in Regulatory Amendment 9 includes a provision to carry over any unused portion of the first split season quota to the second split season quota. However, any unharvested portion of the second split season quota would not be credited to the following fishing year. NMFS has determined it is inappropriate to approve the action to establish split season quotas for the commercial sector of the black sea bass component of the snapper-grouper fishery at this time, as previously explained.

The Council did implement a payback provision for the recreational sectors for black sea bass, gag, and vermilion snapper in Amendment 17B to the FMP for situations where the stock is overfished. If the recreational ACL for black sea bass, gag, or vermilion snapper is exceeded and the stock is overfished, the Regional Administrator will publish a notice to reduce the recreational ACL in the following year by the amount of the overage. A payback for any ACL overages for greater amberjack may be considered in the Comprehensive ACL Amendment, which is currently under development. The commercial sector for these three species does not currently have a payback provision in place for any ACL overages that may occur during the fishing year.

Comment 23: One commenter stated the development of derby conditions in the snapper-grouper fishery has led to safety at sea issues, which should be addressed through a system of trip limits.

Response: NMFS recognizes the safety issues associated with derby-style fishing (the race to fish), where during a short duration of increased effort, fishermen may engage in fishing activities during foul weather situations in order to ensure they are able to harvest their optimum share of the harvest prior to reaching the commercial quota. Regulatory Amendment 9 seeks to alleviate safety at sea issues to some degree through the implementation of trip limits for gag, and vermilion snapper, and modifying the trip limit for greater amberjack. Trip limits for the black sea bass commercial sector were considered, but the Council did not choose to implement a trip limit for the species as explained in previous responses. In short, there is a possibility that commercial black sea bass fishermen using black sea bass pots could exceed the trip limit when retrieving pots, particularly if they were required to bring all pots to shore as currently being considered in Amendment 18A to the FMP, which could cause negative biological and economic effects.

Comment 24: One commenter suggested limiting the days per week the species in Regulatory Amendment 9 could be harvested as an alternative to the management measures included in Regulatory Amendment 9.

Response: The Council did not consider specifying fishing days per week in the commercial or recreational sectors for the species addressed in Regulatory Amendment 9. Limiting commercial fishermen to only certain days of the week for harvesting black sea bass, gag, and vermilion snapper may create enforcement challenges, safety at sea issues, and interfere with a fisherman's ability to maintain steady income and market conditions since trips would be highly dependent on weather conditions on allowable fishing days. Black sea bass, gag, and vermilion

snapper are part of a multispecies fishery and they are often incidentally caught while fishermen target other co-occurring snapper-grouper species. Limiting the number of days per week a certain species may be recreationally harvested may result in higher rates of regulatory discards and bycatch mortality than if some level of recreational harvest is permitted each day.

Comment 25: Two commenters support the use of trip limits to address derby fishing conditions that have emerged for gag and vermilion snapper.

Response: NMFS agrees that implementation of trip limits for species, such as vermilion snapper, associated with derby-style fisheries will help to minimize the race to fish, slow the rate of harvest, and limit the progressive shortening of fishing seasons.

Comment 26: One commenter suggested conducting a true study of the effects of fishing bans on the Georgia area considering that boating and fishing are significant to the economy of Georgia.

Response: An economic analysis conducted for fishing regulations in the South Atlantic would generally combine the economic effects on Georgia with those of northeast Florida due to confidentiality issues. Fishing effort, particularly on headboat trips, is relatively low in Georgia so that combining Georgia effort with that of northeast Florida would avoid divulgence of confidential information specific to a particular area. However, NMFS and the Council would be supportive of economic studies on fishery management issues in Georgia.

Other Non-Substantive Changes Implemented by NMFS

This final rule revises an outdated mailing address for the NMFS Southeast Regional Administrator (RA).

This final rule revises commercial trip limit codified text for greater amberjack to be consistent with respect to the commercial quota. Reference language for closure provisions within the commercial trip limit section has been changed to refer to the quota instead of the fishing year quota.

This final rule also contains two corrections for coordinates contained in the final rule to implement Comprehensive Ecosystem-Based Amendment 1 for the South Atlantic region that published in the **Federal Register** on June 22, 2010 (75 FR 35330). These additional measures are unrelated to the actions contained in Regulatory Amendment 9.

Classification

The NMFS Assistant Administrator has determined that the approved actions in the regulatory amendment are necessary for the conservation and management of snapper-grouper species in the South Atlantic and that they are consistent with the Magnuson-Stevens Act, and other applicable laws.

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

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant economic issues raised by public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA follows.

No public comments specific to the IRFA were received and therefore no public comments are addressed in this FRFA. However, several comments with socioeconomic implications were received and are addressed in the Comment and Responses section.

In response to public comments and new information that became available after the publication of the proposed rule, NMFS has chosen not to approve the proposed action to split the commercial quota for black sea bass into two 6-month seasons. The reason for this disapproval is discussed in the Supplementary Information and the Comments and Responses sections of the preamble, and is not repeated here.

With the exception of the disapproved action, NMFS agrees with the Council's choice of preferred alternatives as that which would be expected to best achieve the Council's objectives while minimizing, to the extent practicable, the adverse effects on fishers, support industries, and associated communities. The previous section of preamble to the final rule provides a summary of the actions contained within this final rule and is not repeated here.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. This final rule would not establish any new reporting, record-keeping, or other compliance requirements.

This final rule is expected to directly affect commercial harvesting and for-hire fishing operations. The Small Business Administration has established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide. For for-hire vessels, the other qualifiers apply and the annual receipts threshold is $7.0 million (NAICS code 713990, recreational industries).

From 2007–2009, an average of 895 vessels-per-year had valid permits to operate in the commercial sector of the snapper-grouper fishery. Of these 895 vessels, 751 held transferable permits and 144 held non-transferable permits. On average, 797 vessels landed snapper-grouper species, generating dockside revenues of approximately $14.514 million (2008 dollars). Each vessel, therefore, generated an average of approximately $18,000 annually in gross revenues from snapper-grouper commercial landings. Gross dockside revenues by state are distributed as follows: $4.054 million in North Carolina, $2.563 million in South Carolina, $1.738 million in Georgia/Northeast Florida, $3.461 million in central and southeast Florida, and $2.695 million in the Florida Keys. Vessels that operate in the snapper-grouper commercial sector may also operate in other fisheries; the revenues from the other fisheries cannot be determined with available data and thus are not reflected in these totals.

Based on revenue information, all commercial vessels affected by this final rule can be considered small entities.

From 2007–2009, an average of 1,797 vessels had valid permits to operate in the for-hire component of the snapper-grouper fishery. Of the 1,797 vessels, 82 are estimated to have operated as headboats. The for-hire fleet is comprised of charterboats, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. The charterboat annual average gross revenue is estimated to range from approximately $62,000–$84,000 for Florida vessels, $73,000–$89,000 for North Carolina vessels, $68,000–$83,000 for Georgia vessels, and $32,000–$39,000 for South Carolina vessels. For headboats, the corresponding estimates are $170,000–$362,000 for Florida vessels, and $149,000–$317,000 for vessels in the other states.

Based on these average revenue figures, all for-hire operations that would be affected by the final rule can be considered small entities.

Some fleet activity, *i.e.,* multiple vessels owned by a single entity, may exist in both the commercial and for-hire snapper-grouper sectors but its

extent is unknown, and therefore, all vessels are treated as independent entities in this analysis.

This final rule is expected to directly affect all Federally permitted commercial and for-hire vessels that operate in the South Atlantic snapper-grouper fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, it is determined that this final rule would affect a substantial number of small entities.

Because all entities that are expected to be affected by the final rule are considered small entities, the issue of disproportional effects on small versus large entities does not arise in the present case.

Relative to the no action alternative, the final rule to reduce the recreational bag limit to five black sea bass per person-per-day is expected to increase short-term for-hire vessel profits (NOR) annually from approximately $78,000 to $164,000 assuming no trip cancellations during the open season, or from approximately $45,000 to $131,000 assuming some trip cancellations during the open season. This expected increase in short-term profits would come from a shorter closure duration relative to the no action alternative.

The management measure to establish a 1,500-lb (680-kg) commercial trip limit for vermilion snapper is expected to reduce the gross revenues of commercial vessels by approximately $306,000 annually. Profits would be reduced accordingly. Among the trip limit alternatives, however, the preferred alternative is expected to result in the lowest revenue losses. Commercial fishing vessels in North Carolina and Georgia/Northeast Florida would experience the largest revenue losses compared to those of other states/areas in the South Atlantic.

The management measure to establish a 1,000-lb (454-kg) commercial trip limit for gag is expected to reduce the short-term gross revenues of the commercial fishing fleet by approximately $102,000 annually. Short-term fleet profits are also expected to decrease. However, relative to the no action alternative, the preferred alternative of establishing a 1,000 lb (454 kg) trip limit is expected to lengthen the commercial season so that revenues and profits could increase over time. The largest short-term revenue (and profit) reductions would fall on vessels in South Carolina and Georgia/Northeast Florida.

The management measure in this final rule to increase the commercial trip limit for greater amberjack to 1,200 lb (544 kg) is expected to increase short-term gross revenues of commercial vessels. Short-term profits are also expected to increase. Over time, the net result on vessel revenues and profits would depend on the resulting fishing season length under the higher trip limit.

Five alternatives, including the preferred alternative implemented through this final rule, were considered for modifying the black sea bass bag limit. The first alternative would have reduced the bag limit to 7-fish per person per day; the second, 5-fish per person per day; the third, 3-fish per person per day; the fourth, 2-fish per person per day; and the fifth, 1-fish per person per day. Relative to the 15-fish bag limit and depending on the baseline year used, the bag limit alternatives would have varying effects on the annual NOR of the for-hire fleet. The first alternative would result in increased NOR from approximately $19,000 to $129,000 annually; the second alternative would increase NOR from negative $62,000 to positive $48,000 annually; the third alternative would result in a decreased NOR of $97,000 annually; and, the fourth alternative would result in a decreased NOR of $226,000 annually. The effects of these five alternatives are less than the positive effects of the selected preferred alternative. The Council's decision to recommend the implementation of a 5-fish bag limit per person per day was based on public support and the fact that a large percentage of recreational trips result in approximately 5 black sea bass landed per person. Moreover, the Council intends to re-visit this bag limit when the final results of SEDAR 25 are available.

Seven alternatives, including the preferred alternative implemented through this final rule, were considered for the commercial vermilion snapper trip limit. The first alternative is the no action alternative. This alternative would not address concerns regarding derby fishing practices in the commercial sector of the vermilion snapper segment of the snapper-grouper fishery. The second alternative would establish a 1,000-lb (454-kg) commercial trip limit, with one sub-alternative that would reduce the trip limit to 500 lb (227 kg) when 75 percent of the commercial quota is met. This alternative would lengthen the commercial fishing season relative to the no action alternative, but it would bring about a reduction in short-term revenues of approximately $611,000 annually without the sub-alternative, or $752,000 annually with the sub-alternative. The reductions in the two alternatives are larger than those that would occur under the selected preferred alternative. The third alternative to the final rule would establish a 1,500-lb (680-kg) trip limit, and reduce the trip limit to 500 lb (227 kg) when 75 percent of the commercial quota is met. This alternative would bring about a reduction in short-term revenues of approximately $505,000. This revenue reduction is larger than what would occur under the selected preferred alternative. The fourth alternative would establish a 750-lb (340-kg) commercial trip limit, with one sub-alternative that would reduce the commercial trip limit to 400 lb (181 kg) when 75 percent of the commercial quota is met. Compared to the preferred alternative, this alternative would result in short-term revenue reductions of approximately $880,000 annually without the sub-alternative, or $1,013,000 annually with the sub-alternative. The fifth alternative would establish a 500-lb (227-kg) commercial trip limit. This alternative would result in short-term revenue reductions of approximately $1,302,000 annually, which is much larger than those resulting under the preferred alternative. The sixth alternative would establish a 400-lb (181-kg) commercial trip limit. Compared to the selected preferred alternative, this alternative would result in larger revenue reductions of approximately $1,528,000 annually. NMFS rejected these six alternatives because they result in larger reductions in revenue when compared with the preferred alternative.

Five alternatives, including the preferred alternative implemented through this final rule, were considered for the gag commercial trip limit. The first alternative is the no action alternative. This alternative would not address the derby concern in the gag commercial sector of the snapper-grouper fishery. The second alternative would establish a 1,000-lb (454-kg) commercial trip limit that would be reduced to a 100-lb (45-kg) trip limit when 75 percent of the commercial quota is projected to be met. This alternative would result in short-term revenue reductions of approximately $392,000 annually when based on 2007 landings, or $204,000 annually when based on 2009 landings. The third alternative would establish a 750-lb (340-kg) commercial trip limit, with one sub-alternative that would reduce the commercial trip limit to 100 lb (45 kg) when 75 percent of the commercial quota is projected to be met. This alternative would result in short-term revenue reductions of approximately $194,000 annually without the sub-

alternative, or from $467,000 annually (based on 2007 landings) to $228,000 (based on 2009 landings) with the sub-alternative. The fourth alternative would establish a 1,000-lb (454-kg) commercial trip limit, with the fishing year starting annually on May 1, and reduce the trip limit to 100 lb (45 kg) when 90 percent of the gag commercial quota is projected to be met. This alternative would result in revenue reductions greater than $102,000 annually but less than $392,000 annually. All of these alternatives are expected to result in larger short-term revenue reductions than the selected preferred alternative, and therefore were rejected.

Two alternatives, including the preferred alternative implemented through this final rule, were considered for the greater amberjack commercial trip limit. The first alternative is the no action alternative, which specifies a 1,000-lb (454-kg) commercial trip limit. Under this trip limit alternative, the commercial quota for greater amberjack has not been fully taken, and given historical landings and effort, the quota is expected to not be fully taken in the near future. A trip limit increase was considered to allow the fishing fleet to harvest the entire commercial quota for greater amberjack in order to mitigate the adverse effects of increased restrictions applied in other fisheries prosecuted by the same fishermen. The second alternative consists of three sub-alternatives, one of which is the final action. The first sub-alternative would increase the greater amberjack commercial trip limit to 2,000 lb (907 kg) while the second sub-alternative would increase the greater amberjack commercial trip limit to 1,500 lb (680 kg). Each of these two trip limit alternatives would result in larger short-term revenue increases than the final action. However, they pose a higher risk that the commercial quota for greater amberjack would be met prior to the end of the fishing season, resulting in potentially larger revenue and profit reductions to the fishing fleet. In addition, these higher trip limits could result in sudden large increases in landings that could only lead to lower ex-vessel prices and lower overall revenues. Therefore, NMFS rejected these two alternatives.

The proposed action to split the commercial quota for black sea bass into two seasons has been disapproved by NMFS in response to public comments and new information that became available after publication of the proposed rule. In their deliberations regarding harvest management of black sea bass, the Council considered thirteen alternatives, two of which were proposed to be implemented through the proposed rule. One of those two is the preferred alternative on bag limit reduction implemented through this final rule and discussed above. The second is the disapproved proposed action on splitting the commercial quota for black sea bass into two seasons. A qualitative discussion of the effects of splitting the black sea bass commercial quota between the June–November and December–May sub-seasons indicates that profits to the commercial fishing fleet would not deteriorate, as would occur under the no action alternative of maintaining a single quota for the entire fishing year.

The first alternative to the proposed split season is the no action alternative. This alternative would not address the derby concern in the commercial sector of the black sea bass segment of the snapper-grouper fishery.

The second alternative to the proposed split season would establish a commercial trip limit, with 8 sub-alternatives. The first sub-alternative would be a 500-lb (227-kg) trip limit; the second, a 750-lb (340-kg) trip limit; the third, a 1,000-lb (454-kg) trip limit; the fourth, a 1,250-lb (567-kg) trip limit; the fifth, a 1,000-lb (454-kg) trip limit but reduced to 500 lb (227 kg) when 75 percent of the quota is met; the sixth, a 2,000-lb (907-kg) trip limit; the seventh, a 2,500-lb (1,134-kg) trip limit; and, the eighth, a 340-lb (154-kg) trip limit. Based on the input received from the public during public hearings, from the Council's Advisory Panel, and from the Council's Scientific and Statistical Committee, and the fact that the stock is undergoing an assessment through SEDAR 25, the results of which will be available by the end of 2011, the Council chose not to implement trip limits for the black sea bass commercial sector. The Council concluded the split season approach would best meet the purpose and need to prevent the progressive shortening of the fishing season while ensuring equity in harvest opportunities, promoting safety at sea, and minimizing adverse socioeconomic impacts.

The third alternative to the proposed split season would retain the fishing year (June 1 through May 31) and specify separate commercial quotas for the June–December and the January–May sub-seasons based on 2006–2009 landings. This is similar to the proposed split season, except that the first sub-season ends in December, with January being the starting month of the second sub-season. The effects of this alternative on small entities are comparatively the same as those of the proposed split season, except that the proposed split season would allow the second sub-season to start, with available quota, at the time when the traditional winter pot component of the commercial sector takes place in December.

The fourth alternative would change the black sea bass fishing year to November–October and specify separate commercial quotas for November–April and May–October. The Council recognized the distributional effects of changing the fishing year, and decided to address this issue, together with a regional approach to management of black sea bass, after the SEDAR 25 assessment is completed.

The fifth alternative to the proposed split season would change the black sea bass fishing year to January–December and specify separate commercial quotas for January–June and July–December. This alternative raises the same issue as the fourth alternative to the proposed split season for which the Council decided to consider the fishing year issue, together with regional approach to management, in the future.

The sixth alternative would add to alternatives two through five of the proposed split season, a measure that would allow a carry-over of unused portion of the quota from the second part of the fishing year to the next fishing year. This alternative has the potential to result in exceeding the commercial quota for the next year that would trigger application of AMs, resulting in revenue and profit losses to the commercial fishing fleet. In addition, this alternative could result in exceeding other fishery benchmarks and the stock could be considered to experience overfishing. More restrictive regulations could result that would only decrease revenues and profits to the fishing fleet.

The seventh alternative would add to alternatives two through five a measure that would close the black sea bass commercial pot gear component, but not other allowable gear types, when all but 100,000 lb (45,359 kg) of the commercial quota for the sub-season is harvested and would allow all allowable gear types to operate in the next sub-season. The Council decided not to impose specific gear restrictions at this time, partly due to the difficulty of monitoring catches by gear type on a timely basis.

The eighth alternative is similar to the seventh alternative to the proposed split season, except that 50,000 lb (22,680 kg) would be the amount of quota remaining to trigger the closure of the black sea bass commercial pot component. The Council decided not to

impose specific gear restriction at this time, partly due to the problem of monitoring catches by gear type on a timely basis.

The ninth alternative would close the black sea bass commercial pot component when 90 percent of the commercial quota is met. The Council decided not to impose specific gear restrictions at this time, partly due to the difficulty of monitoring catches by gear type on a timely basis.

The tenth alternative to the proposed split season would establish a spawning season closure, with four sub-alternatives. The first sub-alternative would implement a March–April closure applicable to both the commercial and recreational sectors; the second, an April–May closure; the third, a March–May closure; and, the fourth, a May closure. A spawning season closure for black sea bass that would affect both the commercial and recreational sectors was considered as a possible tool to extend the fishing season and benefit the stock. However, there was strong opposition from the public toward such a measure given other additional proposed measures within Regulatory Amendment 9. While many fishermen were in favor of curbing harvest during the spawning season, they stated that curbing harvest would be best accomplished with a modification to the fishing year. Moreover, the black sea bass stock is under a rebuilding schedule, there are indications that the stock is rebuilding, and a stock assessment is currently underway.

Pursuant to 5 U.S.C. 553(d)(3), the AA finds good cause to waive the 30-day delay in effective date for the black sea bass recreational bag limit reduction because it would be contrary to the public interest. The black sea bass fishing year opens June 1, and NMFS wants to give fisherman the longest fishing season possible. Under the reduced bag limit of 5-fish per person, the season is expected to be approximately 2½ months longer than under a 15-fish per person bag limit. If this rule were delayed to allow for a 30-day delay in effectiveness, the season would be reduced from the projected season length, resulting in a reduced fishing opportunity and lower angler benefits and for-hire profits. Therefore, waiving the 30-day delay in effectiveness will give fisherman the longest season possible, and reduce any economic impact of this rule.

However, NMFS is delaying implementation of the reduced bag limit for 7 days, instead of implementing the bag limit on the day of publication to allow NMFS the opportunity to notify the industry through a Fishery Bulletin, a NOAA Weather Radio announcement, and other means of constituent outreach.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as small entity compliance guides. As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all vessel permit holders for the South Atlantic snapper-grouper fishery as well as other interested parties.

List of Subjects

50 CFR Part 600

Fisheries and Fishing vessels.

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: June 10, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 600 and 622 are amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. *et seq.*

■ 2. In § 600.502, revise Table 1 entry ''Administrator, Southeast Region'' to read as follows:

§ 600.502 Vessel reports.

* * * * *

TABLE 1 TO § 600.502—ADDRESSES

NMFS regional administrators	NMFS science and research directors	U.S. Coast Guard commanders
* *	* * *	* *
Administrator, Southeast Region, National Marine Fisheries Service, 263 13th Ave. South, St. Petersburg, FL 33701.	Director, Southeast Fisheries Science Center, National Marine Fisheries Service, NOAA, 75 Virginia Beach Drive, Miami, FL 33149.	Commander, Atlantic Area, U.S. Coast Guard, Governor's Island, New York 10004.
* *	* * *	* *

* * * * *

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 3. The authority citation for part 622 continues to read as follows:

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

■ 4. In § 622.35 (n)(1)(iii)(A), the coordinates for Point 26 and Point 171 are revised to read as follows:

§ 622.35 Atlantic EEZ seasonal and/or area closures.

* * * * *

(n) * * *

(1) * * *

(iii) * * *

(A) * * *

Point	North lat.	West long.
* *	* *	*
26	32°13′09″	78°34′04″
171	26°09′17″	79°58′45″
* *	* *	*

* * * * *

■ 5. In § 622.39, paragraph (d)(1)(vii) is revised to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(d) * * *

(1) * * *

(vii) Black sea bass—5.

* * * * *

■ 6. In § 622.44, paragraph (c)(5) is revised and paragraphs (c)(6) and (c)(7) are added to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(c) * * *

(5) *Greater amberjack.* Until the quota specified in § 622.42(e)(3) is reached—1,200 lb (544 kg). See § 622.43(a)(5) for limitations regarding greater amberjack after the quota is reached.

(6) *Vermilion snapper.* Until either quota specified in § 622.42(e)(4)(i) or (ii) is reached—1,500 lb (680 kg). See § 622.43(a)(5) for the limitations regarding vermilion snapper after either quota is reached.

(7) *Gag.* Until the quota specified in § 622.42(e)(7) is reached—1,000 lb (454 kg). See § 622.43(a)(5) for the limitations regarding gag after the quota is reached.

* * * * *

[FR Doc. 2011–14850 Filed 6–14–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 100923469–1298–03]

RIN 0648–BA27

Revisions to Framework Adjustment 45 to the Northeast Multispecies Fishery Management Plan and Sector Annual Catch Entitlements; Updated Annual Catch Limits for Sectors and the Common Pool for Fishing Year 2011

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

ACTION: Temporary final rule; adjustment to specifications.

SUMMARY: Based on the final multispecies sector rosters submitted as of May 1, 2011, NMFS announces adjustments to the Northeast (NE) multispecies fishing year (FY) 2011 specification of annual catch limits (ACLs) for common pool vessels (common pool sub-ACLs), ACLs for sector vessels (sector sub-ACLs), and sector Annual Catch Entitlements (ACEs) for groundfish stocks managed under the NE Multispecies Fishery Management Plan (FMP). This revision to FY 2011 catch levels is necessary to account for changes to the number of participants electing to fish in either sectors or the common pool fishery in FY 2011.

DATES: Effective June 14, 2011, through April 30, 2012.

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fishery Policy Analyst, (978) 281–9182.

SUPPLEMENTARY INFORMATION: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act and Amendment 16 to the FMP (75 FR 18262; April 9, 2010), Framework Adjustment (FW) 44 to the FMP, which was published in the **Federal Register** on April 9, 2010 (75 FR 18356), specified catch levels for 20 NE groundfish stocks for FY 2010–2012. In addition, FW 45 (April 25, 2011; 76 FR 23042) modified the 2011 ACLs for five stocks (Georges Bank (GB) haddock, GB cod, GB yellowtail flounder, white hake, and pollock). FW 45 also specified catch levels for various components of the groundfish fishery, including sub-ACLs for the common pool and sectors. These sub-ACLs were based on the catch history of the vessels enrolled in sectors, as of December 1, 2010.

On April 25, 2011, NMFS published an interim final rule approving FY 2011 sector operations plans and allocating ACE to sectors for FY 2011 (76 FR 23076; ''sector rule''). The sector rule included FY 2011 sector sub-ACL information also reflected in FW 45, where the sum of the ACEs for each sector equals the sector sub-ACL. Unlike FW 45, though, the sector ACEs in the sector rule were derived from February 1, 2011, sector rosters. To provide increased flexibility to the fishing industry, vessels initially enrolled in sectors for FY 2011 were allowed to drop out and join the common pool fishery through April 30, 2011. Additional flexibility was also provided to allow NE multispecies permitted vessels purchased after the sector enrollment deadline of December 1, 2010, to enroll in a sector up through April 30, 2011. Because the sector ACEs, as well as the sector sub-ACLs (sum of ACEs for all sectors) and the common pool sub-ACL (groundfish sub-ACL minus sector sub-ACL), are based upon the specific membership of sectors, any changes in membership since FW 45 and the sector rule were implemented requires that NMFS revise the sector ACEs and sub-ACLs for the common pool and sectors. This rule adjusts the FY 2011 sector ACEs and sub-ACLs for the common pool and sectors based on the members of each sector roster as of May 1, 2011 (''final sector rosters'').

The preamble of the final rule implementing FW 45 informed the public that ''NMFS intends to publish a rule in early May 2011 to modify these [common pool and sector] sub-ACLs and notify the public if these numbers change.'' Through this temporary final rule, NMFS is revising FY 2011 ACEs for all approved sectors and for FY 2011 sub-ACLs for common pool and sector vessels, based on the final sector rosters. The final number of vessels electing to fish in sectors for FY 2011 is 829 (reduced by 7 vessels since the February 2011, rosters). All ACE and sub-ACL values for sectors assume that each NE multispecies vessel enrolled in a sector has a valid permit for FY 2011.

Additionally, this rule implements a revised definition of ''unmarketable fish'' for the purposes of a sector exemption first introduced in the interim final rule approving FY 2011 sector operations plans. NMFS requested comments on this definition (76 FR 23076), as well as comments on the final sector rosters. However, NMFS received no comments to the notice of final sector rosters, or to the definition of ''unmarketable'' fish, as included in the interim final rule. Therefore, the definition will remain as stated in the interim final rule.

Tables 1, 2, and 3 (below) explain the allocation of the FY 2011 ACE for each sector and stock, as a percentage and absolute amount (in metric tons and pounds), based on the final sector rosters. The regulations provide sectors two weeks following the completion of catch data reconciliation by NMFS to trade FY 2010 ACE in order to account for any overharvesting during that period. After the completion of two week trading window, accountability measures, specifically the reduction in FY 2011 ACE for sectors that exceeded their FY 2010 ACE, will be implemented. In addition, sectors that did not harvest their entire ACE of any particular stock are allowed to carry over up to 10 percent of their initial allocation to the next year. To discourage overfishing of the NE groundfish species, current regulations also require NMFS to reserve 20 percent of each sector's FY 2011 ACE until FY 2010 landings data are reconciled. Once the reconciliation of FY 2010 sector catch is complete, the remaining 20 percent of ACE withheld from sectors will be allocated, and any sector that still exceeded its FY 2010 after reconciliation will have its share of the withheld ACE reduced accordingly. NMFS will publish a follow-up rule detailing any FY 2011 sector ACE reductions resulting from FY 2010 ACE

overages, or FY 2011 ACE increases from FY 2010 ACE carryover.

Table 4 compares the preliminary FY 2011 sub-ACLs for common pool and sector vessels published in the final rule implementing FW 45, with the current revised sub-ACLs based on the final sector rosters as of May 1, 2011.

BILLING CODE 3510–22–P

Table 1. FINAL PERCENTAGE (%) OF ACE EACH SECTOR WILL RECEIVE BY STOCK FOR FY 2011*

Sector Name (Defined Below)	Moratorium Right Identifier (MRI) Count	Georges Bank (GB) Cod	Gulf of Maine (GOM) Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	Southern New England (SNE) / Mid-Atlantic (MA) Yellowtail Flounder	Cape Cod (CC)/GOM Yellowtail Flounder	American plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	96	28.17	1.98	6.35	1.31	0.01	0.30	1.91	0.55	0.84	0.03	2.21	2.90	5.85	7.84
MPBS	8	0.11	0.42	0.01	0.08	0.00	0.00	0.31	0.64	0.34	0.00	0.87	0.02	0.18	0.22
NCCS	30	0.17	0.77	0.12	0.34	0.84	0.72	0.61	0.15	0.22	0.07	0.91	0.44	0.86	0.45
NEFS II	83	5.58	19.79	11.49	18.33	1.44	1.49	20.91	8.75	13.58	1.62	21.10	16.61	6.41	12.36
NEFS III	93	1.26	17.41	0.16	12.30	0.05	0.41	9.49	4.40	3.07	0.03	10.99	1.55	5.13	7.72
NEFS IV	41	4.26	7.31	5.34	6.02	2.16	2.26	4.90	9.09	8.37	0.69	4.71	6.56	7.71	5.57
NEFS V	32	2.01	0.11	3.92	0.32	6.47	23.40	1.06	1.45	1.73	1.99	0.32	0.29	0.22	0.31
NEFS VI	21	2.85	2.48	2.92	3.81	2.70	5.15	2.87	3.79	5.08	1.42	3.69	5.31	3.91	3.29
NEFS VII	20	4.40	0.43	3.79	0.56	9.05	3.72	2.68	3.39	3.08	11.37	0.87	0.65	0.75	0.69
NEFS VIII	20	6.42	0.50	5.84	0.21	11.34	5.65	6.67	1.73	2.61	16.14	3.37	0.43	0.50	0.61
NEFS IX	60	14.65	1.64	11.97	4.70	27.55	8.10	10.65	8.38	8.36	42.79	2.44	5.78	4.11	3.90
NEFS X	51	1.18	5.53	0.31	2.58	0.02	0.55	13.82	2.02	3.61	0.02	27.35	0.57	0.97	1.51
NEFS XI	46	0.40	12.53	0.04	2.50	0.00	0.02	2.18	1.49	1.54	0.00	2.02	0.96	2.44	6.58
NEFS XII	11	0.02	2.43	0.00	0.86	0.00	0.00	0.48	0.75	0.61	0.00	0.32	1.06	2.50	2.96
NEFS XIII	35	7.99	0.70	14.88	0.86	17.23	12.65	3.06	3.86	5.03	10.83	1.25	4.57	1.87	2.34
PCCGS	39	0.09	3.99	0.03	2.14	0.00	0.66	0.86	5.77	3.83	0.00	1.28	2.04	3.64	3.03
SHS 1	108	16.40	18.35	28.81	40.11	11.68	7.63	10.43	39.39	33.70	9.95	5.93	48.16	51.10	38.79
SHS 3	16	1.19	0.68	1.95	1.52	0.52	3.11	2.22	1.12	1.43	0.44	3.26	1.62	0.87	1.05
TSS	19	0.68	0.80	1.45	0.46	7.24	1.23	2.04	1.00	0.94	1.92	2.08	0.01	0.02	0.04
All Sectors Combined	829	97.83	97.85	99.39	99.02	98.29	77.06	97.17	97.73	97.97	99.31	95.00	99.52	99.04	99.25

-Georges Bank Cod Fixed Gear Sector (FGS), Maine Permit Bank Sector (MPBS), Northeast Coastal Communities Sector (NCCS), Northeast Fishery Sectors (NEFS), Port Clyde Community Groundfish Sector (PCCGS), Sustainable Harvest Sector (SHS), and Tri-State Sector (TSS)

*All ACE values for sectors outlined in Table 1 assume that each sector MRI has a valid permit for FY 2011.

BILLING CODE 3510–22–C

Table 2. FINAL ACE EACH SECTOR WOULD RECEIVE BY STOCK FOR FY 2011 (AS SPECIFIED IN THE FW 45 PREAMBLE (mt) * †

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	56.34	1155.33	95.67	612.34	1346.65	10.29	0.14	1.58	18.00	17.15	10.34	0.55	3.49	218.78	173.99	1094.49
MPBS	0.22	4.60	20.12	0.81	1.79	0.60	0.00	0.00	2.88	19.86	4.21	0.09	1.38	1.86	5.50	30.65
NCCS	0.34	7.02	36.94	11.69	25.71	2.67	9.57	3.79	5.78	4.62	2.68	1.38	1.43	33.18	25.49	62.91
NEFS II	11.15	228.70	954.91	1107.44	2435.45	144.25	16.41	7.82	196.54	272.05	167.81	32.47	33.34	1252.63	190.70	1724.67
NEFS III	2.52	51.70	840.02	15.51	34.10	96.84	0.56	2.15	89.24	136.77	38.00	0.67	17.37	117.17	152.63	1076.51
NEFS IV	8.52	174.70	352.81	515.06	1132.71	47.34	24.66	11.84	46.05	282.65	103.51	13.94	7.45	494.94	229.24	776.97
NEFS V	4.02	82.39	5.18	378.12	831.55	2.55	73.88	122.63	9.94	45.21	21.33	39.89	0.51	21.82	6.62	43.00
NEFS VI	5.71	117.06	119.87	281.59	619.27	29.98	30.78	26.96	26.97	117.69	62.74	28.50	5.84	400.27	116.31	458.69
NEFS VII	8.79	180.28	20.77	365.35	803.46	4.42	103.33	19.50	25.22	105.47	38.12	228.18	1.38	48.68	22.42	96.61
NEFS VIII	12.84	263.19	23.90	563.17	1238.50	1.69	129.51	29.61	62.74	53.92	32.31	323.90	5.33	32.63	14.92	85.30
NEFS IX	29.30	600.89	79.23	1153.63	2537.02	36.97	314.58	42.46	100.14	260.55	103.35	858.82	3.85	435.61	122.12	543.51
NEFS X	2.37	48.60	266.83	30.11	66.21	20.33	0.20	2.87	129.91	62.72	44.64	0.31	43.21	42.79	28.90	210.83
NEFS XI	0.79	16.20	604.70	3.46	7.61	19.70	0.01	0.09	20.52	46.22	18.98	0.02	3.20	72.31	72.48	918.10
NEFS XII	0.03	0.63	117.15	0.25	0.56	6.76	0.01	0.01	4.55	23.29	7.51	0.05	0.50	79.88	74.23	413.03
NEFS XIII	15.99	327.85	33.81	1434.44	3154.57	6.75	196.77	66.29	28.75	119.96	62.14	217.40	1.98	344.42	55.58	326.63
PCCGS	0.18	3.62	192.30	3.05	6.70	16.88	0.04	3.45	8.07	179.31	47.36	0.04	2.03	153.50	108.21	422.51
SHS 1	32.81	672.71	885.62	2777.58	6108.36	315.70	133.43	39.97	98.05	1224.17	416.53	199.61	9.37	3631.40	1519.85	5411.83
SHS 3	2.38	48.85	32.60	187.90	413.23	11.95	5.89	16.32	20.90	34.72	17.66	8.82	5.15	122.46	25.79	146.42
TSS	1.35	27.69	38.68	139.55	306.89	3.65	82.73	6.44	19.17	31.17	11.63	38.56	3.29	0.40	0.55	5.36
All Sectors Combined	195.66	4012.01	4721.11	9581.04	21070.34	779.32	1122.49	403.77	913.40	3037.51	1210.85	1993.20	150.10	7504.75	2945.52	13848.01
Common Pool	4.34	88.99	103.89	58.96	129.66	7.68	19.51	120.23	26.60	70.49	25.15	13.80	7.90	36.25	28.48	103.99

*All ACE values for sectors outlined in Table 2 assume that each sector MRI has a valid permit for FY 2011.

† These values do not include any potential ACE carryover from FY 2010 sector ACE underages or overages.

Table 3. FINAL ACE EACH SECTOR WOULD RECEIVE BY STOCK FOR FY 2011 (AS SPECIFIED IN THE FW 45 PREAMBLE (1,000 lb) *†

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	124	2547	211	1350	2969	23	0	3	40	38	23	1	8	482	384	2413
MPBS	0	10	44	2	4	1	0	0	6	44	9	0	3	4	12	68
NCCS	1	15	81	26	57	6	21	8	13	10	6	3	3	73	56	139
NEFS II	25	504	2105	2441	5369	318	36	17	433	600	370	72	74	2762	420	3802
NEFS III	6	114	1852	34	75	213	1	5	197	302	84	1	38	258	336	2373
NEFS IV	19	385	778	1136	2497	104	54	26	102	623	228	31	16	1091	505	1713
NEFS V	9	182	11	834	1833	6	163	270	22	100	47	88	1	48	15	95
NEFS VI	13	258	264	621	1365	66	68	59	59	259	138	63	13	882	256	1011
NEFS VII	19	397	46	805	1771	10	228	43	56	233	84	503	3	107	49	213
NEFS VIII	28	580	53	1242	2730	4	286	65	138	119	71	714	12	72	33	188
NEFS IX	65	1325	175	2543	5593	82	694	94	221	574	228	1893	8	960	269	1198
NEFS X	5	107	588	66	146	45	0	6	286	138	98	1	95	94	64	465
NEFS XI	2	36	1333	8	17	43	0	0	45	102	42	0	7	159	160	2024
NEFS XII	0	1	258	1	1	15	0	0	10	51	17	0	1	176	164	911
NEFS XIII	35	723	75	3162	6955	15	434	146	63	264	137	479	4	759	123	720
PCCGS	0	8	424	7	15	37	0	8	18	395	104	0	4	338	239	931
SHS 1	72	1483	1952	6124	13467	696	294	88	216	2699	918	440	21	8006	3351	11931
SHS 3	5	108	72	414	911	26	13	36	46	77	39	19	11	270	57	323
TSS	3	61	85	308	677	8	182	14	42	69	26	85	7	1	1	12
All Sectors Combined	431	8845	10408	21123	46452	1718	2475	890	2014	6697	2669	4394	331	16545	6494	30530
Common Pool	10	196	229	130	286	17	43	265	59	155	55	30	17	80	63	229

*All ACE values for sectors outlined in Table 3 assume that each sector MRI has a valid permit for FY 2011.

†These values do not include any potential ACE carryover from FY 2010 sector ACE underages or overages.

Table 4. FINAL TOTAL ACLs, SUB-ACLs, AND ACL-SUBCOMPONENTS FOR FY 2011 (mt)*

	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder**	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
Total Groundfish Sub-ACL	4301	4825	30840	787	1142	524	940	3108	1236	2007	158	7541	2974	13952
Preliminary Common Pool Sub-ACL	99	126	129	12	12	115	31	78	25	13	9	58	35	138
Adjusted Common Pool Sub-ACL	93	104	189	8	20	120	27	70	25	14	8	36	28	104
% Change	-6.06%	-17.46%	46.51%	-36.98%	66.67%	4.35%	-14.08%	-10.26%	0.00%	7.98%	-12.10%	-37.93%	-20.00%	-24.64%
Preliminary Sector Sub-ACL	4202	4699	30711	775	779	409	909	3030	1211	1994	149	7483	2939	13814
Adjusted Sector Sub-ACL	4208	4721	30651	779	1122	404	913	3038	1211	1993	150	7505	2946	13848
% Change	0.14%	0.47%	-0.20%	0.57%	44.03%	-1.22%	0.48%	0.26%	0.00%	-0.05%	0.73%	0.29%	0.24%	0.25%

*All sub-ACL values for sectors outlined in Table 4 assume that each sector MRI has a valid permit for FY 2011.

**The large increase in the adjusted values of GB Yellowtail Flounder sub-ACL is due to the signing of the International Fisheries Agreement Clarification Act (2011).

Changes in the sub-ACLs for stocks in sectors range from a decrease of 1.22 percent of SNE/MA yellowtail flounder, to an increase of 0.73 percent of GOM winter flounder. Adjustments of the sub-ACLs for stocks in the common pool

range between a 37.93 percent decrease in GOM haddock, to a 46.51 percent increase in GB haddock. The changes in the common-pool ACLs are greater because the common-pool has a significantly lower sub-ACL for all stocks, so even small changes appear large when viewed as a percent increase or decrease. There is also a large increase in both the common pool and sector sub-ACLs for GB yellowtail flounder because of a change in the U.S./Canada resource sharing agreement from the International Fisheries Agreement Clarification Act (2011) that dramatically increased the U.S. TAC of GB yellowtail flounder.

FW 45 specifies incidental catch TACs applicable to the NE multispecies Special Management Programs for FY 2011–2012, based on the ACLs, the FMP, and advice from the Council. Incidental catch TACs are specified for certain stocks of concern for common pool vessels fishing in the Special Management Programs, in order to limit the amount of catch of stocks of concern that can be caught under such programs. Since these incidental catch TACs are also based on the sub-ACLs for the common pool, they have changed based on the revised sub-ACLs. The incidental catch TACs for most stocks were based upon the Council's FW 44 Environmental Assessment (EA), while the incidental catch TACs for GB haddock, GB cod, GB yellowtail flounder, white hake, and pollock were based upon the Council's FW 45 EA.

TABLE 5—INCIDENTAL CATCH TACS BY STOCK FOR FY 2011 (MT)

Stock	Percentage of sub-ACL	Final rule 2011 incidental catch TAC	Revised 2011 incidental catch TAC
GB cod	2	2	1.86
GOM cod	1	1.3	1.04
GB yellowtail flounder	2	0.3	0.4
CC/GOM yellowtail flounder	1	0.3	0.27
SNE/MA yellowtail flounder	1	1.1	1.2
American plaice	5	3.9	3.5
Witch flounder	5	1.2	1.25
SNE/MA winter flounder	1	7.3	7.3
GB winter flounder	2	0.3	0.28
White hake	2	0.7	0.56

TABLE 6—INCIDENTAL CATCH TACS FOR SPECIAL MANAGEMENT PROGRAMS BY STOCK FOR FY 2011 (MT)

Stock	Regular B DAS program		Closed area I hook gear haddock SAP		Eastern U.S./Canada haddock SAP	
	Final rule 2011	Revised 2011	Final rule 2011	Revised 2011	Final rule 2011	Revised 2011
GB cod	1.0	0.93	0.3	0.3	.7	0.63
GOM cod	1.3	1.04	.....	.....	.....	.....
GB yellowtail flounder	0.15	0.2	.....	.....	.1	0.2
CC/GOM yellowtail flounder	0.30	0.27	.....	.....	.....	.....
SNE/MA yellowtail flounder	1.1	1.2	.....	.....	.....	.....
American plaice	3.9	3.5	.....	.....	.....	.....
Witch flounder	1.2	1.25	.....	.....	.....	.....
SNE/MA winter flounder	7.3	7.3	.....	.....	.....	.....
GB winter flounder	0.1	0.14	.....	.....	.1	0.14
White hake	0.7	0.56	.....	.....	.....	.....

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the NE Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), there is good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because notice, comment, and a delayed effectiveness would be impractical and contrary to the public interest. Vessel owners that enroll in sectors could drop out of sectors through April 30 (the day before the beginning of the fishing year and sector enrollment period), and because NMFS allowed NE multispecies permitted vessels purchased after the sector enrollment deadline of December 1, 2010, to enroll in a sector until April 30, 2011, it is necessary to adjust sector ACEs and ACLs for sectors and the common pool to account for membership changes. This action makes those adjustments to the sector and common pool ACEs and ACLs. NMFS discussed and requested public comments on the need to and procedure for adjusting the sector and common pool ACEs and ACLs in FW 45 and the sector rule. The public offered no comments on these matters, and this rule simply implements the procedures previously set forth to adjust the ACEs and ACLs to account for changes in sector membership. Therefore, it is unnecessary at this point to provide a third opportunity to the public to comment on this adjustment. This issue was discussed in both the FY 2011 sector and FW 45 proposed and final rules.

Moreover, allowing public comment on these rules is contrary to the public interest. If the sector ACEs and sub-ACLs are not adjusted immediately, they will operate under incorrect specifications until the adjustments are implemented. The implications of delaying the date on which the specifications are corrected depends

upon the size of the ACE and sub-ACL, the size of the change in specification relative to the ACE and sub-ACL, and the rate of catch of the particular stock. If, for example, a sector were currently catching a particular stock for which they have a small ACE at a high rate, and that sector's ACE for that stock is adjusted downward in this rule, then a significant fraction of that sector's ultimate FY 2011 ACE could be harvested and the sector's fishing season shortened upon implementation of this rule. In the worst case scenario, excessive catch by sectors could lead to a sector catching more than its ACE for the applicable FY, and having to forego any additional fishing this year. Thus, delaying this rule's effectiveness and allowing for another round of public comment could cause negative economic impacts to the common pool and to the sectors.

Additionally, any delays for an additional public comment period or to the effectiveness of the rule would create uncertainty for the affected entities that would have negative economic implications, which are contrary to the public interest. Until the stock allocations are finally adjusted, the affected fishing entities will not know how many fish of a particular stock they can catch without going over their ultimate limits. Fishermen may make both short- and long-term business decisions based on the ACLs in a given sector or the common pool; thus, it is important to implement adjusted ACEs and sub-ACLs as soon as possible. Any delays in adjusting the ACLs and ACEs may cause the affected fishing entities to curtail, or speed up, their fishing activities during the interim period before the rule's effectiveness. Both of these reactions could negatively affect the fishery and the businesses and communities that depend on them; the former by delaying profits and potentially reducing harvests, the latter by increasing the potential for exceeding the ultimate fishing limits. Thus, a delay in this rule's effectiveness creates uncertainty in the fishing market that is contrary to the public's interest.

For these reasons, NMFS is waiving the public comment period and delay in effectiveness for this rule, pursuant to 5 U.S.C. 553(c) and (d).

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

Dated: June 9, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 2011–14853 Filed 6–14–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 100804324–1295–03]

RIN 0648–BA01

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

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

ACTION: Interim final rule.

SUMMARY: NMFS issues this interim final rule to revise the sablefish cumulative limits for the limited entry fixed gear primary fishery for the remainder of the 2011 groundfish fishery. This action is necessary to allow the limited entry fixed gear fishery to achieve their fishery harvest guideline, while keeping total impacts of all fisheries within the 2011 sablefish annual catch limit (ACL).

DATES: Effective June 10, 2011. Comments must be received no later than July 15, 2011.

ADDRESSES: Background information and documents, including the environmental impact statement (EIS) for this action, are available from William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070; or by phone at 206–526–6150. Electronic copies of this final rule are also available at the NMFS Northwest Region Web site: *http://www.nwr.noaa.gov.*

You may submit comments, identified by 0648–BA01, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Fax:* 206–526–6736, Attn: Sarah Williams.
- *Mail:* 7600 Sand Point Way NE, Seattle, WA 98115.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Gretchen A. Hanshew, 206–526–6147; (fax) 206–526–6736; *Gretchen.Hanshew@noaa.gov.*

SUPPLEMENTARY INFORMATION:

On May 11, 2011, NMFS published a final rule to establish the 2011–2012 harvest specifications for most of the species in the groundfish fishery and management measures for that fishery off the coasts of Washington, Oregon, and California (76 FR 27508). That rule, in part, established the 2011 sablefish annual catch limit (ACL) for the area north of 36° N. lat. From the sablefish ACL, NMFS calculated the allocations, fishery harvest guidelines, and the sablefish cumulative limits for the limited entry fixed gear primary sablefish fishery. These values are specified in Federal regulations at 50 CFR 660, Subparts C, D and E. Sablefish cumulative limits for the limited entry fixed gear fishery are specified at 50 CFR 660.231(b)(3)(i), subpart E.

On May 18, 2011, NMFS was notified by the Executive Director of the Pacific Fishery Management Council (Council) that there was a mistake in the calculation of the 2011 and 2012 sablefish cumulative limits during the development of the 2011–2012 biennial specifications and management measures. The sablefish primary fishery cumulative limits contained in the November 3, 2010 proposed rule (75 FR 67810), and ultimately implemented through the May 11, 2011 final rule (76 FR 27508) are incorrect. Public comments were accepted during the development of the 2011–2012 groundfish harvest specifications and management measures, and no public comments were received regarding the cumulative limits in the primary sablefish fishery. The error subsequently identified in the Executive Director's letter overcompensated for discard mortality, and so the pool of fish that is used to calculate the sablefish primary fishery cumulative limits was too low; therefore, the cumulative limits were also too low. The Executive Director requested that NMFS correct the sablefish cumulative limits for the limited entry fixed gear primary fishery as quickly as possible because the 2011 primary fishery season opened on April 1 and some vessels are actively fishing on their cumulative limits.

Based on the information in the Executive Director's letter, and NMFS evaluation of the issues, NMFS is implementing a revision to the 2011 cumulative limits for sablefish in the limited entry fixed gear primary sablefish fishery in this interim final rule. These cumulative limits are specified at 50 CFR 660.231(b)(3)(i), subpart E, and are increased for 2011 from ''Tier 1 at 41,379 lb (18,769 kg), Tier 2 at 18,809 lb (8,532 kg), and Tier 3 at 10,748 lb (4,875 kg)'' to ''Tier 1 at 47,697 lb (21,635 kg), Tier 2 at 21,680 lb (9,834 kg), and Tier 3 at 12,389 lb (5,620 kg).''

Increasing the 2011 cumulative limits for sablefish in the limited entry fixed gear primary sablefish fishery is anticipated to achieve but not exceed the 2011 fishery harvest guideline for the primary fishery of 1,598 mt. It is also not anticipated to, when combined with the projected impacts from other fisheries that catch sablefish, exceed the 2011 sablefish ACL of 5,515 mt. Increasing the 2011 cumulative limits for sablefish in the limited entry fixed gear primary sablefish fishery is not anticipated to increase the projected impacts to co-occurring overfished species above the levels analyzed in the EIS because the projected impacts to co-occurring overfished species were estimated assuming that the sablefish fishery harvest guideline would be achieved.

Delaying the increase to the sablefish cumulative limits could cause disruption to the primary fishery. Some vessels may fish their entire sablefish cumulative limit, thereby concluding their primary fishing season, and then move on to other fisheries (both groundfish and non-groundfish fisheries). Under normal circumstances once a vessel fishes their entire available sablefish cumulative limit the primary season is concluded for that vessel until the next year's primary season. When additional pounds of sablefish are made available with the increase to primary sablefish fishery cumulative limits, many of those vessels will desire to fish those additional pounds. This means that vessels will be moving back and forth in between the limited entry fixed gear primary sablefish fishery and other fisheries. Vessels that desire to resume fishing in the primary sablefish fishery upon the release of additional pounds may encounter difficulties, as regulations are not explicitly designed for the primary sablefish fishery to start, stop and start again during the same calendar year. Delaying the increase means that more vessels will have fished their entire initial sablefish cumulative limits, and more vessels will encounter disruption and confusion during their fishing activities in the primary sablefish fishery.

Additional movement of vessels between the primary sablefish fishery and other fisheries could also disrupt the Council's inseason tracking of sablefish catch in the limited entry fixed gear fishery. Disruptions to inseason tracking could cause increased uncertainty in total catch projections of sablefish in the groundfish fishery.

Classification

The Administrator, Northwest Region, NMFS, determined that the 2011 sablefish cumulative limits for the limited entry fixed gear primary fishery, which this interim final rule implements, are necessary for the conservation and management of the Pacific Coast groundfish fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B), NMFS finds good cause to waive prior public notice and comment on the increase to the 2011 sablefish cumulative limits in the limited entry fixed gear primary fishery as delaying this rule would be contrary to the public interest. Correcting the mistake in the calculation and raising the cumulative limits in the limited entry fixed gear primary sablefish fishery allows additional harvest opportunities so that the fishery may achieve its fishery harvest guideline. Affording the time necessary to complete notice and comment rulemaking would mean that a higher number of vessels would have their normal fishing practices in the primary sablefish fishery disrupted. This would occur because vessels often achieve their initial sablefish cumulative limits, thereby ''closing'' this portion of their sablefish season, and move on to another fishery. Vessels choosing to participate in other fisheries after achieving the cumulative limits currently specified in regulation could face difficulty returning to the primary sablefish fishery due to regulatory restrictions on changes in vessel registration. Also, failure to increase sablefish cumulative limits in a timely manner could prevent the limited entry fixed gear primary fishery from attaining their 2011 fishery harvest guideline, and thus would result in unnecessary short-term adverse economic effects for the sablefish primary fishery vessels and the associated fishing communities.

For the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3). As mentioned above, delaying the effectiveness of this rule would mean that a higher number of vessels would have their normal fishing practices in the primary sablefish fishery disrupted. Some vessels fish their entire sablefish cumulative limit, thereby concluding their primary fishing season, and then move on to other fisheries. Vessels choosing to participate in other fisheries after achieving the cumulative limits currently specified in regulation could face difficulty returning to the primary sablefish fishery due to regulatory restrictions on changes in vessel registration. Also, failure to increase sablefish cumulative limits in a timely manner could prevent the limited entry fixed gear primary fishery from attaining their 2011 fishery harvest guideline, and thus would result in unnecessary short-term adverse economic effects for the sablefish primary fishery vessels and the associated fishing communities. For these reasons, this interim final rule is made effective upon publication.

The environmental impacts associated with the sablefish harvest levels that are achieved by this action are within the impacts in the EIS for the 2011–2012 specification and management measures. In approving the 2011–2012 groundfish harvest specifications and management measures, NMFS issued a Record of Decision (ROD). The ROD was signed on April 27, 2011. Copies of the EIS and the ROD are available from NMFS (see **ADDRESSES**).

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

This rule is exempt from the Regulatory Flexibility Act because it was not subject to prior notice and opportunity for public comment. However, a final regulatory flexibility analysis (FRFA) was prepared for the 2011–2012 harvest specifications and management measures final rule (May 11, 2011, 76 FR 27508). The information provided in that FRFA is unchanged by this interim final rule, as this interim final rule only amends cumulative limits for sablefish in the primary fishery and does not make changes to the sablefish ACL, allocations, and fishery harvest guidelines that informed all of the relevant analyses presented in that FRFA.

There are no additional projected reporting, record-keeping, and other compliance requirements of this rule not already envisioned within the scope of current requirements.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

NMFS issued Biological Opinions under the Endangered Species Act (ESA) on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS reinitiated a formal section 7 consultation under the ESA in 2005 for both the Pacific whiting midwater trawl fishery and the groundfish bottom trawl fishery. The December 19, 1999, Biological Opinion had defined an 11,000 Chinook incidental take threshold for the Pacific whiting fishery. During the 2005 Pacific whiting season, the 11,000 fish Chinook incidental take threshold was exceeded, triggering reinitiation. Also in 2005, new data from the West Coast Groundfish Observer Program became available, allowing NMFS to complete an analysis of salmon take in the bottom trawl fishery.

NMFS prepared a Supplemental Biological Opinion dated March 11, 2006, which addressed salmon take in both the Pacific whiting midwater trawl and groundfish bottom trawl fisheries. In its 2006 Supplemental Biological Opinion, NMFS concluded that catch rates of salmon in the 2005 whiting fishery were consistent with expectations considered during prior consultations. Chinook bycatch has averaged about 7,300 fish over the last 15 years and has only occasionally exceeded the reinitiation trigger of 11,000 fish.

Since 1999, annual Chinook bycatch has averaged about 8,450 fish. The Chinook ESUs most likely affected by the whiting fishery have generally improved in status since the 1999 ESA section 7 consultation. Although these species remain at risk, as indicated by their ESA listing, NMFS concluded that the higher observed bycatch in 2005 does not require a reconsideration of its prior ''no jeopardy'' conclusion with respect to the fishery. For the groundfish bottom trawl fishery, NMFS concluded that incidental take in the groundfish fisheries is within the overall limits articulated in the Incidental Take Statement of the 1999 Biological Opinion. The groundfish bottom trawl limit from that opinion was 9,000 fish annually. NMFS will continue to monitor and collect data to analyze take levels. NMFS also reaffirmed its prior determination that implementation of the Groundfish FMP is not likely to jeopardize the continued existence of any of the affected ESUs.

Lower Columbia River coho (70 FR 37160, June 28, 2005) were recently listed and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

The Southern Distinct Population Segment (DPS) of green sturgeon was listed as threatened under the ESA (71 FR 17757, April 7, 2006). The southern DPS of Pacific eulachon was listed as threatened on March 18, 2010, under the ESA (75 FR 13012). NMFS has reinitiated consultation on the fishery, including impacts on green sturgeon, eulachon, marine mammals, and turtles. After reviewing the available information, NMFS has concluded that, consistent with sections 7(a)(2) and 7(d) of the ESA, the action would not jeopardize any listed species, would not adversely modify any designated critical habitat, and would not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

Pursuant to Executive Order 13175, the 2011–2012 harvest specifications and management measures were developed after meaningful consultation and collaboration with Tribal officials from the area covered by the FMP. This interim final rule takes no action that directly affects the Tribal management measures, which were passed by the Council, and which were developed and proposed by the Tribes.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: June 10, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

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

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

Subpart C—West Coast Groundfish Fisheries

■ 2. In § 660.231, paragraph (b)(3)(i) is revised to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to fish in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel (i.e., stacked permits). If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under § 660.232, subpart E. In 2011, the following annual limits are in effect: Tier 1 at 47,697 lb (21,635 kg), Tier 2 at 21,680 lb (9,834 kg), and Tier 3 at 12,389 lb (5,620 kg). For 2012 and beyond, the following annual limits are in effect: Tier 1 at 40,113 lb (18,195 kg), Tier 2 at 18,233

lb (8,270 kg), and Tier 3 at 10,419 lb (4,726 kg).

* * * * *

[FR Doc. 2011–14846 Filed 6–10–11; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 115
Wednesday, June 15, 2011

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2010–BT–DET–0040]

RIN 1904–AC52

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Proposed Determination of Set-Top Boxes and Network Equipment as a Covered Consumer Product

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

ACTION: Proposed determination.

SUMMARY: The U.S. Department of Energy (DOE) has determined tentatively that set-top boxes and network equipment qualify as a covered product under Part A of Title III of the Energy Policy and Conservation Act (EPCA), as amended. DOE has determined that set-top boxes and network equipment meet the criteria for covered products because classifying products of such type as covered products is necessary or appropriate to carry out the purposes of EPCA, and the average U.S. household energy use for set-top boxes and network equipment is likely to exceed 100 kilowatt-hours (kWh) per year.

DATES: DOE will accept written comments, data, and information on this notice, but no later than July 15, 2011.

ADDRESSES: Interested persons may submit comments, identified by docket number EERE–2008–BT–DET–0040, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: Brenda.Edwards@ee.doe.gov*. Include EERE–2008–BT–DET–0040 and/or RIN 1904–AC52 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Proposed Determination for set-top boxes and network equipment, EERE–2008–BT–DET–0040 and/or RIN 1904–AC52, 1000 Independence Avenue, SW., Washington, DC 20585–0121. *Phone:* (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. *Phone:* (202) 586–2945. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking.

Docket: For access to the docket to read background documents or comments received, go to the U.S. Department of Energy, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586–2945 for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Mr. Wes Anderson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–7335. E-mail: *Wes.Anderson@ee.doe.gov*.

In the Office of General Counsel, contact Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone: (202) 586–7796. E-mail: *Elizabeth.Kohl@hq.doe.gov*.

Table of Contents

I. Statutory Authority

Title III of the Energy Policy and Conservation Act (EPCA), as amended (42 U.S.C. 6291 *et seq.*), sets forth various provisions designed to improve energy efficiency. Part A of Title III of EPCA (42 U.S.C. 6291–6309) established the ''Energy Conservation Program for Consumer Products Other Than Automobiles,'' which covers consumer products and certain commercial products (hereafter referred to as ''covered products'').[1] In addition to specifying a list of covered residential and commercial products, EPCA contains provisions that enable the Secretary of Energy to classify additional types of consumer products as covered products. For a given product to be classified as a covered product, the Secretary must determine that:

(1) Classifying the product as a covered product is necessary for the purposes of EPCA; and

(2) The average annual per-household energy use by products of such type is likely to exceed 100kWh per year. (42 U.S.C. 6292(b)(1))

For the Secretary to prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p) for covered products added pursuant to 42 U.S.C. 6292(b)(1), he must also determine that:

(1) The average household energy use of the products has exceeded 150 kilowatt-hours per household for a 12-month period,

(2) The aggregate 12-month energy use of the products has exceeded 4.2 TWh,

(3) Substantial improvement in energy efficiency is technologically feasible, and

(4) Application of a labeling rule under 42 U.S.C. 6294 is unlikely to be

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) that achieve the maximum energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(l)(1)).

If DOE issues a final determination that set-top boxes and network equipment are a covered product, DOE will consider test procedures and energy conservation standards for set-top boxes and network equipment. DOE will determine if set-top boxes and network equipment satisfy the provisions of 42 U.S.C. 6295(l)(1) during the course of any energy conservation standards rulemaking.

II. Current Rulemaking Process

DOE has not previously conducted an energy conservation standard rulemaking for set-top boxes and network equipment. If after public comment, DOE issues a final determination of coverage for this product, DOE will consider both test procedures and energy conservation standards for this product.

With respect to test procedures, DOE will consider a proposed test procedure for measuring the energy efficiency, energy use or estimated annual operating cost of set-top boxes and network equipment during a representative average use cycle or period of use that is not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) In a test procedure rulemaking, DOE initially prepares a notice of proposed rulemaking (NOPR) and allows interested parties to present oral and written data, views, and arguments with respect to such procedures. In prescribing new test procedures, DOE takes into account relevant information including technological developments relating to energy use or energy efficiency of set-top boxes and network equipment.

With respect to energy conservation standards, DOE is required to publish NOPR. The NOPR provides DOE's proposal for potential energy conservations standards and a summary of the results of DOE's supporting technical analysis. The details of DOE's energy conservation standards analysis are provided in a technical support document (TSD) that describes the details of DOE's analysis of both the burdens and benefits of potential standards, pursuant to 42 U.S.C. 6295(o). Because set-top boxes and network equipment would be a product that is newly covered under 42 U.S.C. 6292(b)(1), DOE would also consider as part of any energy conservation standard NOPR whether set-top boxes and network equipment satisfy the requirements of 42 U.S.C. 6295(l)(1). After the publication of the NOPR, DOE affords interested persons an opportunity during a period of not less than 60 days to provide oral and written comment. After receiving and considering the comments on the NOPR and not less than 90 days after the publication of the NOPR, DOE would issue the final rule prescribing any new energy conservation standards for set-top boxes and network equipment.

III. Proposed Definition(s)

DOE proposes to add a definition for ''Set-top Boxes and Network Equipment'' in the Code of Federal Regulations to clarify coverage of any potential test procedure or energy conservation standard that may arise from today's proposed determination. There currently is no statutory definition of set-top boxes and network equipment. DOE has determined preliminarily that adding set-top boxes and network equipment as a covered product is justified. Accordingly, DOE proposes the following definition of set-top boxes and network equipment to consider test procedures and energy conservation standards for set-top boxes and network equipment and to provide clarity for interested parties as it continues its analyses:

A device whose principle function(s) are to receive television signals (including, but not limited to, over-the-air, cable distribution system, and satellite signals) and deliver them to another consumer device, or to pass Internet Protocol traffic among various network interfaces.

DOE seeks feedback from interested parties on its proposed definition of set-top boxes and network equipment.

IV. Evaluation of Set-Top Boxes and Network Equipment as a Covered Product Subject to Energy Conservation Standards

The following sections describe DOE's evaluation of whether set-top boxes and network equipment fulfill the criteria for being added as a covered product pursuant to 42 U.S.C. 6292(b)(1). As stated previously, DOE may classify a consumer product as a covered product if (1) classifying products of such type as covered products is necessary and appropriate to carry out the purposes of EPCA; and (2) the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

A. Coverage Necessary or Appropriate To Carry Out Purposes of EPCA

Coverage of set-top boxes and network equipment is necessary or appropriate to carry out the purposes of EPCA, which include: (1) To conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses; and (2) to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products. (42 U.S.C. 6201) The energy use of set-top boxes and network equipment has been increasing as Internet connections, cable television, and satellite television have become increasingly common in the last twenty years. Coverage of set top boxes and network equipment will enable the conservation of energy supplies through both labeling programs and the regulation of set-top box and network equipment energy use. The national energy use of set-top boxes and network equipment is estimated to be 24.8 billion kilowatt-hours and increasing every year. Because there is significant variation in the annual energy consumption of different models currently available, technologies exist to reduce the energy consumption of set-top boxes and network equipment.

B. Average Household Energy Use

DOE calculated average household energy use for set-top boxes and network equipment, in households that used the product, based on data from a report on residential miscellaneous electric loads,[2] a study on network equipment energy use,[3] and from a report on national household Internet access.[4] These reports provide annual energy use per device, and the total number of devices in operation in the U.S. The percentage of households with a set-top box is 71%, and the percentage of households with Internet access is 69%. Based on this data, DOE believes the presence of a set-top box within a household is highly correlated with the presence of network equipment. The total number of households in the U.S.

[2] Roth, K.W. *et al.* 2007. *Residential Miscellaneous Electric Loads: Energy Consumption Characterization and Savings Potential.* Prepared by TIAX LLC for DOE.

[3] Lanzisera, S., Nordman, B., & Brown, R.E. 2010. *Data Network Equipment Energy Use and Savings Potential in Buildings.* ACEEE Summer Study on Energy Efficiency in Buildings.

[4] National Telecommunications and Information Administration. 2010. *Digital Nation: 21st Century America's Progress Toward Universal Broadband Internet Access.* Prepared for Department of Commerce.

in 2010 was 115 million;[5] therefore, the number of households using set-top boxes and network equipment was approximately 82 million. The total household energy use of set-top boxes and network equipment was 24.8 billion kilowatt-hours (kWh) in 2010. Therefore the average U.S. per-household energy use for set-top boxes and network equipment in 2010 was 302 kilowatt-hours. Therefore, DOE tentatively determines that the average annual per-household energy use for set-top boxes and network equipment is likely to exceed 100 kWh.

V. Procedural Issues and Regulatory Review

DOE has reviewed its proposed determination of set-top boxes and network equipment under the following executive orders and acts.

A. Review Under Executive Order 12866

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

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) requires preparation of an initial regulatory flexibility analysis for any rule that, by law, must be proposed for public comment, unless the agency certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative effects. Also, as required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impact of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990 (February 19, 2003). DOE makes its procedures and policies available on the Office of the General Counsel's Web site at *http://www.gc.doe.gov.*

DOE reviewed today's proposed determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. If adopted, today's proposed determination would set no standards; they would only positively determine that future standards may be warranted and should be explored in an energy conservation standards and test procedure rulemaking. Economic impacts on small entities would be considered in the context of such rulemakings. On the basis of the foregoing, DOE certifies that the proposed determination, if adopted, would have no significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this proposed determination. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

This proposed determination, which proposes to determine that set-top boxes and network equipment meet the criteria for a covered product for which the Secretary may prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p), will impose no new information or record-keeping requirements. Accordingly, the Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

In this notice, DOE proposes to positively determine that future standards may be warranted and that environmental impacts should be explored in an energy conservation standards rulemaking. DOE has determined that review under the National Environmental Policy Act of 1969 (NEPA), Public Law 91–190, codified at 42 U.S.C. 4321 *et seq.* is not required at this time. NEPA review can only be initiated ''as soon as environmental impacts can be meaningfully evaluated'' (10 CFR 1021.213(b)). This proposed determination would only determine that future standards may be warranted, but would not itself propose to set any specific standard. DOE has, therefore, determined that there are no environmental impacts to be evaluated at this time. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order (E.O.) 13132, ''Federalism'' 64 FR 43255 (August 10, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to assess carefully the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in developing regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process that it will follow in developing such regulations. 65 FR 13735 (March 14, 2000). DOE has examined today's proposed determination and concludes that it would not preempt State law or have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the product that is the subject of today's proposed determination. States can petition DOE for exemption from such preemption to the extent permitted, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the duty to: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation specifies the following: (1) The preemptive effect, if any; (2) any effect on existing Federal law or regulation; (3) a clear legal standard for affected conduct while promoting

[5] Energy Information Administration. 2010. *Annual Energy Outlook 2010.*

simplification and burden reduction; (4) the retroactive effect, if any; (5) definitions of key terms; and (6) other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether these standards are met, or whether it is unreasonable to meet one or more of them. DOE completed the required review and determined that, to the extent permitted by law, this proposed determination meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, codified at 2 U.S.C. 1501 *et seq.*) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For regulatory actions likely to result in a rule that may cause expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any 1 year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a) and (b)) UMRA requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate.'' UMRA also requires an agency plan for giving notice and opportunity for timely input to small governments that may be potentially affected before establishing any requirement that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820 (March 18, 1997). (This policy also is available at *http://www.gc.doe.gov*). DOE reviewed today's proposed determination pursuant to these existing authorities and its policy statement and determined that the proposed determination contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year, so the UMRA requirements do not apply.

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 15, 1988), DOE determined that this proposed determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

The Treasury and General Government Appropriation Act of 2001 (44 U.S.C. 3516, note) requires agencies to review most disseminations of information they make to the public under guidelines established by each agency pursuant to general guidelines issued by the Office of Management and Budget (OMB). The OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's proposed determination under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

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

DOE has concluded that today's regulatory action proposing to determine that Set-top Boxes and Network Equipment meets the criteria for a covered product for which the Secretary may prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p) would not have a significant adverse effect on the supply, distribution, or use of energy. This action is also not a significant regulatory action for purposes of E.O. 12866, and the OIRA Administrator has not designated this proposed determination as a significant energy action under E.O. 12866 or any successor order. Therefore, this proposed determination is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects for this proposed determination.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (January 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's scientific information. DOE has determined that the analyses conducted for this rulemaking do not constitute ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.'' 70 FR 2667 (January 14, 2005). The analyses were subject to pre-dissemination review prior to issuance of this rulemaking.

DOE will determine the appropriate level of review that would be applicable to any future rulemaking to establish energy conservation standards for set-top boxes and network equipment.

VI. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this notice of proposed determination no later than the date provided at the beginning of this notice. After the close of the comment period, DOE will review the comments received and determine whether set-top boxes and network equipment is a covered product under EPCA.

Comments, data, and information submitted to DOE's e-mail address for this proposed determination should be provided in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format. Submissions should avoid the use of special characters or any form of encryption, and wherever possible comments should include the electronic signature of the author. No telefacsimiles (faxes) will be accepted.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document should have all the information believed to be confidential deleted. DOE will make its own determination as to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from public sources; (4) whether the information has previously been made available to others without obligations concerning its confidentiality; (5) an explanation of the competitive injury to the submitting persons which would result from public disclosure; (6) a date after which such information might no longer be considered confidential; and (7) why disclosure of the information would be contrary to the public interest.

B. Issues on Which DOE Seeks Comments

DOE welcomes comments on all aspects of this proposed determination. DOE is particularly interested in receiving comments from interested parties on the following issues related to the proposed determination for set-top boxes and network equipment:

- Definition(s) of set-top boxes and network equipment;
- Whether classifying set-top boxes and network equipment as a covered product is necessary or appropriate to carry out the purposes of EPCA;
- Calculations and values for household and national energy consumption; and
- Availability or lack of availability of technologies for improving energy efficiency of set-top boxes and network equipment.

The Department is interested in receiving views concerning other relevant issues that participants believe would affect DOE's ability to establish test procedures and energy conservation standards for set-top boxes and network equipment. The Department invites all interested parties to submit in writing by July 15, 2011, comments and information on matters addressed in this notice and on other matters relevant to consideration of a determination for set-top boxes and network equipment.

After the expiration of the period for submitting written statements, the Department will consider all comments and additional information that is obtained from interested parties or through further analyses, and it will prepare a final determination. If DOE determines that set-top boxes and network equipment qualify as a covered product, DOE will consider a test procedure and energy conservation standards for set-top boxes and network equipment. Members of the public will be given an opportunity to submit written and oral comments on any proposed test procedure and standards.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

Issued in Washington, DC, on June 8, 2011.

Henry Kelly,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2011–14825 Filed 6–14–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0567; Directorate Identifier 2010–NM–272–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 767 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD would require modification of the fluid drain path in the leading edge area of the wing. This proposed AD was prompted by a design review following a ground fire incident and reports of flammable fluid leaks from the wing leading edge area onto the engine exhaust area. We are proposing this AD to prevent flammable fluid from leaking onto the engine exhaust nozzle which could result in a fire.

DATES: We must receive comments on this proposed AD by August 1, 2011.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tung Tran, Aerospace Engineer,

Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; *phone*: 425–917–6505; *fax:* 425–917–6590; *e-mail: Tung.Tran@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0567; Directorate Identifier 2010–NM–272–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of fuel leaking from the wing leading edge area at the inboard end of the number 5 leading edge slat of a Model 737 airplane. The leak was discovered during a post-flight inspection with a fuel quantity of over 2,500 pounds. Subsequent investigation found that the leak occurred in an area of the front spar that does not have a proper drain path. This led to the fuel draining onto the engine exhaust nozzle. The leak appears to have been caused by a loose retaining nut of the slat track down stop. We are proposing this AD to prevent flammable fluid from leaking onto the engine exhaust nozzle which could result in a fire.

A Model 767 design review revealed that some of the design features in the Model 737 wing leading edge area also exist in Model 767 airplanes. Additional design reviews have led to similar findings in Model 757 and Model 747 airplanes. We have issued AD 2010–23–13, Amendment 39–16502 (75 FR 68688, November 9, 2009), for Model 757 airplanes, and are considering rulemaking for Model 737 and Model 747 airplanes.

Relevant Service Information

We reviewed Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010. This service information describes procedures for modifying the fluid drain path in the leading edge area of the wing. The modification consists of changing the leading edge of the lower wing skin panels and the seal doors at outboard slat station (OSS) 424.097, and the wing ribs at OSS 464.475, through repairs and new parts installation. Additionally, the service information specifies applying sealant, hole filling compound, and leveling compound to the wing leading edge; and applying sealant to the wing ribs.

FAA's Determination

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

Proposed AD Requirements

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

Costs of Compliance

We estimate that this proposed AD affects 361 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Leading edge fluid drainage modification	22 work-hours × $85 per hour = $1,870	$651	$2,521	$910,081

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2011–0567; Directorate Identifier 2010–NM–272–AD.

Comments Due Date

(a) We must receive comments by August 1, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010.

Subject

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

Unsafe Condition

(e) This AD was prompted by a design review following a ground fire incident and reports of flammable fluid leaks from the wing leading edge area onto the engine exhaust area. We are issuing this AD to prevent flammable fluid from leaking onto the engine exhaust nozzle, which could result in a fire.

Compliance

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

Drain Path Modification

(g) Within 60 months after the effective date of this AD, modify the fluid drain path in the leading edge area of the wing, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767–57–0121, dated October 7, 2010.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(i) For more information about this AD, contact Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; *phone:* 425–917–6505; *fax:* 425–917–6590; *e-mail: Tung.Tran@faa.gov.*

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

Issued in Renton, Washington, on June 7, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–14698 Filed 6–14–11; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240 and 260

[Release Nos. 33–9222; 34–64639; 39–2474; File No. S7–22–11]

RIN 3235–AL16

Exemptions for Security-Based Swaps Issued by Certain Clearing Agencies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: We are proposing exemptions under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939 for security-based swaps issued by certain clearing agencies satisfying certain conditions. The proposed rules would exempt transactions by clearing agencies in these security-based swaps from all provisions of the Securities Act, other than the Section 17(a) anti-fraud provisions, as well as exempt these security-based swaps from Exchange Act registration requirements and from the provisions of the Trust Indenture Act, provided certain conditions are met.

DATES: Comments on the proposed rules should be received on or before July 25, 2011.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/proposed.shtml)*;
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–22–11 on the subject line; or
- Use the Federal Rulemaking Portal *(http://www.regulations.gov).* Follow the instructions for submitting comments.

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 S7–22–11. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. We will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/proposed.shtml).* Comments are also available for public inspection and copying 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Tamara Brightwell, Senior Special Counsel to the Director, Michael J. Reedich, Special Counsel, Office of Chief Counsel, or Andrew Schoeffler, Special Counsel, Office of Capital Market Trends, Division of Corporation Finance, at (202) 551–3500, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–4561.

SUPPLEMENTARY INFORMATION: We are proposing new Rule 239 under the Securities Act of 1933 (''Securities Act'').[1] We are also proposing new Rule 12a–10 and an amendment to Rule 12h–1 under the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 4d–11 under the Trust Indenture Act of 1939 (''Trust Indenture Act'').[3]

[1] 15 U.S.C. 77a *et seq.*

[2] 15 U.S.C. 78a *et seq.*

[3] 15 U.S.C. 77aaa *et seq.*

I. Background

On July 21, 2010, the President signed the Dodd-Frank Act into law.[4] The Dodd-Frank Act was enacted to, among other purposes, promote the financial stability of the United States by improving accountability and transparency in the financial system.[5] Title VII of the Dodd-Frank Act provides the Securities and Exchange Commission (''SEC'' or the ''Commission'') and the Commodity Futures Trading Commission (''CFTC'') with the authority to regulate over-the-counter (''OTC'') derivatives in light of the recent financial crisis.

The Dodd-Frank Act provides that the CFTC will regulate ''swaps,'' the SEC will regulate ''security-based swaps,'' and the CFTC and SEC will jointly regulate ''mixed swaps.'' [6] The Dodd-Frank Act amends the Exchange Act to require, among other things, the following: (1) Transactions in security-based swaps must be submitted for clearing to a clearing agency if such security-based swap is one that the Commission has determined is required to be cleared, unless an exception from mandatory clearing applies; [7] (2) transactions in security-based swaps must be reported to a registered security-based swap data repository (''SDR'') or the Commission; [8] and (3) if a security-based swap is subject to mandatory clearing, transactions in security-based swaps must be executed on an exchange or a registered or exempt security-based swap execution facility (''security-based SEF''), unless no exchange or security-based SEF makes such security-based swap available for trading or the security-based swap transaction is subject to the clearing exception in Exchange Act Section 3C(g).[9] In this release, we are proposing exemptions from the registration requirements of the Securities Act and the Exchange Act, and from the qualification requirements of the Trust Indenture Act, to facilitate implementation of these new requirements.

We believe that the increased use of central clearing for security-based swaps should help to promote robust risk management, foster greater efficiencies, improve investor protection, and promote transparency in the market for security-based swaps.[10] The Dodd-Frank Act seeks to ensure that, wherever possible and appropriate, security-based swaps are cleared.[11] Paragraph (a)(1) of new Exchange Act Section 3C establishes a mandatory clearing requirement for certain security-based swaps.[12] Exchange Act Section 3C(b) sets forth a process by which we would determine whether a security-based swap or any group, category, type or class of security-based swap that a clearing agency plans to accept for clearing is required to be cleared.[13] If we make a determination that a security-based swap is required to be cleared, then parties may not engage in such a security-based swap without submitting it for clearing, unless an exception applies.[14] If we make a determination that a security-based swap is not required to be cleared, such security-based swap may still be cleared on a non-mandatory basis by the clearing agency if it has rules that permit it to clear such security-based swap.[15]

Clearing agencies are broadly defined under the Exchange Act and may undertake a variety of functions.[16] One such function is to act as a central counterparty (''CCP'').[17] For example, when a security-based swap between two counterparties that are members of a CCP is executed and submitted for clearing, the original contract is extinguished and is replaced by two new contracts where the CCP is the buyer to the seller and the seller to the buyer.[18] At that point, the original counterparties are no longer counterparties to each other. As a result, the creditworthiness and liquidity of the CCP is substituted for the creditworthiness and liquidity of the original counterparties.[19]

---

[4] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[5] *See* Public Law 111–203, Preamble.

[6] Section 712(d) of the Dodd-Frank Act provides that the Commission and the CFTC, in consultation with the Board of Governors of the Federal Reserve System, shall jointly further define the terms ''swap,'' ''security-based swap,'' ''swap dealer,'' ''security-based swap dealer,'' ''major swap participant,'' ''major security-based swap participant,'' ''eligible contract participant,'' and ''security-based swap agreement.'' These terms are defined in Sections 721 and 761 of the Dodd-Frank Act and, with respect to the term ''eligible contract participant,'' in Section 1a(18) of the Commodity Exchange Act (''CEA''), 7 U.S.C. 1a(18), as re-designated and amended by Section 721 of the Dodd-Frank Act. *See Definitions Contained in Title VII of Dodd-Frank Wall Street Reform and Consumer Protection Act,* Release No. 34–62717 (Aug. 13, 2010), 75 FR 51429 (Aug. 20, 2010) (advance joint notice of proposed rulemaking regarding definitions contained in Title VII of the Dodd-Frank Act); and *Product Definitions Contained in Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act,* Release No. 33–9204; 34–64372 (Apr. 29, 2011) 76 FR 29818.

[7] *See* Public Law 111–203, § 763(a) (adding Exchange Act Section 3C).

[8] *See* Public Law 111–203, §§ 763(i) and 766(a) (adding Exchange Act Sections 13(m)(1)(G) and 13A(A)(1), respectively).

[9] *See* Public Law 111–203, § 763(a) (adding Exchange Act Section 3C). *See also* Public Law 111–203, § 761 (adding Exchange Act Section 3(a)(77) (defining the term ''security-based swap execution facility'')), and *Registration and Regulation of Security-Based Swap Execution Facilities,* Release No. 34–63825 (Feb. 2, 2011) 76 FR 10948 (Feb. 28, 2011).

[10] *See Ownership Limitations and Governance Requirements for Security-Based Swap Clearing Agencies, Security-Based Swap Execution Facilities, and National Securities Exchanges with Respect to Security-Based Swaps under Regulation MC,* Release No. 34–63107 (Oct. 14, 2010), 75 FR 65881 (Oct. 26, 2010), Section III.A.2.a.

[11] *See, e.g.,* Report of the Senate Committee on Banking, Housing, and Urban Affairs regarding The Restoring American Financial Stability Act of 2010, S. Rep. No. 111–176 at 34 (stating that ''[s]ome parts of the OTC market may not be suitable for clearing and exchange trading due to individual business needs of certain users. Those users should retain the ability to engage in customized, uncleared contracts while bringing in as much of the OTC market under the centrally cleared and exchange-traded framework as possible.'').

[12] Section 763(a) of the Dodd-Frank Act added Section 3C to the Exchange Act. *See also Process for Submissions for Review of Security-Based Swaps for Mandatory Clearing and Notice Filing Requirements for Clearing Agencies; Technical Amendments to Rule 19b–4 and Form 19b–4 Applicable to All Self-Regulatory Organizations,* Release No. 34–63557 (Dec. 15, 2010), 75 FR 82490 (Dec. 30, 2010) (''Mandatory Clearing Proposing Release'').

[13] *See* Exchange Act Section 3C(b) and Mandatory Clearing Proposing Release. In the Mandatory Clearing Proposing Release, we proposed rules to establish processes for (i) clearing agencies registered with the Commission to submit for review each security-based swap, or any group, category, type or class of security-based swaps, that the clearing agency plans to accept for clearing for a determination by the Commission of whether the security-based swap, or group, category, type or class of security-based swap is required to be cleared, and to determine the manner of notice the clearing agency must provide to its members of such submission, and (ii) how the Commission may stay the requirement that a security-based swap is subject to mandatory clearing.

[14] *See* Exchange Act Section 3C(g) and Mandatory Clearing Proposing Release. Section 3C(g)(1) provides that a security-based swap otherwise subject to mandatory clearing is not required to be cleared if one party to the security-based swap is not a financial entity, is using security-based swaps to hedge or mitigate commercial risk, and notifies the Commission, in a manner set forth by the Commission, how it generally meets its financial obligations associated with entering into non-cleared security-based swaps.

[15] *See* 15 U.S.C. 78s(b) and 12 U.S.C. 5465(e). *See also* Mandatory Clearing Proposing Release.

[16] *See* Exchange Act Section 3(a)(23).

[17] A CCP is an entity that interposes itself between the counterparties to a securities transaction, acting functionally as the buyer to every seller and the seller to every buyer. *See Clearing Agency Standards for Operation and Governance,* Release No. 34–64017 (Mar. 3, 2011), 76 FR 14472 (Mar. 16, 2011) (''Clearing Agency Standards Proposing Release'').

[18] ''Novation'' is a ''process through which the original obligation between a buyer and seller is discharged through the substitution of the CCP as seller to buyer and buyer to seller, creating two new contracts.'' Committee on Payment and Settlement Systems, Technical Committee of the International Organization of Securities Commissioners, Recommendations for Central Counterparties (November 2004) at 66.

[19] *See* Cecchetti, Gyntelberg and Hollanders, *Central counterparties for over-the-counter derivatives,* BIS Quarterly Review, September 2009, *available at http://www.bis.org/publ/qtrpdf/r_qt0909f.pdf.*

Under the rules we recently proposed regarding mandatory clearing, to meet the clearing requirement in Exchange Act Section 3C, the parties would be required to submit security-based swaps required to be cleared to a clearing agency that functions as a CCP for central clearing.[20] The proposed rules also would establish procedures for a clearing agency to submit to us for a review each security-based swap, or group, category, type or class of security-based swap, that the clearing agency plans to accept for clearing. We would review the submission and make a determination about whether the security-based swap, or group, category, type or class of security-based swap, is required to be cleared.[21] Under the statute and the proposed rules, the submission would be publicly available and a public comment period would be provided with respect to whether the clearing requirement will apply.[22]

If we determine that a security-based swap, or group, category, type, or class of security-based swap is required to be cleared, counterparties would be required to submit such security-based swaps negotiated and entered into bilaterally to the clearing agency for novation.[23] Thus, for security-based swaps submitted for novation, the CCP will be the issuer of new security-based swaps. Because the definition of ''security'' in the Securities Act was amended in the Dodd-Frank Act to include security-based swaps,[24] the novation of a security-based swap by a clearing agency functioning as a central counterparty involves an offer and sale by the clearing agency of a security (the security-based swap) under the Securities Act.

The Securities Act requires that any offer and sale of a security must either be registered under the Securities Act or made pursuant to an exemption from registration.[25] Certain provisions of the Exchange Act relating to the registration of classes of securities and the indenture qualification provisions of the Trust Indenture Act also potentially would apply to security-based swaps. The provisions of Section 12 of the Exchange Act could, without an exemption, require that security-based swaps be registered before a transaction could be effected on a national securities exchange.[26] In addition, registration of a class of security-based swaps under Section 12(g) would be required if the security-based swap is considered an equity security and there are more than 500 record holders of a particular class of security-based swaps at the end of a fiscal year. Further, without an exemption, the Trust Indenture Act would require qualification of an indenture for security-based swaps considered to be debt.[27]

The provisions of the Dodd-Frank Act do not contain an exemption from Securities Act or Exchange Act registration, or from Trust Indenture Act qualification, for security-based swaps, and we believe that compliance with the registration and qualification provisions of these Acts likely would be impracticable and frustrate the purposes of the Dodd-Frank Act. We have taken action in the past to facilitate clearing of certain credit default swaps by clearing agencies functioning as CCPs. For example, prior to enactment of the Dodd-Frank Act, we permitted five clearing agencies to clear certain credit default swaps (''eligible CDS'') on a temporary conditional basis.[28] To facilitate the operation of clearing agencies as CCPs for eligible CDS, we also adopted interim temporary exemptions from certain provisions of the Securities Act, the Exchange Act and the Trust Indenture Act, subject to certain conditions.[29] In the adopting release, we noted that we believed that the existence of CCPs for CDS would be important in helping to reduce counterparty risks inherent in the CDS

[20] *See* Mandatory Clearing Proposing Release and proposed Rule 3Ca–2.

[21] *See* Mandatory Clearing Proposing Release and Public Law 111–203, § 763(a) (adding Exchange Act Section 3C).

[22] *Id.*

[23] *See* Exchange Act Section 3C and proposed Exchange Act Rule 3Ca–2.

[24] *See* Public Law 111–203, Section 761(a) (amending Section 3(a) of the Exchange Act).

[25] *See* Section 5 of the Securities Act [15 U.S.C. 77e].

[26] We note that a registered security-based SEF would not be a national securities exchange for purposes of the Exchange Act. Therefore, Exchange Act Sections 12(a) and (b) would not be applicable to transactions effected through such facilities.

[27] *See* 15 U.S.C. 77aaa *et seq.*

[28] *See Order Granting Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with Request on Behalf of ICE Clear Europe Limited Related to Central Clearing of Credit Default Swaps, and Request for Comments,* Release No. 34–60372 (Jul. 23, 2009), 74 FR 37748 (Jul. 29, 2009), *Order Extending Temporary Conditional Exemptions Under the Securities Exchange Act of 1934 in Connection With Request on Behalf of ICE Clear Europe, Limited Related to Central Clearing of Credit Default Swaps, and Request for Comments,* Release No. 34–61973 (Apr. 23, 2010), 75 FR 22656 (Apr. 29, 2010), and *Order Extending Temporary Conditional Exemptions under the Securities Exchange Act of 1934 in Connection with Request on Behalf of ICE Clear Europe, Limited Related to Central Clearing of Credit Default Swaps and Request for Comment,* Release No. 34–63389 (Nov. 29, 2010), 75 FR 75520 (Dec. 3, 2010); *Order Granting Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with Request on Behalf of Eurex Clearing AG Related to Central Clearing of Credit Default Swaps, and Request for Comments,* Release No. 34–60373 (Jul. 23, 2009), 74 FR 37740 (Jul. 29, 2009), *Order Extending and Modifying Temporary Conditional Exemptions Under the Securities Exchange Act of 1934 in Connection With Request on Behalf of Eurex Clearing AG Related to Central Clearing of Credit Default Swaps, and Request for Comment,* Release No. 34–61975 (Apr. 23, 2010), 75 FR 22641 (Apr. 29, 2010), and *Order Extending Temporary Conditional Exemptions under the Securities Exchange Act of 1934 in Connection with Request on Behalf of Eurex Clearing, AG Related to Central Clearing of Credit Default Swaps and Request for Comment,* Release No. 34–63390 (Nov. 29, 2010), 75 FR 75518 (Dec. 3, 2010); *Order Granting Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection With Request of Chicago Mercantile Exchange Inc. and Citadel Investment Group, L.L.C. Related to Central Clearing of Credit Default Swaps, and Request for Comments,* Release No. 34–59578 (Mar. 13, 2009), 74 FR 11781 (Mar. 19, 2009), *Order Extending and Modifying Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with Request of Chicago Mercantile Exchange Inc. Related to Central Clearing of Credit Default Swaps, and Request for Comments,* Release No. 34–61164 (Dec. 14, 2009), 74 FR 67258 (Dec. 18, 2009), *Order Extending Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with Request of Chicago Mercantile Exchange Inc. Related to Central Clearing of Credit Default Swaps, and Request for Comments,* Release No. 34–61803 (Mar. 30, 2010), 75 FR 17181 (Apr. 5, 2010), and *Order Extending Temporary Conditional Exemptions under the Securities Exchange Act of 1934 in Connection with Request of Chicago Mercantile Exchange Inc. Related to Central Clearing of Credit Default Swaps and Request for Comment,* Release No. 34–63388 (Nov. 29, 2010), 75 FR 75522 (Dec. 3, 2010); *Order Granting Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection With Request on Behalf of ICE US Trust LLC Related to Central Clearing of Credit Default Swaps, and Request for Comments,* Release No. 34–59527 (Mar. 6, 2009), 74 FR 10791 (Mar. 12, 2009), *Order Extending and Modifying Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with Request from ICE Trust U.S. LLC Related to Central Clearing of Credit Default Swaps, and Request for Comments,* Release No. 34–61119 (Dec. 4, 2009), 74 FR 65554 (Dec. 10, 2009); *Order Extending Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with Request of ICE Trust U.S. LLC Related to Central Clearing of Credit Default Swaps, and Request for Comments,* Release No. 34–61662 (Mar. 5, 2010), 75 FR 11589 (Mar. 11, 2010), and *Order Extending and Modifying Temporary Exemptions under the Securities Exchange Act of 1934 in Connection with Request of ICE Trust U.S. LLC Related to Central Clearing of Credit Default Swaps and Request for Comment,* Release No. 34–63387 (Nov. 29, 2010), 75 FR 75502 (Dec. 3, 2010); and *Order Granting Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection with Request of LIFFE Administration and Management and LCH.Clearnet Ltd. Related to Central Clearing Of Credit Default Swaps, and Request for Comments,* Release No. 34–59164 (Dec. 24, 2008), 74 FR 139 (Jan. 2, 2009) (collectively, ''CDS Clearing Exemption Orders''). LIFFE A&M and LCH.Clearnet Ltd. allowed their order to lapse without seeking renewal.

[29] *See Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps,* Release No. 33–8999 (Jan. 14, 2009), 74 FR 3967 (Jan. 22, 2009) (''Temporary CDS Exemptions Release''). The interim final temporary rules exempted eligible credit default swaps from all provisions of the Securities Act, other than the Section 17(a) anti-fraud provisions, the Exchange Act registration requirements, and the provisions of the Trust Indenture Act, provided certain conditions were met.

market.[30] In addition to those actions with respect to eligible CDS, as discussed further below, the exemptions we are proposing today are similar to exemptions under the Securities Act and the Exchange Act for security futures products and certain standardized options.[31]

The rules proposed in this release are intended to further the goal of central clearing of security-based swaps by providing exemptions for the issuance of security-based swaps in connection with novation by a registered or exempt clearing agency functioning as a CCP from certain regulatory provisions that might otherwise interfere with such clearing activities. Without an exemption, a clearing agency functioning as a CCP would be required to register the security-based swap transaction, which could unnecessarily impede the central clearing of security-based swaps.[32] In addition, the clearing agency would be subject to Exchange Act registration and reporting requirements, and to the requirements of the Trust Indenture Act. We believe that the proposed exemptions from the Securities Act, Exchange Act, and Trust Indenture Act are necessary to facilitate the intent of the Dodd-Frank Act with respect to mandatory clearing of security-based swaps. As noted above, these proposed exemptions are similar to the exemptions we adopted for eligible CDS and standardized options, as well as the exemptions that are provided in the Securities Act and the Exchange Act for security futures products. In addition to our interest in facilitating clearing of security-based swaps, we believe that security-based swaps can be used for financial purposes similar to those served by standardized options and security futures products, and thus we believe that it is appropriate to establish comparable regulatory treatment for security-based swaps. By doing so, we believe that the proposed exemptions would allow for economically similar regulatory treatment under the Securities Act and Exchange Act.[33]

II. Discussion of the Proposed Rules and Amendments

We are proposing rules and amendments to existing rules (collectively, ''proposed rules'') to provide certain exemptions under the Securities Act, the Exchange Act, and the Trust Indenture Act for security-based swaps issued by clearing agencies functioning as CCPs.

A. Securities Act Rule 239

We are proposing Securities Act Rule 239 to exempt the offer and sale of security-based swaps that are or will be issued to eligible contract participants by, and in a transaction involving, a clearing agency that is registered under Section 17A of the Exchange Act [34] or exempt from such registration [35] by rule, regulation or order of the Commission (''registered or exempt clearing agency'') in its function as a CCP, from all provisions of the Securities Act, except the anti-fraud provisions of Section 17(a), subject to certain conditions.[36] Thus, proposed Securities Act Rule 239 will permit the offer and sale of security-based swaps to eligible contract participants that are or will be issued by, and in a transaction involving, a registered or exempt clearing agency in its function as a CCP without requiring compliance with Section 5 of the Securities Act.[37]

For the reasons described below, under the proposed rule, the offer and sale of a security-based swap would be exempt from the provisions of the Securities Act, other than Section 17(a), if the following conditions are satisfied:

- The security-based swap is or will be issued by a clearing agency that is registered with us or exempt from such registration by rule, regulation or order of the Commission;
- The Commission has determined that the security-based swap is required to be cleared or the registered or exempt clearing agency is permitted to clear the security-based swap pursuant to its rules;
- The security-based swap is sold only to an eligible contract participant (as defined in Section 1a(18) of the Commodity Exchange Act) in a transaction involving the registered or exempt clearing agency in its function as a CCP with respect to the security-based swap; [38] and

[30] *See id.* We extended the expiration date of the final temporary rules until July 16, 2011. *See Extension of Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps,* Release No. 33–9158 (Nov. 19, 2010), 75 FR 72660 (Nov. 26, 2010).

[31] *See Exemption for Standardized Options From Provisions of the Securities Act of 1933 and From the Registration Requirements of the Securities Exchange Act of 1934,* Release No. 33–8171 (Dec. 23, 2002), 68 FR 1 (Jan. 2, 2003) (''Standardized Options Release'').

[32] In addition, because the novation generally occurs after the counterparties have agreed to enter into the bilateral security-based swap being novated the investment decision by the counterparties already has occurred.

[33] Standardized options and security futures products are only traded on a national securities exchange and thus are subject to listing standards. This differs from the regulatory treatment of security-based swaps under the provisions of the Dodd-Frank Act, which provide that a security-based swap may be cleared by the clearing agency but does not require such security-based swap to be traded on a national securities exchange. We note, however, that security-based swap transactions must be registered under the Securities Act and traded on an exchange if offered or sold to non-eligible contract participants. *See* Public Law 111–203 § 768(b) (adding Securities Act Section 5(d)) and Public Law 111–203 § 763(e) (adding Exchange Act Section 6(l)).

[34] Section 763(b) of the Dodd-Frank Act provides that certain security-based swap clearing agencies will be deemed registered as clearing agencies for the purpose of clearing security-based swaps. The deemed registered provision, which becomes effective on July 16, 2011, applies if the entity is: (i) A depository institution that cleared swaps as a multilateral clearing organization before July 21, 2010, or (ii) a derivatives clearing organization registered with the CFTC that cleared swaps pursuant to a clearing agency exemption of the Commission before July 21, 2010. Currently, four security-based swap clearing agencies have temporary conditional exemptions from clearing agency registration under Section 17A solely to perform the functions of a clearing agency for certain CDS. *See* CDS Clearing Exemption Orders.

[35] The Dodd-Frank Act contains provisions permitting the Commission to provide exemptions from clearing agency registration with respect to security-based swaps in limited instances. *See* footnote 42 below. The Commission has the authority to, jointly with the CFTC, prescribe regulations regarding mixed swaps as may be necessary to carry out the provisions of Title VII of the Dodd-Frank Act. The proposed rules would cover security-based swaps, including mixed swaps, issued by clearing agencies that the Commission specifically exempts from registration by rule, regulation, or order.

[36] 15 U.S.C. 77q. This exemption is similar to the Securities Act exemptions for standardized options and security futures products. *See* Securities Act Rule 238 [17 CFR 230.238] and Section 3(a)(14) [15 U.S.C. 77c(a)(14)].

[37] The proposed exemption for the security-based swap transaction from Securities Act registration would not apply to any securities that may be delivered in settlement or payment of any obligations under the security-based swap (*e.g.* a physically settled credit default swap). With respect to such securities transactions, the parties to the security-based swap must either be able to rely on another exemption from the registration requirements of the Securities Act or must register such transaction. In evaluating the availability of an exemption from the Securities Act registration requirements, if such a security-based swap may be settled or paid through the delivery of a security, then the transaction in the underlying or referenced security will be considered to occur at the same time as the transaction in the related security-based swap. In this connection, we note that the Dodd-Frank Act amended Section 2(a)(3) of the Securities Act to provide that security-based swaps could not be used by an issuer, its affiliates, or underwriters to circumvent the registration requirements of Securities Act Section 5 with respect to the issuer's securities underlying the security-based swap. As amended, Section 2(a)(3) provides that ''[a]ny offer or sale of a security-based swap by or on behalf of the issuer of the securities upon which such security-based swap is based or is referenced, an affiliate of the issuer, or an underwriter, shall constitute a contract for sale of, sale of, offer to for sale, or offer to sell such securities.'' As a result, such issuer, affiliate, or underwriter would have to comply with the registration requirements of the Securities Act with respect to such underlying or referenced security, unless another exemption from registration was available.

[38] Eligible contract participant is defined in CEA Section 1a(18) (as re-designated and amended by

Continued

• For each security-based swap that would be offered or sold in reliance upon this exemption, the following information is included in an agreement covering the security-based swap the registered or exempt clearing agency provides to, or makes available to, its counterparty or is posted on a publicly available Web site maintained by the registered or exempt clearing agency:

• A statement identifying any security, issuer, loan, or narrow-based security index underlying the security-based swap;

• A statement indicating the security or loan to be delivered (or class of securities or loans), or if cash settled, the security, loan or narrow-based security index (or class of securities or loans) whose value is to be used to determine the amount of the settlement obligation under the security-based swap; and

• A statement of whether the issuer of any security or loan, each issuer of a security in a narrow-based security index, or each referenced issuer underlying the security-based swap is subject to the reporting requirements of Exchange Act Section 13 or Section 15(d) and, if not subject to such reporting requirements, whether public information, including financial information, about any such issuer is available and where the information is available.

We believe that the proposed rule exempting offers and sales of such security-based swaps by a registered or exempt clearing agency in its function as a CCP will further the goal in the Dodd-Frank Act of central clearing of security-based swaps. Without exempting the offers and sales of such security-based swaps by a registered or exempt clearing agency in its function as a CCP from the Securities Act (other than Section 17(a)), we believe that a registered or exempt clearing agency may not be able to clear security-based swaps in the manner contemplated by the Dodd-Frank Act and our proposed rules implementing its provisions. Further, we believe that with the above conditions, an exemption from the Securities Act is necessary and appropriate in the public interest and consistent with the protection of investors.[39]

Request for Comment

1. Should we provide an exemption from the provisions of the Securities Act, other than the antifraud provisions of Section 17(a), for the offer and sale of security-based swaps that are or will be issued to eligible contract participants by, and in a transaction involving, a registered or exempt clearing agency in its function as a CCP? Why or why not?

2. If we provide an exemption, are the proposed conditions to the exemption appropriate? Why or why not? Are there additional or different conditions that we should impose? Should we require more specificity as to the terms of the security-based swaps?

1. Registered or Exempt Clearing Agency Issuing Security-Based Swaps in Its Function as a CCP

The proposed Securities Act exemption would apply only to offers and sales of security-based swaps that are or will be issued by, and in a transaction involving, a clearing agency in its function as a CCP that is either registered with us or exempt from such registration by rule, regulation or order of the Commission. Registered clearing agencies are regulated by us under the Exchange Act and must comply with the standards in Exchange Act Section 17A.[40] The activities of such clearing agencies relating to the clearing or submission for clearing of security-based swaps are subject to regulation under the Exchange Act and applicable rules thereunder.[41] The proposed rule also would be available for security-based swaps that are issued by a clearing agency that we have exempted from registration with us by rule, regulation, or order, subject to such terms and conditions contained in any exemption.[42] We believe it is appropriate to make the proposed Securities Act exemption available to security-based swaps issued by exempt clearing agencies because in granting an exemption the Commission could impose conditions to the availability of the exemption that would provide protection to investors.

The proposed exemption would only apply to the extent the clearing agency will issue or is issuing the security-based swap in its function as a CCP and will apply to transactions involving such clearing agency.[43] We note that a clearing agency's role as a CCP and an issuer of security-based swaps is similar to a clearing agency's role with respect to standardized options.[44] We believe that a clearing agency's role as a CCP for security-based swaps, similar to a clearing agency's role with respect to standardized options, is fundamentally different from a conventional issuer that registers transactions in its securities under the Securities Act. For example, the purchaser of a security-based swap does not, except in the most formal sense, make an investment decision regarding the clearing agency.[45] Rather, the security-based swap investment decision is based on the referenced security, loan, narrow-based security index, or issuer. In this circumstance, coupled with the other conditions to the

Section 721 of the Dodd-Frank Act. *See also* Public Law 111–203, § 761(a) (adding Exchange Act Section 3(a)(65), which refers to the definition of eligible contract participant in the CEA. The definition of eligible contract participant contained the CEA (as amended by the Dodd-Frank Act) includes: financial institutions; insurance companies; investment companies; other entities and employee benefit plans; State and local municipal entities; market professionals, such as broker dealers, futures commission merchants, floor brokers, and investment advisors; and natural persons with a specified dollar amount invested on a discretionary basis. For certain of the entities and market professionals, the definition also contains certain conditions relating to the amount of assets or amount of monies invested on a discretionary basis. For a complete description of the definition, *see* CEA Section 1a(18) and Section 721 of the Dodd-Frank Act.

[39] We believe that if the conditions to the proposed exemption are satisfied, then the protections provided for in the exemption for security futures arising from the requirement for exchange trading, such as compliance with the statutory listing standards, are not needed here. *See* Section 6(h) of the Exchange Act [15 U.S.C. 78f(h)]. Unlike security future products that may be purchased by any person, security-based swaps issued by a registered or exempt clearing agency in its function as a CCP may only be entered into by eligible contract participants (unless the security-based swap transaction is on a national securities exchange and there is an effective registration statement under the Securities Act covering transactions in such security-based swap). *See* Public Law 111–203, § 763(e) (adding Exchange Act Section 6(*l*)) and § 768(b) (adding Securities Act Section 5(d)).

[40] 15 U.S.C. 78q–1. *See also* discussion in Mandatory Clearing Proposing Release.

[41] *Id.*

[42] Section 763(b) of the Dodd-Frank Act amended the Exchange Act and added Section 17(k), which provides that ''[t]he Commission may exempt, conditionally or unconditionally, a clearing agency from registration under this section for the clearing of security-based swaps if the Commission determines that the clearing agency is subject to comparable, comprehensive supervision and regulation by the Commodity Futures Trading Commission or the appropriate government authorities in the home country of the agency. Such conditions may include, but are not limited to, requiring that the clearing agency be available for inspection by the commission and make available all information requested by the Commission.'' Thus, although we have the authority under the Exchange Act, as amended by the Dodd-Frank Act, to provide exemptions from clearing agency registration, our authority to grant an exemption from registration for clearing agencies that clear security-based swaps is more limited than it is for other clearing agencies.

[43] As we noted above, when functioning as a CCP, a clearing agency's creditworthiness and liquidity are substituted for the creditworthiness and liquidity of the original counterparties. *See* footnote 19 above and accompanying text.

[44] *See* Standardized Options Release.

[45] We note, however, that a member or other user of a clearing agency may have an interest in the financial condition of the clearinghouse because the member or user will be relying on the ability of the clearinghouse to meet its obligations with respect to cleared transactions. Registered clearing agencies are required to make their audited financial statements and other information about themselves publicly available. *See* 15 U.S.C. 78j(b).

proposed exemption, we do not believe that Securities Act registration of the offer and sale of security-based swaps by a clearing agency in its function as a CCP to eligible contract participants is necessary.

Request for Comment

3. Is the proposed exemption appropriately conditioned on the registered or exempt clearing agency issuing the security-based swap in its function as a CCP? Why or why not? Should there be a distinction between registered and exempt clearing agencies for this purpose?

2. Security-Based Swaps the Commission Determines Are Required To Be Cleared or That a Clearing Agency Is Permitted To Clear Pursuant to Its Rules

We recently proposed rules to implement the provisions of the Dodd-Frank Act regarding mandatory and voluntary clearing of security-based swaps, or groups, categories, or types or classes of security-based swaps.[46] Our proposed rules would establish procedures for a clearing agency to submit for a review the security-based swap, or group, category, type or class of security-based swap, that the clearing agency plans to accept for clearing. As proposed, we would review the submission and make a determination of whether the security-based swap, or group, category, type or class of security-based swap, is required to be cleared.[47]

Consistent with the purposes of the Dodd-Frank Act, our proposed exemption is intended to facilitate clearing of security-based swaps that the Commission determines are subject to mandatory clearing, or that are permitted to be cleared pursuant to the clearing agency's rules. Consequently, under proposed Rule 239, a registered or exempt clearing agency would be entitled to rely on the exemption to issue, in its function as a CCP, security-based swaps that we determine are required to be cleared. In addition, the exemption would be available to a registered or exempt clearing agency issuing a security-based swap, in its function as a CCP, that is not subject to mandatory clearing but is permitted to be cleared pursuant to the clearing agency's rules. The proposed exemption would not be available for security-based swaps issued by a registered or exempt clearing agency in its function as a CCP that are not required to be cleared or permitted by its rules to be cleared.

The Dodd-Frank Act also provides that if a security-based swap is subject to the mandatory clearing requirement, it must be traded on an exchange or a registered or exempt security-based SEF, unless no security-based SEF makes such security-based swap available for trading.[48] Thus, it is possible that a security-based swap could be subject to mandatory clearing without being traded on an exchange or security-based SEF. Proposed Rule 239 would be available for security-based swaps that are subject to the mandatory clearing requirement or are permitted to be cleared pursuant to the clearing agency's rules,[49] regardless of whether such security-based swaps also are traded on a national securities exchange or through a security-based SEF.[50] We believe that if the conditions to the proposed exemption are satisfied, then the protections provided for in the analogous exemption for security futures arising from the requirement for exchange trading, such as compliance with the statutory listing standards, are not needed here. Unlike security future products that may be purchased by any person, under the Dodd-Frank Act security-based swaps may only be offered and sold to eligible contract participants either pursuant to an exemption from the registration requirements of the Securities Act and in transactions not effected on a national securities exchange or in registered offerings effected on a national securities exchange. No offers or sales of security-based swaps may be made to non-eligible contract participants unless there is an effective registration statement under the Securities Act covering transactions in such security-based swap[51] and any security-based swap transaction with a non-eligible contract participant must be effected on a national securities exchange.[52] As a result, security-based swaps issued by a registered or exempt clearing agency in its function as a CCP may only be offered and sold to eligible contract participants, unless there is an effective registration statement and the transaction is on a national securities exchange. Thus, because only eligible contract participants may enter into the security-based swaps not traded on a national securities exchange, we do not believe it is necessary to condition the exemption on whether the security-based swap is traded on a national securities exchange. In addition, including such a provision could frustrate the goals of the provisions of the Dodd-Frank Act because the Dodd-Frank Act did not restrict transactions with eligible contract participants to transactions on national securities exchanges. Consequently, the proposed exemption does not include such a requirement.

Request for Comment

4. Should we condition the availability of the exemption on the security-based swap being subject to the mandatory clearing requirement, or being permitted to be cleared pursuant to the clearing agency's rules, as proposed?

5. Should the exemption be limited to security-based swaps that are subject to the mandatory clearing requirement, and not include those that are permitted to be cleared?

6. Should the exemption be available to security-based swaps that are not traded on an exchange or a security-based SEF, as proposed?

3. Sales Only to Eligible Contract Participants

Under the Dodd-Frank Act, only an eligible contract participant may enter into security-based swaps other than on a national securities exchange.[53] In addition, security-based swaps that are not registered pursuant to the Securities Act can only be sold to eligible contract

[46] *See* Mandatory Clearing Proposing Release.

[47] *See* Mandatory Clearing Proposing Release. For those security-based swaps that are submitted and not required to be cleared, the clearing agency in its function as a CCP may still clear those security-based swaps if it is permitted by its rules.

[48] Exchange Act Section 3C(h) specifies that transactions in security-based swaps that are subject to the clearing requirement of Exchange Act Section 3C(a)(1) must be executed on an exchange or on a security-based SEF registered with us (or a security-based SEF exempt from registration), unless no exchange or security-based SEF makes the security-based swap available to trade or the security-based swap transaction is subject to the clearing exception in Exchange Act Section 3C(g). *See* Public Law 111–203, § 763 (adding Section 3C(h) of the Exchange Act) Exchange Act Section 3D(e) allows the Commission to exempt a security-based SEF from registration if the Commission finds that the security-based SEF is subject to comparable comprehensive supervision and regulation on a consolidated basis by the CFTC.

[49] The exemption would be limited to security-based swaps issued by and in a transaction involving a registered or exempt clearing agency in its function as a CCP.

[50] *See Registration and Regulation of Security-Based Swap Execution Facilities,* Release No. 34–63825 (Feb. 2, 2011), 76 FR 10948 (Feb. 28, 2011). In this regard, we note that a security-based swap may be required or permitted to be cleared, but neither a national securities exchange nor a security-based SEF may make the security-based swap available for trading.

[51] *See* Public Law 111–203, § 768(b) (adding Securities Act Section 5(d)).

[52] *See* Public Law 111–203, § 763(e) (adding Exchange Act Section 6(*l*)).

[53] *See also* Public Law 111–203, § 763(e) (adding Exchange Act Section 6(*l*)) .

participants.[54] New Section 5(d) of the Securities Act specifically provides that it is unlawful to offer to buy, purchase, or sell a security-based swap to any person that is not an eligible contract participant, unless the transaction is registered under the Securities Act.[55] Given that Congress determined it is appropriate to limit the availability of registration exemptions under the Securities Act to eligible contract participants, we believe it is appropriate to limit the proposed Securities Act exemption to security-based swaps entered into with eligible contract participants.

Request for Comment

7. Should we limit the Securities Act exemption to transactions with eligible contract participants, as proposed?

4. Disclosures Relating to the Security-Based Swaps

The proposed rule would require the registered or exempt clearing agency to disclose, either in its agreement regarding the security-based swap or on its publicly available Web site, certain information with respect to the security-based swap. This information would include the following:

- A statement identifying any security, issuer, loan, or narrow-based security index underlying the security-based swap;
- A statement indicating the security or loan to be delivered (or class of securities or loans), or if cash settled, the security, loan, or narrow-based security index (or class of securities or loans) whose value is to be used to determine the amount of the settlement obligation under the security-based swap; and
- A statement of whether the issuer of any security or loan, each issuer of a security in a narrow-based security index, or each referenced issuer underlying the security-based swap is subject to the reporting requirements of Exchange Act Section 13 or Section 15(d) and, if not subject to such reporting requirements, whether public information, including financial information, about any such issuer is available, and, if so, the location where the information is available.

The purpose of the proposed requirement relating to the availability of information is to inform investors about whether there is publicly available information about the issuer of the referenced security or the referenced issuer.[56] We are not proposing to condition the exemption on whether the issuer is subject to Exchange Act reporting or whether there is publicly available financial information about such issuer. As noted above, the proposed exemption for offers and sales of security-based swaps issued by, and in a transaction involving, a registered or exempt clearing agency in its function as a CCP would be limited to security-based swaps entered into with an eligible contract participant. The Dodd-Frank Act did not restrict eligible contract participants' ability to enter into security-based swaps based on whether or not there is publicly-available information about the issuer of the referenced security or loan or the referenced issuer.[57] As a result, and in light of the nature of the other regulatory safeguards,[58] we are not proposing to condition the proposed exemption on the actual availability or delivery of such information. While the Dodd-Frank Act does not condition clearing of security-based swaps on the availability of such information, we believe it is important for eligible contract participants to understand whether such information is publicly available. The availability (or absence) of public information is generally important to eligible contract participants and the registered or exempt clearing agency in evaluating and pricing the security-based swap. Therefore, our proposed rule would require disclosure about whether such information is available.

If the issuer of the referenced security or loan or the referenced issuer is not subject to Exchange Act reporting, but there is publicly available information about the issuer, the clearing agency would be required under the proposal to disclose that fact and disclose where the information is available. This disclosure could include, for example, a statement that the issuer is listed on a particular foreign exchange and where information about issuers on such exchange can be found.

Under our proposal, the required information could be provided in the agreement covering the security-based swap the registered or exempt clearing agency provides or makes available to the counterparty or on a publicly available Web site maintained by the clearing agency. We understand that master agreements and related schedules for security-based swaps generally contain detailed information about the terms of the security-based swaps.[59] In addition, each registered

[54] *See* Public Law 111–203, § 768(b) (adding Securities Act Section 5(d)).

[55] *See* Section 768(b) of the Dodd-Frank Act (adding new Securities Act Section 5(d)) (''Notwithstanding the provisions of section 3 or 4, unless a registration statement meeting the requirements of section 10(a) is in effect as to a security-based swap, it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, offer to buy or purchase or sell a security-based swap to any person who is not an eligible contract participant as defined in section 1a(18) of the Commodity Exchange Act (7 U.S.C. 1a(18)).'').

[56] For issuers that are not subject to Exchange Act reporting requirements, the following are some non-exclusive examples of issuers that may have information publicly available, including financial information about the issuer, or circumstances in which public information about a security may be available: (1) An entity that voluntarily files Exchange Act reports; (2) an entity that makes Securities Act Rule 144(d)(4) information available to any person; (3) a foreign private issuer whose securities are listed outside the United States; (4) a foreign sovereign issuer with outstanding debt; (5) for periods before July 21, 2010 an asset-backed security issued in a registered transaction with publicly available distribution reports (for periods after July 21, 2010, asset-backed issuers will continue to be subject to reporting); and (6) an asset-backed security issued or guaranteed by the Federal National Mortgage Association (''Fannie Mae''), the Federal Home Loan Mortgage Corporation (''Freddie Mac'') or the Government National Mortgage Association (''Ginnie Mae'').

[57] We note that eligible contract participants may enter into security-based swaps on a bilateral basis in reliance on an available exemption from the registration requirements of the Securities Act. The proposed exemption in this release to facilitate clearing of security-based swaps does not apply to these bilateral transactions.

[58] As part of the process for submitting security-based swaps to us for a determination of whether such security-based swaps are subject to mandatory clearing, the Dodd-Frank Act requires us to take into account several factors, such as the existence of significant outstanding notional exposures, trading liquidity, and adequate pricing data, when reviewing a submission to clear security-based swaps by a clearing agency. Much of the information that the registered or exempt clearing agency will be required to include in its agreement or on its Web site, as a condition to the proposed exemption, likely will already be included in the description of the security-based swaps that the clearing agency identifies publicly that it is going to clear. In addition to the security-based swap submission provisions, the Dodd-Frank Act and the rules proposed under the Act relating to reporting requirements, trade acknowledgments and verification, and business conduct would require certain disclosures relating to security-based swaps, some of which would overlap with the information requirement we are proposing. *See, e.g.,* Mandatory Clearing Proposing Release and *Trade Acknowledgment and Verification of Security-Based Swap Transactions,* Release No. 34–63727 (Jan. 14, 2011), 76 FR 3859 (Jan. 21, 2011) (''Trade Acknowledgement and Verification Proposing Release'').

[59] In addition, under the rules proposed in the Trade Acknowledgement and Verification Proposing Release and *Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information,* Release No. 63346 (Nov. 19, 2010), 75 FR 75207 (Dec. 2, 2010) (''SBSR Proposing Release''), which were proposed under the Dodd-Frank Act and for which action has not yet been taken with respect to final rules, the information that would be required to be reported to the security-based swap data repository includes the basic terms of the security-based swap: the asset class of the security-based swap, identification of the security-based swap instrument and the specific asset(s) or issuer of a security on which the security-based swap is based; the notional

clearing agency is required to post and maintain a current and complete version of its rules on its Web site. Thus, we believe that parties engaging in security-based swaps transactions would be familiar with looking to the agreements or a clearing agency's Web site to obtain information. Given that clearing agencies generally provide information in agreements and maintain publicly available Web sites, we believe that providing the information we are proposing be required to be disclosed in the agreement for the security-based swap or on the clearing agency's publicly available Web site would not pose significant burdens for clearing agencies.

Request for Comment

8. Should we require a registered or exempt clearing agency to provide or make available information about the security-based swap it will issue, as proposed?

9. Is the proposed requirement that a registered or exempt clearing agency indicate whether there is public information available about the referenced issuer or security upon which the security-based swap is based appropriate? If not, why not?

10. Should we require a registered or exempt clearing agency to provide or make available any additional or different information? Are any of the proposed disclosures unnecessary?

11. Should the exemption be limited to circumstances where the security-based swap relates to an Exchange Act reporting issuer?

12. Should we require, as proposed, that if the issuer is not an Exchange Act reporting company but there is publicly available information, that the location of that information be disclosed?

13. Should we provide the alternatives of including the disclosure in the agreement covering the security-based swap or on the clearing agency's publicly available Web site, as proposed? Should we require that all agreements include the information, or, alternatively, require the information to be posted on the clearing agency's publicly available Web site in any case? As another alternative, should we require that the information be made available to clearing members and eligible contract participants rather than require that the information be publicly available? Will the registered or exempt clearing agency already provide some or all of the proposed disclosures on its Web site? If so, what information? Is the information proposed to be required to be provided publicly available from sources other than the registered or exempt clearing agency? If so, where?

B. Exchange Act Rule 12a–10 and Rule 12h–1(h)

Section 12(a) of the Exchange Act makes it unlawful for any broker or dealer to effect a transaction in a non-exempt security on a national securities exchange unless the security has been registered under Section 12(b) for trading on that exchange. Section 12(g)(1), as modified by rule, requires any issuer with more than $10,000,000 in total assets and a class of equity securities held by 500 or more persons to register such security with us.[60]

Rule 12b–1 under the Exchange Act prescribes the procedures for registration under both Section 12(b) and Section 12(g). Absent an exemption, security-based swaps that will be traded on national securities exchanges would be required to be registered under Section 12(b) of the Exchange Act. A registered or exempt clearing agency issuing a security-based swap as a result of novation would be required, without an available exemption, to register the security-based swaps under Section 12(b) before such security-based swaps could be traded on a national securities exchange. In addition, if the security-based swaps were considered equity securities of the registered or exempt clearing agency, the registration provisions of Section 12(g) of the Exchange Act could apply.

As noted above, just as a registered or exempt clearing agency is different from a conventional issuer that registers transactions in its securities under the Securities Act, it is also different with respect to registering a class of its securities, in this case the security-based swap issued by the registered or exempt clearing agency, under the Exchange Act. Therefore, we are proposing two rules relating to Exchange Act registration of security-based swaps that are or have been issued by a registered or exempt clearing agency in its function as a CCP.

We are proposing new Exchange Act Rule 12a–10 to exempt security-based swaps that are or have been issued by a registered or exempt clearing agency in reliance on the proposed exemption under the Securities Act from Section 12(a) of the Exchange Act under certain conditions.[61] Specifically, proposed Exchange Act Rule 12a–10 would provide that Exchange Act Section 12(a) does not apply to any security-based swap that:

- Is or will be issued by a registered or exempt clearing agency in its function as a CCP with respect to the security-based swap;
- The Commission has determined is required to be cleared, or that the clearing agency is permitted to clear pursuant to its rules;
- Is sold to an eligible contract participant in reliance on Securities Act Rule 239; and
- Is traded on a national securities exchange registered pursuant to Section 6(a) of the Exchange Act.

We also are proposing an amendment to Exchange Act Rule 12h–1 to exempt security-based swaps that are or have been issued by a registered or exempt clearing agency from the provisions of Section 12(g) of the Exchange Act under certain conditions.[62] Proposed Exchange Act Rule 12h–1(h) would exempt from Section 12(g) of the Exchange Act security-based swaps that are issued by a registered or exempt clearing agency in its function as a CCP, whether or not such security-based swap is traded on a national securities exchange registered pursuant to Section 6(a) of the Exchange Act or a registered or exempt security-based SEF.[63] In addition, the security-based swaps being issued by the registered or exempt clearing agency in its function as a CCP must be required to be cleared, or be permitted to be cleared pursuant to the clearing agency's rules, and may only be sold to eligible contract participants.

As we noted in the discussion of the proposed Securities Act exemption, we believe the interest of investors in the security-based swap is primarily with respect to the referenced security or loan, referenced issuer or referenced narrow-based security index, and not with respect to the registered or exempt clearing agency functioning as the

amount(s), and the currenc(ies) in which the notional amount(s) is expressed; the date and time of execution, and the effective date and scheduled termination date; the price; the terms of any fixed or floating rate payments, and the frequency of any payments; the amount(s) and currenc(ies) of any up-front payment(s) and a description of the terms and contingencies of the payment streams of each counterparty to the other; the title of any master agreement, or any other agreement governing the transaction (including the title of any document governing the satisfaction of margin obligations), incorporated by reference and the date of any such agreement; and the data elements necessary for a person to determine the market value of the transaction. To the extent we adopt these or similar information reporting requirements, the parties to the security-based swap transaction would have to know detailed information about the terms of the security-based swap transaction to comply with the reporting requirements.

[60] 15 U.S.C. 78l(g) and Rule 12g-1 (17 CFR 240.12g–1).

[61] 15 U.S.C. 78l(a).

[62] 15 U.S.C. 78l(g).

[63] Exchange Act Rules 12h–1(d) and 12h–1(e) provide similar exemptions for options and futures, respectively.

CCP.[64] Therefore, we preliminarily believe that requiring clearing agencies to register security-based swaps under the Exchange Act would not provide additional useful information or meaningful protection to investors with respect to the security-based swap. In addition, the other consequences of Exchange Act registration, such as requirements for ongoing periodic reporting and application of the proxy rules to the clearing agency, would not be meaningful in the context of security-based swaps. At the same time, requiring such registration likely would impose burdens on clearing agencies issuing security-based swaps.[65] Therefore, we believe that subjecting the registered or exempt clearing agency to the requirements of the Exchange Act arising from Section 12(a) or 12(g) is not necessary or appropriate in the public interest.

In addition, we note that similar Exchange Act exemptions exist for standardized options issued by a registered options clearing agency and security futures products issued by a registered or exempt clearing agency.[66] We believe that it is appropriate to establish comparable regulatory treatment for security-based swaps issued by a registered or exempt clearing agency with respect to the applicability of Section 12 of the Exchange Act to security-based swaps issued by a registered or exempt clearing agency. Moreover, we believe it is important to further the goal of facilitating clearing of security-based swaps while maintaining appropriate investor protection.

Security-based swaps that will not be cleared by a registered or exempt clearing agency in its function as a CCP but are listed for trading on a national securities exchange or registered or exempt security-based SEF will not be able to rely on the proposed exemption from registration under Section 12(b) or Section 12(g) of the Exchange Act.[67]

Request for Comment

14. Should we provide an exemption, as proposed, from Section 12(a) and Section 12(g) of the Exchange Act for security-based swaps that are or have been issued to eligible contract participants by a registered or exempt clearing agency in its function as a CCP? Why or why not?

15. If we should provide an exemption, are the proposed conditions to the exemption appropriate? Why or why not? Are there additional conditions that we should impose?

16. Should we provide an exemption from Section 12(a) and Section 12(g) of the Exchange Act for security-based swaps traded on a national securities exchange but that are not cleared? Why or why not?

17. Should we provide an exemption from Section 12(g) of the Exchange Act for security-based swaps traded on a registered or exempt security-based SEF but that are not cleared? Why or why not?

C. Implications of Security-Based Swaps as Securities

Transactions involving the offer and sale of security-based swaps that are not issued by, and in a transaction involving, a registered or exempt clearing agency in its function as a CCP would not be able to rely on the proposed exemptions under the Securities Act and Exchange Act. Thus, the proposed exemptions would not be available for transactions involving security-based swaps that will not be cleared (''uncleared security-based swaps'') that may be entered into on organized markets, such as a security-based SEF or a national securities exchange. It is our understanding that transactions involving uncleared security-based swaps occur today on organized platforms that would likely register as security-based SEFs, and we expect this activity will continue after the effective date of the Dodd-Frank Act.[68] As of the effective date of the Dodd-Frank Act, however, such security-based swaps will be included in the definition of security under the Securities Act and the Exchange Act and subject to the full panoply of the Federal securities laws, including the registration requirements of Section 5 of the Securities Act and Section 12 of the Exchange Act. Because the proposed exemptions are limited to security-based swaps that are issued or will be issued by, and in a transaction involving, a registered or exempt clearing agency in its function as a CCP, counterparties engaging in an uncleared security-based swap would have to either rely on other available exemptions from the registration requirements of the Securities Act, the Exchange Act, and, if applicable, the Trust Indenture Act or consider whether to register such transaction or class of security.

Request for Comment

18. How will the proposed exemptions affect, if at all, the manner in which security-based swaps are transacted today and are expected to be transacted once the provisions of Title VII of the Dodd-Frank Act become effective?

19. Will the counterparties to uncleared security-based swaps be able to rely on other available exemptions from registration under the Securities Act and Exchange Act? If not, why? Is further guidance or rules needed in this regard? If so, what type of guidance or rules would be helpful?

20. Are security-based swaps transacted today or expected to be transacted once the provisions of Title VII of the Dodd-Frank Act become effective in a manner that would not permit the parties to rely on existing exemptions under the Securities Act and Exchange Act? If so, please explain in detail why existing exemptions would not be available.

21. Should we consider additional exemptions under the Securities Act and Exchange Act for security-based swaps traded on a national securities exchange or security-based SEFs with eligible contract participants but that are not cleared? Should an exemption from Exchange Act registration be provided if all holders of the class of security-based swap are eligible contract participants? Why or why not? What conditions to any such exemption would be appropriate, if any?

22. Should we consider providing an exemption under the Securities Act that would allow a public offering of

---

[64] As noted above, a member or other user of the clearing agency may have an interest in the financial condition of the clearinghouse.

[65] *See* Public Law 111–203 § 763(b).

[66] *See* Exchange Act Section 12(a) [15 U.S.C. 78l(a)] and Exchange Act Rule 12a–9 [17 CFR 240.12a–9] and Rules 12h–1(d) and (e) [17 CFR 240.12h–1(d) and (e)].

[67] We recognize that security-based swaps that will be issued by a clearing agency, as well as security-based swaps that will not be cleared, may be traded on or through a national securities exchange or a security-based SEF. If the national securities exchange or security-based SEF is acting only in its capacity as a system or platform for trading securities, we do not believe it would be offering or selling the security-based swaps that are being traded or transacted by market participants on or through its system or platform, for purposes of either the Securities Act or the Exchange Act registration provisions applicable to security-based swaps. If the security-based swap being traded on or through the national securities exchange or security-based SEF will, by its terms, be cleared by a clearing agency in its function as a CCP, the security-based swap will be issued by such clearing agency, similar to standardized options and security-future products that are traded on national securities exchanges and cleared by registered clearing agencies. For a security-based swap that will not, by its terms, be cleared by a clearing agency in its function as a CCP, market participants must evaluate the availability of exemptions under the Securities Act and the Exchange Act for their security-based swap transactions.

[68] *See Registration and Regulation of Security-Based Swap Execution Facilities,* Release No. 34–63825 (Feb. 2, 2011), 76 FR 10948 (Feb. 28, 2011) (proposed rules relating to security-based SEFs would allow for transactions in uncleared security-based swaps to occur on registered security-based SEFs).

security-based swaps to eligible contract participants on a registered security-based SEF or national securities exchange? Why or why not? What conditions to any such exemption would be appropriate, if any?

D. Trust Indenture Act Rule 4d–11

We are proposing Rule 4d–11 under Section 304(d) of the Trust Indenture Act that would exempt any security-based swap offered and sold in reliance on Securities Act Rule 239 from having to comply with the provisions of the Trust Indenture Act.[69] We adopted a similar exemption on a temporary basis for eligible CDS.[70]

The Trust Indenture Act is aimed at addressing problems that unregulated debt offerings posed for investors and the public,[71] and provides a mechanism for debtholders to protect and enforce their rights with respect to the debt. We do not believe that the protections contained in the Trust Indenture Act are needed to protect eligible contract participants to whom a sale of a security-based swap is made in reliance on proposed Securities Act Rule 239. The identified problems that the Trust Indenture Act is intended to address generally do not occur in the offer and sale of security-based swaps.[72] For example, security-based swaps are contracts between two parties and, as a result, do not raise the same problem regarding the ability of parties to enforce their rights under the instruments as would, for example, a debt offering to the public. Moreover, through novation, the clearing agency functionally becomes the counterparty to the buyer and the seller, and, in the case where buyer and seller are both members of the CCP, each would look directly to the clearing agency to satisfy the obligations under the security-based swap. As a consequence, enforcement of contractual rights and obligations under the security-based swap would occur directly between such parties, and the Trust Indenture Act provisions would not provide any additional meaningful substantive or procedural protections.

Accordingly, due to the nature of security-based swaps as contracts that will be or have been issued by a registered or exempt clearing agency in its function as a CCP, we do not believe the protections contained in the Trust Indenture Act are needed with respect to these instruments. Therefore, we believe the proposed exemption is necessary or appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the Trust Indenture Act.

Request for Comment

23. The proposed rules include an exemption from the application of the Trust Indenture Act for security-based swaps that are offered and sold in reliance on proposed Securities Act Rule 239. Is this exemption appropriate or are there contractual protections in the Trust Indenture Act that should be included as mandatory provisions of a security-based swap contract that is or will be issued by a registered or exempt clearing agency? If yes, please explain in detail.

E. Transition Matters

As we discuss above, we adopted temporary rules to exempt eligible credit default swaps from all provisions of the Securities Act (other than the Section 17(a) anti-fraud provisions), Exchange Act registration requirements, and the provisions of the Trust Indenture Act, provided certain conditions were met.[73] We subsequently extended the expiration date of the temporary rules until July 16, 2011.[74] The rules proposed in this release would create permanent exemptions that would supplant the temporary rules. However, the current termination date for the temporary rules may pass before the rules proposed in this release are adopted. We plan to provide an appropriate transition from the temporary rules to any permanent rules. In the event the permanent rules are not in place by July 16, 2011, we may consider extending the temporary rules in order to continue facilitating the clearing of certain credit default swaps by clearing agencies functioning as CCPs.

III. General Request for Comment

We request and encourage any interested person to submit comments regarding the proposed rules. In particular, we solicit comment on the following questions:

24. We are interested in understanding what type of security-based swaps would not be eligible for these proposed exemptions. We noted above that the proposed exemptions would not be available for transactions involving uncleared security-based swaps that may be entered into on organized markets, such as a security-based SEF or a national securities exchange. Are there other security-based swaps that would not be encompassed within the scope of the proposed exemptions? Should these other security-based swaps be covered by the proposed exemptions? If so, why?

25. What are the amounts and types of security-based swaps that may not satisfy the conditions for the proposed exemptions?

26. We have not proposed an amendment to Securities Act Rule 146 for security-based swaps transactions because the Dodd-Frank Act provides that states may not regulate these transactions (except under their general antifraud authority).[75] Therefore, we do not believe it is necessary to propose that eligible contract participants that are sold security-based swaps in reliance on proposed Securities Act Rule 239 be defined as ''qualified purchasers'' under Section 18(b)(3) of the Securities Act. Were we to add such a definition, such security-based swaps that are or will be issued by a registered or exempt clearing agency would be included as ''covered securities'' under Section 18 of the Securities Act and exempt from state securities registration (''blue sky'') laws. Would defining eligible contract participants that are sold security-based swaps pursuant to Securities Act Rule 239 as ''qualified purchasers'' for purposes of Section 18 of the Securities Act (and thus making the security-based swaps that are or will be issued by a registered or exempt clearing agency ''covered securities,'') provide any benefit or greater certainty than that provided by the language in Exchange Act Section 28(a)(4)?

27. The conditions of the proposed Exchange Act and Trust Indenture Act exemptions are the same as the conditions to the proposed Securities Act exemption. Is this appropriate or should there be different conditions relating to the Exchange Act and Trust Indenture Act exemptions? If yes, please explain.

28. Are there transition issues we should consider relating to the temporary rules for eligible CDS and the proposed permanent rules?

[69] The Trust Indenture Act applies to debt securities sold through the use of the mails or interstate commerce. Section 304 of the Trust Indenture Act exempts from the Trust Indenture Act a number of securities and transactions. Section 304(a) of the Trust Indenture Act exempts securities that are exempt under Securities Act Section 3(a) but does not exempt from the Trust Indenture Act securities that are exempt by Commission rule. Accordingly, while proposed Securities Act Rule 239 would exempt the offer and sale of security-based swaps satisfying certain conditions from all the provisions of the Securities Act (other than Section 17(a)), the Trust Indenture Act would continue to apply absent proposed Rule 4d–11.

[70] *See* Rule 4d–11T [17 CFR 260.4d-11T].

[71] *See* 15 U.S.C.77bbb(a).

[72] 15 U.S.C. 77bbb(a).

[73] *See* Temporary CDS Exemptions Release.

[74] *See* footnote 30 above.

[75] Exchange Act Section 28(a)(4) (added by Section 767 of the Dodd-Frank Act).

IV. Paperwork Reduction Act

A. Background

Certain provisions of proposed Securities Act Rule 239 would result in ''collection of information requirements'' within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[76] The Commission is submitting proposed Rule 239 to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[77] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The title for this collection of information is:

- ''Rule 239'' (a proposed new collection of information).

Rule 239 is a newly proposed collection of information under the Securities Act. This new collection of information relates to the proposed information requirements for clearing agencies seeking to rely on the proposed exemption. There is no mandatory retention period for the information disclosed, and the information disclosed would be made publicly available on the clearing agency's Web site or in an agreement the clearing agency provides or makes available to its counterparty to the security-based swap transaction. The collection of information would be mandatory and it would not be kept confidential.

B. Summary of Collection of Information

As discussed above, one condition to the availability of the exemption provided in proposed Securities Act Rule 239 for offers and sales of security-based swaps issued by, and in a transaction involving, a registered or exempt clearing agency in its function as a CCP is that such registered or exempt clearing agency has an agreement covering the security-based swap that is provided or made available to its counterparty or a publicly available Web site maintained by the registered or exempt clearing agency that contains the following:

- A statement identifying any security, issuer, loan, or narrow-based security index underlying the security-based swap;
- A statement indicating the security or loan to be delivered (or class of securities or loans), or if cash settled, the security, loan or narrow-based security index (or class of securities or loans) whose value is to be used to determine the amount of the settlement obligation under the security-based swap; and
- A statement of whether the issuer of any security or loan, each issuer of a security in a narrow-based security index, or each referenced issuer underlying the security-based swap is subject to the reporting requirements of Exchange Act Section 13 or Section 15(d) and, if not subject to such reporting requirements, whether public information, including financial information, about any such issuer is available and where the information is available.

The other provisions of proposed Rule 239 and other rules we are proposing relate to exemptions and eligibility requirements for those exemptions; therefore, we do not expect that those other provisions would create any new filing, reporting, recordkeeping, or disclosure requirement for registered or exempt clearing agencies.

C. Paperwork Reduction Act Burden Estimates

For purposes of the Paperwork Reduction Act, we estimate that there will be an annual incremental increase in the paperwork burden for clearing agencies as issuers of security-based swaps to comply with our proposed collection of information requirements. The disclosure provisions of proposed Rule 239 would apply to registered or exempt clearing agencies relying on the proposed exemption from the registration requirements of the Securities Act of 1933. The disclosure provisions of the proposed rule would make certain information about security-based swaps that may be cleared by the registered or exempt clearing agency available to eligible contract participants and other market participants.

Currently, four clearing agencies are authorized to clear credit default swaps, which include security-based swaps,[78] pursuant to temporary conditional exemptions under Exchange Act Section 36.[79] The obligation to centrally clear certain security-based swap transactions is a new requirement under Title VII of the Dodd-Frank Act, and we anticipate that clearing agencies operating under temporary conditional exemptions will register or will be deemed registered as clearing agencies eligible to clear security-based swaps.[80] Based on the fact that there are currently four clearing agencies authorized to clear security-based swaps and that there could conceivably be a few more in the foreseeable future,[81] we preliminarily estimate that four to six clearing agencies may plan to centrally clear security-based swaps and seek to rely on the proposed exemptions, and therefore, would be subject to the collection of information. For purposes of the PRA, we estimate six clearing agencies would seek to rely on the proposed exemptions.

We preliminarily believe that a registered or exempt clearing agency issuing security-based swaps in its function as a CCP could incur some costs associated with disclosing, or providing or making available, certain information in accordance with proposed Rule 239, either in its agreement regarding the security-based swap or on its publicly available Web site, with respect to the security-based swap. A clearing agency also could incur costs associated with updating the information on its Web site or in its agreements, if necessary. The purpose of the proposed requirement is to inform investors about whether there is publicly available information about the issuer of the referenced security or referenced issuer and we believe that a clearing agency likely already would be collecting and making public the type of information required by the proposed rule.[82]

We preliminarily estimate that each registered or exempt clearing agency issuing security-based swaps in its function as a CCP will spend approximately 2 hours each time it provides or updates the information in its agreements relating to security-based

[76] 44 U.S.C. 3501 *et seq.*

[77] Although we are proposing additional rule amendments, we do not anticipate burdens or costs associated with those rules for purposes of the PRA because eligibility for those rules will be dependent on reliance on proposed Rule 239.

[78] These clearing agencies are ICE Trust, CME, ICE Clear Europe, and Eurex. The Commission authorized five entities to clear credit default swaps. *See* CDS Clearing Exemption Orders. LIFFE A&M and LCH.Clearnet Ltd. allowed their order to lapse without seeking renewal.

[79] 15 U.S.C. 78mm. Of the four clearing agencies granted temporary exemptions from registration, only three have cleared products that likely are classified as security-based swaps under Title VII of the Dodd-Frank Act.

[80] *See* Public Law 111–203, § 763(b).

[81] We do not expect there to be a large number of clearing agencies that clear security-based swaps, based on the significant level of capital and other financial resources necessary for the formation of a clearing agency.

[82] As noted above, we proposed rules in the Mandatory Clearing Proposing Release and the SBSR Proposing Release that would require some of the same information as the requirements proposed here (*e.g.,* information relating to the identity of the security or issuer underlying the security-based swap). Although the proposed information requirements also may be required to be made public by the registered or exempt clearing agencies by these other proposed rules, we are calculating the PRA burden for each process individually without accounting for any reduction due to the anticipated overlap. We have decided to calculate the burdens in this manner in order to provide a conservative estimate.

swaps or on its Web site.[83] We estimate that each registered or exempt clearing agency will provide or update the information 20 times per year.[84] Therefore, we preliminarily estimate that the total annual reporting burden for clearing agencies to provide the information in their agreements relating to security-based swaps or on their Web site to comply with proposed Rule 239(c) will be 240 hours (20×2 hours $\times 6$ respondents). We estimate that 75% of the burden of preparation is carried by the clearing agency internally and that 25% of the burden is carried by outside professionals retained by the clearing agency at an average cost of $400 per hour. We request comment on all of the above estimates.

D. Recordkeeping Requirements

There is no recordkeeping requirement associated with proposed Rule 239.

E. Request for Comment

Pursuant to 44 U.S.C. 3506(c)(2), we request comments in order to evaluate:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility;
- The accuracy of our estimate of the burden of the proposed collection of information;
- Whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and
- Whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing these burdens.

The Commission requests comment on all aspects of its burden estimates. In particular, we request comment on the following:

1. Is the proposed collection of information important for eligible contract participants and other market participants?

2. How many entities would incur collection of information burdens pursuant to Rule 239?

3. Should the estimates be different depending on whether a clearing agency chooses to include information required to rely on proposed Rule 239 in an agreement relating to a security-based swap or on its publicly available Web site?

4. Are there additional burdens that we have not addressed in our preliminary burden estimates?

Persons wishing to submit comments on the collection of information requirements should direct them to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503; and (2) Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090 with reference to File No. S7–22–11. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The Commission has submitted the proposed collection of information to OMB for approval. Requests for the materials submitted to OMB by the Commission with regard to this collection of information should be in writing, refer to File No. S7–22–11, and be submitted to the Securities and Exchange Commission, Records Management, Office of Investor Education and Advocacy, 100 F Street, NE., Washington, DC 20549–0213.

V. Cost-Benefit Analysis

As discussed above, we are proposing rules and amendments to existing rules to provide certain exemptions under the Securities Act, the Exchange Act, and the Trust Indenture Act for security-based swaps issued by a registered or exempt clearing agency in its function as a CCP.

A. Benefits

The proposed rules are intended to further the goal of central clearing of security-based swaps by providing exemptions for the issuance of security-based swaps by a registered or exempt clearing agency in its function as a CCP from certain regulatory provisions that might otherwise interfere with such clearing activities. Without an exemption, (1) a clearing agency issuing a security-based swap in its function as a CCP would be required to register the security-based swap transaction; (2) the security-based swaps that are or have been issued or cleared by a registered or exempt clearing agency in its function as a CCP would have to be registered as a class of securities under the Exchange Act; and (3) the provisions of the Trust Indenture Act would apply. We believe that requiring compliance with these provisions likely would unnecessarily impede central clearing of security-based swaps and that the proposed exemptions are necessary to facilitate the intent of the Dodd-Frank Act with respect to mandatory clearing of security-based swaps. Absent these proposed exemptions, we believe that registered or exempt clearing agencies would incur additional costs due to compliance with the registration requirements of the Securities Act and the Exchange Act solely because of their clearing functions.[85]

The proposed exemptions would treat security-based swaps issued or cleared by a registered or exempt clearing agency in its function as a CCP in the same manner as similar types of securities, such as security futures products and standardized options.[86] The proposed exemptions are similar to those provided for CDS under our temporary rules.[87] A registered or exempt clearing agency issuing security-based swaps in its function as a CCP would benefit from the proposed exemptions because it would not have to file registration statements covering the offer and sale of the security-based swaps. If a registered or exempt clearing agency is not required to register the offer and sale of security-based swaps, it would not have to incur the costs of such registration, including legal and accounting costs. Some of these costs, such as the costs of obtaining audited financial statements, may still be incurred by the clearing agency as a result of other regulatory requirements for clearing agencies.

Proposed Exchange Act Rule 12a–10 would provide that the Exchange Act

[83] In the Mandatory Clearing Proposing Release, we estimated that four hours would be required by a clearing agency to post a security-based swap submission on its Web site to comply with proposed Rule 19b–4(o)(5). We believe that the information that would be required to rely on the exemptions proposed in this release is less extensive than the information that would be required in a security-based swap submission. Therefore, we estimate that the burden to include the information that would be required to rely on the proposed exemptions in an agreement or on the clearing agency's Web site would be less than the burden to post a security-based swap submission.

[84] In the Mandatory Clearing Proposing Release, we estimated that each clearing agency will submit 20 security-based swap submissions annually. Thus, we are using that estimate as the basis for our estimate as to how many times per year a clearing agency would be required to provide the information in reliance on the proposed exemptions.

[85] *See, e.g.,* the rules proposed in the Mandatory Clearing Proposing Release and the Clearing Agencies Proposing Release.

[86] *See, e.g.,* Securities Act Section 3(a)(14) [15 U.S.C. 77c(a)(14)]; Securities Act Rule 238 [17 CFR 230.238]; Exchange Act Section 12(a) [15 U.S.C. 78*l*]; and Exchange Act Rules 12h–1(d) and (e) [17 CFR 240.12h–1(d) and (e)].

[87] *See* Temporary CDS Exemptions Release.

Section 12(a) does not apply to any security-based swap that is issued by a registered or exempt clearing agency in reliance on proposed Securities Act Rule 239 and traded on a national securities exchange. In addition, proposed Exchange Act Rule 12h–1(h) would exempt from Section 12(g) security-based swaps that are issued by a registered or exempt clearing agency in reliance on proposed Securities Act Rule 239, whether or not such security-based swap is traded on a national securities exchange or a registered or exempt security-based SEF. Thus, the clearing agency would not incur the costs of registration or the costs associated with Exchange Act periodic reporting. The availability of exemptions under the Securities Act, the Exchange Act, and the Trust Indenture Act would mean that registered or exempt clearing agencies would not incur the costs associated with registering transactions or classes of securities, such as costs associated with preparing documents describing security-based swaps, preparing indentures, or arranging for the services of a trustee.

B. Costs

The proposed rules exempting offers and sales of security-based swaps that are or will be issued by, and in a transaction involving, a registered or exempt clearing agency in its function as a CCP should facilitate the use by eligible contract participants at minimal cost to the CCP or eligible contract participants. Because reliance on the proposed exemptions will not require any filing with or submission to us, other than costs incurred to comply with the information condition of proposed Rule 239, the costs of being able to rely on such exemptions, we believe, are minimal.

We recognize that a consequence of the proposed exemptions would be the unavailability of certain remedies under the Securities Act and the Exchange Act and certain protections under the Trust Indenture Act. Absent an exemption, a clearing agency may have to file a registration statement covering the offer and sale of the security-based swaps, may have to register the class of eligible security-based swaps that it has issued or cleared under the Exchange Act, and may have to satisfy the applicable provisions of the Trust Indenture Act, which would provide investors with civil remedies in addition to antifraud remedies. A registration statement covering the offer and sale of security-based swaps may provide certain information about the clearing agency, security-based swap contract terms, and the identification of the particular reference securities, issuers, loans underlying the security-based swap. However, it would not necessarily provide the type of information necessary to assess the risk of the reference issuer, security, narrow-based security index, or loan. Further, while a registration statement would provide information to eligible contract participants, as well as to the market as a whole, registered clearing agencies already are required to make their audited financial statements and other information about themselves publicly available.[88] While an investor would be able to pursue an antifraud action in connection with the purchase and sale of security-based swaps under Exchange Act Section 10(b),[89] it would not be able to pursue civil remedies under Sections 11 or 12 of the Securities Act.[90] We could still pursue an antifraud action in the offer and sale of security-based swaps issued by a clearing agency.[91]

As previously discussed in the PRA, proposed Rule 239(c) would require a clearing agency availing itself of the Securities Act exemption to include in an agreement covering the security-based swap the clearing agency provides or makes available to its counterparty or include on a publicly available Web site maintained by the clearing agency:

- A statement identifying any security, issuer, loan, or narrow-based security index underlying the security-based swap;
- A statement indicating the securities or loans to be delivered (or class of securities or loans), or if cash settled, the securities, loans or narrow-based security index (or class of securities or loans) whose value will determine the settlement obligation under the security-based swap; and
- A statement of whether the issuer of any security or loan, each issuer of a security in a narrow-based security index, or each referenced issuer underlying the security-based swap is subject to the reporting requirements of Exchange Act Section 13 or Section 15(d) and, if not subject to such reporting requirements, whether public information, including financial information, about any such issuer is available and where the information is available.

We preliminarily believe some of the information the clearing agency would make available would be the same information the clearing agency would be required to provide us under proposed Rule 19b–4 in connection with the mandatory clearing requirement, and the same information is collected and analyzed in making its business decision to plan to accept the security-based swap, or any group, category, type, or class of security-based swaps, for clearing. A clearing agency may incur costs in providing or making available this information in order to rely on the proposed exemption. We believe that the information requirements of proposed Rule 239 would be less burdensome to the clearing agency to the extent that it is already required to provide the information pursuant to Rule 19b–4 if adopted as proposed.

C. Request for Comment

We request that commentators provide views and supporting information regarding the costs and benefits associated with the proposed rules. We seek estimates of these costs and benefits, as well as any costs and benefits not already identified herein. We also request comment on whether other provisions of the Dodd-Frank Act for which Commission rulemaking is required are likely to have an effect on the costs and benefits of the proposed rules.

VI. Consideration of Burden on Competition and Promotion of Efficiency, Competition and Capital Formation

Section 23(a)(2) of the Exchange Act[92] requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. Section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, Section 2(b)[93] of the Securities Act and Section 3(f)[94] of the Exchange Act require us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to also consider whether the action will promote efficiency, competition, and capital formation.

The rules we are proposing would exempt offers and sales of security-based swaps that are or will be issued to eligible contract participants by, and in a transaction involving, a registered or exempt clearing agency in its

[88] *See Regulation of Clearing Agencies,* Release No. 34–16900 and Exchange Act Rule 19b–4(*l*) and (m).

[89] 15 U.S.C. 78j(b).

[90] 15 U.S.C. 77k and 77l.

[91] *See* 15 U.S.C. 77q and 15 U.S.C. 78j(b).

[92] 15 U.S.C. 78w(a)(2).

[93] 15 U.S.C. 77b(b).

[94] 15 U.S.C. 78c(f).

function as a CCP from all provisions of the Securities Act, other than the Section 17(a) antifraud provision, as well as from the registration requirements under Section 12 of the Exchange Act and the provisions of the Trust Indenture Act. Because these exemptions are available to any registered or exempt clearing agency offering and selling security-based swaps to an eligible contract participant, in its function as a CCP, we do not believe that the proposed exemptions impose a burden on competition. In contrast, we believe the proposed exemption would facilitate moving security-based swaps into centralized clearing, furthering the goal of the Dodd-Frank Act to reduce systemic risk while improving market access to hedging instruments that can contribute to lower costs of raising capital. In addition, we believe the proposal would promote efficiency by treating security-based swaps issued by clearing agencies in a manner similar to standardized options and security futures issued by clearing agencies. Harmonizing the regulatory treatment of these securities under the Securities Act, Exchange Act, and the Trust Indenture Act should reduce the potential for regulatory arbitrage between such products.

We also believe that the ability to novate security-based swaps with registered or exempt clearing agencies functioning as CCPs would improve the transparency of the security-based swap market and provide greater assurance to participants as to the capacity of the counterparty to perform its obligations under the security-based swap. We preliminarily believe that clearing agencies providing the information as would be required by proposed Rule 239(c) may promote competition and transparency among clearing agencies because it will make it easier for clearing agencies and eligible contract participants to determine what security-based swaps are being cleared. We preliminarily believe that increased transparency in the security-based swap market could help to limit market turmoil and thereby facilitate the capital formation process.

We generally request comment on the competitive or anticompetitive effects of the proposed exemptions on any market participants if adopted as proposed. We also request comment on what impact the exemptions, if adopted, would have on efficiency and capital formation. We request that commentators provide analysis and empirical data, if available, to support their views regarding any such effects. We also request comment regarding the competitive effects of pursuing alternative regulatory approaches that are consistent with the Dodd-Frank Act. In addition, we request comment on how the other provisions of the Dodd-Frank Act for which Commission rulemaking is required, will interact with and influence the competitive effects of the proposed exemptions.

VII. Consideration of Impact on the Economy

Under the Small Business Regulatory Enforcement Fairness Act of 1996,[95] a rule is considered ''major'' where, if adopted, it results or is likely to result in: (i) an annual effect on the economy of $100 million or more (either in the form of an increase or a decrease); (ii) a major increase in costs or prices for consumers or individual industries; or (iii) significant adverse effect on competition, investment or innovation. We request comment on the potential impact of the proposed exemptions on the economy on an annual basis, any potential increase in costs or prices for consumers or individual industries, and any potential effect on competition, investment or innovation. Commentators are requested to provide empirical data and other factual support for their view to the extent possible.

VIII. Regulatory Flexibility Certification

The Regulatory Flexibility Act (''RFA'') [96] requires the Commission, in promulgating rules, to consider the impact of those rules on small entities. Section 603(a) [97] of the Administrative Procedure Act,[98] as amended by the RFA, generally requires the Commission to undertake a regulatory flexibility analysis of all proposed rules to determine the impact of such rulemaking on ''small entities.'' [99] Section 605(b) of the RFA states that this requirement shall not apply to any proposed rule which, if adopted, would not have a significant economic impact on a substantial number of small entities.[100]

The exemptions would apply to all registered or exempt clearing agencies that issue or will issue security-based swaps in its function as a CCP. As noted above, four entities are currently exempt from registration as a clearing agency under Exchange Act Section 17A to provide central clearing services for CDS, a class of security-based swaps. Based on our understanding of the market, we preliminarily believe that between four and six clearing agencies will clear security-based swaps and would seek to avail themselves of the proposed exemptions.[101]

For the purposes of our rulemaking in connection with the RFA, a small entity includes, when used with reference to a clearing agency, a clearing agency that: (i) compared, cleared and settled less than $500 million in securities transactions during the preceding fiscal year; (ii) had less than $200 million of funds and securities in its custody or control at all times during the preceding fiscal year (or at any time that it has been in business, if shorter); and (iii) is not affiliated with any person (other than a natural person) that is not a small business or small organization.[102] Under the standards adopted by the Small Business Administration, small entities in the finance industry include the following: (i) For entities engaged in investment banking, securities dealing and securities brokerage activities, entities with $6.5 million or less in annual receipts; (ii) for entities engaged in trust, fiduciary and custody activities, entities with $6.5 million or less in annual receipts; and (iii) funds, trusts and other financial vehicles with $6.5 million or less in annual receipts.[103]

Based on our existing information about the entities likely to register to clear security-based swaps, the Commission preliminarily believes that such entities will not be small entities, but rather part of large business entities that exceed the thresholds defining ''small entities'' set out above. Additionally, while other clearing agencies may become eligible to operate as central counterparties for security-based swaps, we preliminarily do not believe that any such entities would be ''small entities'' as defined in Exchange Act Rule 0–10.[104] Furthermore, we believe it is unlikely that clearing agencies functioning as CCPs for security-based swaps would have annual receipts of less than $6.5 million. Accordingly, we believe that any clearing agencies issuing security-based swaps in their function as CCPs in such transactions will exceed the thresholds for ''small entities'' set forth

[95] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

[96] 5 U.S.C. 601 *et seq.*

[97] 5 U.S.C. 603(a).

[98] 5 U.S.C. 551 *et seq.*

[99] Section 601(b) of the RFA permits agencies to formulate their own definitions of ''small entities.'' The Commission has adopted definitions for the term ''small entity'' for the purposes of rulemaking in accordance with the RFA. These definitions, as relevant to this proposed rulemaking, are set forth in Rule 0–10 [17 CFR 240.0–10].

[100] *See* 5 U.S.C. 605(b).

[101] *See also* Section VIII. of the Mandatory Clearing Proposing Release.

[102] 17 CFR 240.0–10(d).

[103] 13 CFR 121.201, Sector 52.

[104] *See* 17 CFR 240.0–10(d).

in Exchange Act Rule 0–12. We encourage written comments regarding this certification.

IX. Statutory Authority and Text of the Rules and Amendments

The rules and amendments described in this release are being proposed under the authority set forth in Sections 19 and 28 of the Securities Act; Sections 3C, 12(h), 23(a) and 36 of the Exchange Act; and Section 304(d) of the Trust Indenture Act.

List of Subjects in 17 CFR Parts 230, 240 and 260

Reporting and recordkeeping requirements, Securities.

Text of the Rules and Amendments

For the reasons set out in the preamble, the Commission is proposing to amend Title 17, Chapter II, of the Code of Federal Regulations as follows:

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

1. The authority citation for Part 230 continues to read, in part, as follows:

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

* * * * *

2. Section 230.239 is added to read as follows:

§ 230.239 Exemption for offers and sales of certain security-based swaps.

(a) Provided that the conditions of paragraph (b) of this section are satisfied and except as expressly provided in paragraph (c) of this section, the Act does not apply to any offer or sale of a security-based swap that:

(1) Is issued or will be issued by a clearing agency that is either registered as a clearing agency under Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) or exempt from registration under Section 17A of the Securities Exchange Act of 1934 pursuant to a rule, regulation, or order of the Commission (''eligible clearing agency''), and

(2) The Commission has determined is required to be cleared or that is permitted to be cleared pursuant to the eligible clearing agency's rules.

(b) The exemption provided in paragraph (a) of this section applies only to an offer or sale of a security-based swap described in paragraph (a) of this section if the following conditions are satisfied:

(1) The security-based swap is offered or sold in a transaction involving the eligible clearing agency in its function as a central counterparty with respect to such security-based swap;

(2) The security-based swap is sold only to an eligible contract participant (as defined in Section 1a(18) of the Commodity Exchange Act (7 U.S.C. 1a(12)); and

(3) The eligible clearing agency posts on its publicly available Web site at a specified Internet address or includes in its agreement covering the security-based swap that the eligible clearing agency provides or makes available to its counterparty the following:

(i) A statement identifying any security, issuer, loan, or narrow-based security index underlying the security-based swap;

(ii) A statement indicating the security or loan to be delivered (or class of securities or loans), or if cash settled, the security, loan, or narrow-based security index (or class of securities or loans) whose value is to be used to determine the amount of the settlement obligation under the security-based swap; and

(iii) A statement of whether the issuer of any security or loan, each issuer of a security in a narrow-based security index, or each referenced issuer underlying the security-based swap is subject to the reporting requirements of Sections 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78o) and, if not subject to such reporting requirements, whether public information, including financial information, about any such issuer is available and where the information is available.

(c) The exemption provided in paragraph (a) of this section does not apply to the provisions of Section 17(a) of the Act (15 U.S.C. 77q(a)).

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

3. The authority citation for Part 240 continues to read, in part, as follows:

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

* * * * *

4. Section 240.12a–10 is added to read as follows:

§ 240.12a–10 Exemption of security-based swaps from section 12(a) of the Act.

The provisions of Section 12(a) of the Act (15 U.S.C. 78l(a)) do not apply to any security-based swap that:

(a) Is issued or will be issued by a clearing agency registered as a clearing agency under Section 17A of the Act (15 U.S.C. 78q–1) or exempt from registration under Section 17A of the Act pursuant to a rule, regulation, or order of the Commission, in its function as a central counterparty with respect to the security-based swap;

(b) The Commission has determined is required to be cleared or that is permitted to be cleared pursuant to the clearing agency's rules;

(c) Is sold to an eligible contract participant (as defined in Section 1a(18) of the Commodity Exchange Act (7 U.S.C. 1a(18)) in reliance on Rule 239 under the Securities Act of 1933 (17 CFR 230.239); and

(d) Is traded on a national securities exchange registered pursuant to Section 6(a) of the Act (15 U.S.C. 78f(a)).

5. Section 240.12h–1 is amended by adding paragraph (h) to read as follows:

§ 240.12h–1 Exemptions from registration under section 12(g) of the Act.

* * * * *

(h) Any security-based swap that is issued by a clearing agency registered as a clearing agency under Section 17A of the Act (15 U.S.C. 78q–1) or exempt from registration under Section 17A of the Act pursuant to a rule, regulation, or order of the Commission in its function as a central counterparty that the Commission has determined must be cleared or that is permitted to be cleared pursuant to the clearing agency's rules, and that was sold to an eligible contract participant (as defined in Section 1a(18) of the Commodity Exchange Act (7 U.S.C. 1a(18)) in reliance on Rule 239 under the Securities Act of 1933.

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

6. The authority citation for Part 260 continues to read as follows:

Authority: 15 U.S.C. 77eee, 77ggg, 77nnn, 77sss, 78ll(d), 80b–3, 80b–4, and 80b–11.

7. Section 260.4d–11 is added to read as follows:

§ 260.4d–11 Exemption for security-based swaps offered and sold in reliance on Rule 239 under the Securities Act of 1933 (17 CFR 230.239).

Any security-based swap offered and sold in reliance on Rule 239 of this chapter (17 CFR 230.239), whether or not issued under an indenture, is exempt from the Act.

By the Commission.

Dated: June 9, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–14717 Filed 6–14–11; 8:45 am]

BILLING CODE 8011–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0414–201134; FRL–9319–1]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Kentucky and Indiana; Louisville; Determination of Attainment by Applicable Attainment Date for the 1997 Annual Fine Particulate Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine pursuant to the Clean Air Act (CAA), that the bi-state Louisville, Kentucky-Indiana, fine particulate ($PM_{2.5}$) nonattainment area (hereafter referred to as ''the Louisville Area'' or ''the Area'') has attained the 1997 annual $PM_{2.5}$ national ambient air quality standards (NAAQS) by its applicable attainment date of April 5, 2010. The determination of attainment was previously made by EPA on March 9, 2011, based on quality-assured and certified monitoring data for the 2007–2009 monitoring period. EPA is now proposing to find that the Louisville Area attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date. EPA is proposing this action because it is consistent with the CAA and its implementing regulations.

DATES: Comments must be received on or before July 15, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0414, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail:* benjamin.lynorae@epa.gov.
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2011–0414, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2011–0414. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: In Region 4, Sara Waterson or Joel Huey, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Ms. Waterson may be reached by telephone at (404) 562–9061 or via electronic mail at *waterson.sara@epa.gov.* Mr. Huey may be reached by telephone at (404) 562–9104. Mr. Huey can also be reached via electronic mail at *huey.joel@epa.gov.* In Region 5, John Summerhays, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. The telephone number is (312) 886–6067. Mr. Summerhays can also be reached via electronic mail at *summerhays.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

Based on EPA's review of the quality-assured and certified monitoring data for 2007–2009, and in accordance with section 179(c)(1) of the CAA and EPA's regulations, EPA proposes to determine that the Louisville Area has attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010. The Louisville Area is comprised of Jefferson County in Kentucky, and Clark, Floyd and a portion of Jefferson Counties in Indiana.

On March 9, 2011, EPA published a final rulemaking making a determination of attainment to suspend the requirements for the Louisville Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency

measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 1997 annual $PM_{2.5}$ NAAQS so long as the Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS. See 76 FR 12860. Today's proposed action merely makes a determination that the Louisville Area has attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date. This action is not a re-proposal of the attainment determination to suspend the requirements for the Louisville Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard. More information regarding the 1997 annual $PM_{2.5}$ NAAQS and the Area's attainment of that NAAQS is available at 76 FR 12860 (March 9, 2011).

II. What is the background for this action?

As a nonattainment area for the 1997 annual $PM_{2.5}$ NAAQS, the Louisville Area had an applicable attainment date of April 5, 2010 (based on 2007–2009 monitoring data). Pursuant to section 179(c) of the CAA, EPA is required to make a determination on whether the Area attained the standard by its applicable attainment date. Specifically, section 179(c)(1) of the CAA reads as follows: ''As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.''

III. What is the air quality in the Louisville Area for the 1997 annual $PM_{2.5}$ NAAQS for the 2007–2009 monitoring period?

Under EPA regulations at 40 CFR 50.7, the 1997 annual primary and secondary $PM_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 15.0 $\mu g/m^3$ at all relevant monitoring sites in the subject area.

EPA reviewed the ambient air monitoring data for the Louisville Area in accordance with the provisions of 40 CFR part 50, Appendix N. All data considered have been quality-assured, certified, and recorded in EPA's Air Quality System database. This review addresses air quality data collected in the 3-year period from 2007–2009. The 3-year period from 2007–2009 is the period EPA must consider for areas that had an applicable attainment date of April 5, 2010.

TABLE 1—ANNUAL AVERAGE CONCENTRATIONS IN THE LOUISVILLE AREA (2007–2009)

Site name	County	Site No.	Annual average concentration ($\mu g/m^3$)
Jeffersonville	Clark, IN	18–019–0006	14.6
New Albany	Floyd, IN	18–043–1004	13.1
Shepherdsville	Bullitt, KY	21–029–0006	13.0
Wyandotte Park	Jefferson, KY	21–111–0044	13.5
37th & Southern	Jefferson, KY	21–111–0043	13.4
Watson Elementary	Jefferson, KY	21–111–0051	13.0

As shown above in Table 1, during the 2007–2009 design period, the Louisville Area met the 1997 annual $PM_{2.5}$ NAAQS. The official annual design value for the Louisville Area for the 2007–2009 period is 14.6 $\mu g/m^3$. More detailed information on the monitoring data for the Louisville Area during the 2007–2009 design period is provided in EPA's March 9, 2011, final rulemaking to approve the clean data determination for the Louisville Area for the 1997 annual $PM_{2.5}$ NAAQS. *See* 76 FR 12860.

IV. What is the proposed action, and what is the effect of this action?

This action is a proposed determination that the Louisville Area has attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010, consistent with the CAA section 179(c)(1). Finalizing this proposed action would not constitute a redesignation of the Louisville Area to attainment of 1997 annual $PM_{2.5}$ NAAQS under section 107(d)(3) of the CAA. Further, finalizing this proposed action does not involve approving a maintenance plan for the Louisville Area as required under section 175A of the CAA, nor would it find that the Louisville Area has met all other requirements for redesignation. Even if EPA finalizes today's proposed action, the designation status of the Louisville Area would remain nonattainment for the 1997 annual $PM_{2.5}$ NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment and takes action to redesignate the Area.

V. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality, and would not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

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

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

In addition, this proposed 1997 annual average $PM_{2.5}$ NAAQS data determination for the Louisville Area does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIPs are not approved to apply in Indian country located in the states, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 23, 2011.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

Dated: June 3, 2011.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2011–14812 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0369; FRL–8874–3]

Amitraz, Bentazon, Bifenthrin, Chlorfenapyr, Cyfluthrin, Deltamethrin, *et al.*; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In accordance with current Agency practice to describe more clearly the measurement and scope or coverage of tolerances, EPA is proposing minor revisions to tolerance expressions for a number of pesticide active ingredients, including the insecticides amitraz, bifenthrin, chlorfenapyr, cyfluthrin, deltamethrin, esfenvalerate, fenpropathrin, and pyridaben; the fungicide metalaxyl; the herbicides bentazon, quizalofop ethyl, sodium acifluorfen, and tebuthiuron; and the plant growth regulator ethephon. Also, EPA proposes to remove several expired tolerances for quizalofop ethyl.

DATES: Comments must be received on or before August 15, 2011.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2011–0369, by one of the following methods:

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

• *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2011–0369. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; e-mail address: *nevola.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. If you have any questions regarding the applicability of this action to a particular entity, consult the person

listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What action is the agency taking?

In accordance with current Agency practice to describe more clearly the measurement and scope or coverage of tolerances, including applicable metabolites and degradates, EPA is proposing minor revisions to tolerance expressions for a number of pesticide active ingredients, including the insecticides amitraz, bifenthrin, chlorfenapyr, cyfluthrin, deltamethrin, esfenvalerate, fenpropathrin, and pyridaben; the fungicide metalaxyl; the herbicides bentazon, quizalofop ethyl, sodium acifluorfen, and tebuthiuron; and the plant growth regulator ethephon. The revisions will not substantively change the tolerance or, in any way, modify the permissible level of residues permitted by the tolerance. Also, EPA proposes to remove several expired tolerances for quizalofop ethyl.

The amendments to the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408 in the Food Quality Protection Act of 1996 clarified that a tolerance regulation for a pesticide chemical applies to that chemical as well as all metabolites and degradates of that chemical unless EPA specifies otherwise (21 U.S.C. 346a(a)(3)(C)). These amendments also specified how compliance with a tolerance level was to be determined when a metabolite or degradate of a pesticide chemical not specifically mentioned in the tolerance was found in a food (21 U.S.C. 346a(a)(3)(B)). In light of these changes, EPA now generally follows an approach for drafting tolerance expressions that makes clear that the tolerance applies not only to the parent chemical but also to its metabolites and degradates and also specifies precisely what chemical moieties are to be measured in determining compliance with the tolerance levels included in the tolerance regulation. This approach ensures that there is no confusion regarding what chemical moieties are authorized in food by the tolerance or how compliance with the tolerance levels is to be determined. Under this approach, tolerance expressions would follow this general form:

Tolerances are established for residues of the [insecticide, herbicide, fungicide, as appropriate] [pesticide chemical name], including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only [the designated chemical moieties], in or on the commodity.

This model has been followed for all of the pesticides named in this unit, and the actual language is set out in the proposed regulation text at the end of this document. The only additional changes proposed in this action are with regard to the pesticides bifenthrin, chlorfenapyr, cyfluthrin, and deltamethrin, and they are at the end of this document.

Certain time-limited tolerances pertaining to the pesticide quizalofop ethyl in 40 CFR 180.441(a)(4) have expired, on June 14, 1999, due to previous EPA regulation setting expiration dates. Therefore, the Agency is proposing to remove the expired time-limited tolerances for quizalofop ethyl in 40 CFR 180.441(a)(4) on beet, sugar, molasses; beet, sugar, roots; beet, sugar, tops; vegetable, foliage of legume, except soybean, subgroup 7A; and vegetable, legume, group 6. This rule only corrects the Code of Federal Regulations to conform with the fact that the tolerances already expired, and therefore EPA is not accepting comments regarding the expiration itself.

B. What is the agency's authority for taking this action?

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where

there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

C. When do these actions become effective?

EPA is proposing that revision of specific tolerance expressions and removal of expired tolerances for quizalofop ethyl proposed herein become effective on the date of publication of the final rule in the **Federal Register**. If you have comments, please submit comments as described under **SUPPLEMENTARY INFORMATION**.

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

III. International Residue Limits

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

The Codex has not established a MRL for chlorfenapyr, pyridaben, quizalofop ethyl, sodium acifluorfen, and tebuthiuron.

The Codex has established MRLs for amitraz in or on various commodities including edible offal of pigs at 0.2 milligram/kilograms (mg/kg). The MRL is different than the tolerance established for amitraz in the United States because of differences in residue definition, use patterns, and/or good agricultural practices.

The Codex has established MRLs for bentazon in or on various commodities including maize at 0.2 mg/kg, milk at 0.05 mg/kg, rice at 0.1 mg/kg, and sorghum at 0.1 mg/kg. These MRLs are different than the tolerance established for bentazon in the United States because of differences in animal commodity residue definition, plant use patterns, and/or good agricultural practices.

The Codex has established MRLs for bifenthrin in or on various commodities including cattle fat at 0.5 mg/kg; cattle kidney and cattle liver at 0.05 mg/kg; cattle milk at 0.05 mg/kg; chicken eggs at 0.01 mg/kg; maize fodder at 0.2 mg/kg; and strawberry at 1 mg/kg. These MRLs are different than the tolerances established for bifenthrin in the United States (where these commodity tolerances are higher than the corresponding Codex MRLs) because of differences in use patterns and/or good agricultural practices.

The Codex has established MRLs for cyfluthrin (sum of isomers) and beta-cyfluthrin (cyfluthrin sum of isomers) in or on various commodities including citrus fruits at 0.3 mg/kg, citrus pulp (dry) at 2 mg/kg, liver of pigs at 0.05 mg/kg, meat (from mammals other than marine mammals) at 1 mg/kg, fat of meat at 1 mg/kg, and chili peppers (dry) at 1 mg/kg. These MRLs are different than the tolerances established for cyfluthrin and beta-cyfluthrin in the United States because of differences in use patterns and/or good agricultural practices.

The Codex has established MRLs for deltamethrin in or on various commodities including fat from mammals other than marine mammals at 0.5 mg/kg, poultry fat at 0.1 mg/kg, and tomato at 0.3 mg/kg. These MRLs are different than the tolerances established for deltamethrin in the United States because of differences in use patterns and/or good agricultural practices.

The Codex has established MRLs for esfenvalerate in or on various commodities including egg, poultry fat, poultry meat, and edible offal of poultry at 0.01 mg/kg. These MRLs are different than the tolerances established for esfenvalerate in the United States (where these animal commodity tolerances are higher than the corresponding Codex MRLs) because of differences in use patterns and/or good agricultural practices.

The Codex has established MRLs for ethephon in or on various commodities including meat of cattle, goats, horses, pigs, and sheep at 0.1 mg/kg, milk of cattle, goats, and sheep at 0.05 mg/kg, poultry meat at 0.1 mg/kg, edible offal of poultry at 0.2 mg/kg, and chicken eggs at 0.2 mg/kg. These MRLs are different than the tolerances established for ethephon in the United States because of differences in use patterns and/or good agricultural practices.

The Codex has established MRLs for fenpropathrin in or on various commodities including cattle meat at 0.5 mg/kg. The MRL is different than the tolerance established for fenpropathrin in the United States because of differences in use patterns and/or good agricultural practices.

The Codex has established MRLs for metalaxyl in or on various commodities including citrus fruits at 5 mg/kg, dry chili peppers at 10 mg/kg, and pome fruits at 1 mg/kg. These MRLs are different than the tolerances established for metalaxyl in the United States because of differences in use patterns and/or good agricultural practices.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to revise specific tolerance expressions to describe more clearly the measurement and scope or coverage of the tolerances and remove expired tolerances for quizalofop ethyl. The Office of Management and Budget (OMB) has exempted these types of actions (*e.g.,* tolerance actions for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed rule will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''Tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175 requires EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' ''Policies that have Tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.'' This proposed rule will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: June 6, 2011.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.287 revise the introductory text in paragraph (a) to read as follows:

§ 180.287 Amitraz; tolerances for residues.

(a) *General.* Tolerances are established for residues of the

insecticide amitraz, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those amitraz, *N′*-[2,4-dimethylphenyl]-*N*-[[(2,4-dimethylphenyl)imino]methyl]-*N*-methylmethanimidamide, residues convertible to 2,4-dimethylaniline, expressed as the stoichiometric equivalent of amitraz, in or on the commodity.

* * * * *

3. Section 180.300 is amended as follows:

i. Revise the introductory text in paragraph (a);

ii. Revise paragraph (c).

The revised text reads as follows:

§ 180.300 Ethephon; tolerances for residues.

(a) *General.* Tolerances are established for residues of the plant growth regulator ethephon, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only ethephon, (P)-(2-chloroethyl)phosphonic acid, in or on the commodity.

* * * * *

(c) *Tolerances with regional registrations.* A tolerance with regional registration, as defined in § 180.1(l), of 0.1 parts per million is established for residues of the plant growth regulator ethephon, including its metabolites and degradates, in or on the commodity sugarcane. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only ethephon, (P)-(2-chloroethyl)phosphonic acid, in or on the commodity.

* * * * *

4. Section 180.355 is amended as follows:

i. Revise the introductory text in paragraph (a)(1);

ii. Revise the introductory text in paragraph (a)(2);

iii. Revise the introductory text in paragraph (c).

The revised text reads as follows:

§ 180.355 Bentazon; tolerances for residues.

(a) * * * (1) Tolerances are established for residues of the herbicide bentazon, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of bentazon, 3-(1-methylethyl)-1*H*-2,1,3-benzothiadiazin-4(3*H*)-one 2,2-dioxide, and its metabolites, 6-hydroxy bentazon and 8-hydroxy bentazon, calculated as the stoichiometric equivalent of bentazon, in or on the commodity.

* * * * *

(2) Tolerances are established for residues of the herbicide bentazon, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of bentazon, 3-(1-methylethyl)-1*H*-2,1,3-benzothiadiazin-4(3*H*)-one 2,2-dioxide, and its metabolite 2-amino-*N*-isopropyl benzamide (AIBA), calculated as the stoichiometric equivalent of bentazon, in or on the commodity.

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(l), are established for residues of the herbicide bentazon, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of bentazon, 3-(1-methylethyl)-1*H*-2,1,3-benzothiadiazin-4(3*H*)-one 2,2-dioxide, and its metabolites, 6-hydroxy bentazon and 8-hydroxy bentazon, calculated as the stoichiometric equivalent of bentazon, in or on the commodity.

* * * * *

5. In § 180.383 revise the introductory text in paragraph (a) to read as follows:

§ 180.383 Sodium salt of acifluorfen; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide sodium acifluorfen, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of acifluorfen acid, 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoic acid, acifluorfen methyl, methyl 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate, acifluorfen amine, 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-aminobenzoic acid, and acifluorfen amine methyl ester, methyl 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-aminobenzoate, calculated as the stoichiometric equivalent of acifluorfen acid, in or on the commodity.

* * * * *

6. Section 180.390 is amended as follows:

i. Revise the introductory text in paragraph (a)(1);

ii. Revise the introductory text in paragraph (a)(2);

iii. Revise the introductory text in paragraph (a)(3).

The revised text reads as follows:

§ 180.390 Tebuthiuron; tolerances for residues.

(a) * * * (1) Tolerances are established for residues of the herbicide tebuthiuron, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of tebuthiuron, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N′*-dimethylurea, and its metabolites *N*-[5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N′*-dimethylurea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, and *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N′*-hydroxymethyl-*N*-methylurea, calculated as the stoichiometric equivalent of tebuthiuron, in or on the commodity.

* * * * *

(2) Tolerances are established for residues of the herbicide tebuthiuron, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of tebuthiuron, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N′*-dimethylurea, and its metabolites *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]urea, 2-dimethylethyl-5-amino-1,3,4-thiadiazole, and *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N′*-hydroxymethyl-*N*-methylurea, calculated as the stoichiometric equivalent of tebuthiuron, in or on the commodity.

* * * * *

(3) A tolerance is established for residues of the herbicide tebuthiuron, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of tebuthiuron, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N′*-dimethylurea, and its metabolites *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, *N*-[5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N*-methylurea, *N*-[5-(1,1-

dimethylethyl)-1,3,4-thiadiazol-2-yl]urea, *N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N′*-hydroxymethyl-*N*-methylurea, and *N*-[5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N′*-hydroxymethyl-*N*-methylurea, calculated as the stoichiometric equivalent of tebuthiuron, in milk.

* * * * *

7. Section 180.408 is amended as follows:

i. Revise the introductory text in paragraph (a);

ii. Revise the introductory text in paragraph (c);

iii. Revise the introductory text in paragraph (d).

The revised text reads as follows:

§ 180.408 Metalaxyl; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide metalaxyl, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only metalaxyl, methyl *N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)-*DL*-alaninate, in or on the commodity.

* * * * *

(c) *Tolerances with regional registrations.* A tolerance with a regional registration, as defined in § 180.1(l), is established for residues of the fungicide metalaxyl, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only metalaxyl, methyl *N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)-*DL*-alaninate, in or on the commodity.

* * * * *

(d) *Indirect or inadvertent tolerances.* Tolerances are established for indirect or inadvertent residues of the fungicide metalaxyl, including its metabolites and degradates, in or on the commodities in the table in this paragraph when present therein as a result of the application of metalaxyl to growing crops listed in paragraph (a) of this section and other non-food crops. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only metalaxyl, methyl *N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)-*DL*-alaninate, in or on the commodity.

* * * * *

8. Section 180.435 is amended as follows:

i. Revise the introductory text in paragraph (a)(1);

ii. Revise paragraph (a)(2).

The revised text reads as follows:

§ 180.435 Deltamethrin; tolerances for residues.

(a) * * * (1) Tolerances are established for residues of the insecticide deltamethrin, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of deltamethrin, (*S*)-cyano(3-phenoxyphenyl)methyl (1*R*,3*R*)-3-(2,2-dibromoethenyl)-2,2-dimethylcyclopropanecarboxylate, and its major metabolites, trans deltamethrin, (*S*)-alpha-cyano-m-phenoxybenzyl (1*R*,3*S*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate and alpha-*R*-deltamethrin, (*R*)-alpha-cyano-m-phenoxybenzyl (1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate, calculated as the stoichiometric equivalent of deltamethrin, in or on the commodity.

* * * * *

(2) A tolerance of 0.05 parts per million is established for residues of the insecticide deltamethrin, including its metabolites and degradates, in or on all food/feed commodities (other than those covered by a higher tolerance as a result of use on growing crops) when present from application of deltamethrin in food/feed handling establishments (including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries, feed handling establishments including feed manufacturing and processing establishments), in accordance with the following conditions: Application shall be limited to general surface and spot and/or crack and crevice treatment in food/feed handling establishments where food/feed and food/feed products are held, processed, prepared, and served; general surface application may be used only when the facility is not in operation, provided exposed food/feed has been covered or removed from the area being treated; spot and/or crack and crevice application may be used while the facility is in operation provided exposed food/feed is covered or removed from the area being treated prior to application; spray concentration shall be limited to a maximum of 0.06 percent active ingredient; and contamination of food/feed or food/feed contact surfaces shall be avoided. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of deltamethrin, (*S*)-cyano(3-phenoxyphenyl)methyl (1*R*,3*R*)-3-(2,2-dibromoethenyl)-2,2-dimethylcyclopropanecarboxylate, and its major metabolites, trans deltamethrin, (*S*)-alpha-cyano-m-phenoxybenzyl (1*R*,3*S*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate and alpha-*R*-deltamethrin, (*R*)-alpha-cyano-m-phenoxybenzyl (1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate, calculated as the stoichiometric equivalent of deltamethrin, in or on the commodity.

* * * * *

9. Section 180.436 is amended as follows:

i. Revise the introductory text in paragraph (a)(1);

ii. Revise paragraph (a)(2);

iii. Revise paragraph (a)(3);

iv. Revise the introductory text in paragraph (a)(4).

The revised text reads as follows:

§ 180.436 Cyfluthrin and the isomer beta-cyfluthrin; tolerances for residues.

(a) * * * (1) Tolerances are established for residues of the insecticide cyfluthrin, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only cyfluthrin, cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate, in or on the commodity.

* * * * *

(2) A tolerance of 0.05 parts per million is established for residues of the insecticide cyfluthrin, including its metabolites and degradates, in or on food commodities exposed to the insecticide during treatment of food-handling establishments where food and food products are held, processed, prepared, or served, where treatments may be made by general surface, spot, and/or crack and crevice applications, in accordance with the following conditions: General surface treatments shall be limited to a maximum of 3.8 grams of active ingredient per 1,000 square feet, applying to walls, floors, and ceilings with a low-pressure system; all food processing and/or handling equipment has been covered or removed during application; application excludes any direct application to food products; reapplications may be made at 10-day intervals. Crack and crevice or spot

treatments shall be limited to a maximum of 0.1 percent of the active ingredient by weight, applied with a low-pressure system with a pinpoint or variable-pattern nozzle. Dust formulation shall be limited to a maximum of 0.1 percent of the active ingredient by weight, applied using a hand duster, powder duster, or other equipment capable of applying dust insecticide directly into voids and cracks and crevices. Dust applications should be made in a manner to avoid deposits on exposed surfaces or introducing the material into the air. Application may be made provided exposed food has been covered or removed from premises and excludes any direct application to food. Reapplications may be made at 10-day intervals. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only cyfluthrin, cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate, in or on the commodity.

(3) A tolerance of 0.05 parts per million is established for residues of the insecticide cyfluthrin, including its metabolites and degradates, in or on feed commodities exposed to the insecticide during treatment of feed-handling establishments where feed and feed products are held, processed, prepared, or served, where treatments may be made by general surface, spot, and/or crack and crevice applications, in accordance with the following conditions: General surface treatments shall be limited to a maximum of 3.8 grams of active ingredient per 1,000 square feet, applying to walls, floors, and ceilings with a low-pressure system; all feed processing and/or handling equipment has been covered or removed during application; application excludes any direct application to feed products; reapplications may be made at 10-day intervals. Crack and crevice or spot treatments shall be limited to a maximum of 0.1 percent of the active ingredient by weight, applied with a low-pressure system with a pinpoint or variable-pattern nozzle. Dust formulation shall be limited to a maximum of 0.1 percent of the active ingredient by weight, applied using a hand duster, powder duster, or other equipment capable of applying dust insecticide directly into voids and cracks and crevices. Dust applications should be made in a manner to avoid deposits on exposed surfaces or introducing the material into the air. Application may be made provided exposed feed has been covered or removed from premises and excludes any direct application to feed. Reapplications may be made at 10-day intervals. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only cyfluthrin, cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate, in or on the commodity.

(4) Tolerances are established for residues of the insecticide beta-cyfluthrin, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only beta-cyfluthrin, cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate [mixture comprising the enantiomeric pair (*R*)-α-cyano-4-fluoro-3-phenoxybenzyl (1*S*,3*S*)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate and (*S*)-α-cyano-4-fluoro-3-phenoxybenzyl (1*R*,3*R*)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate with the enantiomeric pair (*R*)-α-cyano-4-fluoro-3-phenoxybenzyl (1*S*,3*R*)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate and (*S*)-α-cyano-4-fluoro-3-phenoxybenzyl (1*R*,3*S*)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate], in or on the commodity.

* * * * *

10. Section 180.441 is amended as follows:

i. Revise the introductory text in paragraph (a)(1);

ii. Revise the introductory text in paragraph (a)(2);

iii. Revise the introductory text in paragraph (a)(3);

iv. Remove paragraph (a)(4);

v. Revise the introductory text in paragraph (c).

The revised text reads as follows:

§ 180.441 Quizalofop ethyl; tolerances for residues.

(a) * * * (1) Tolerances are established for residues of the herbicides quizalofop and quizalofop ethyl, including their metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of quizalofop, 2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propanoic acid, and quizalofop ethyl, ethyl 2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propanoate, calculated as the stoichiometric equivalent of quizalofop ethyl, in or on the commodity.

* * * * *

(2) Tolerances are established for residues of the herbicides quizalofop, quizalofop ethyl, and quizalofop methyl, including their metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of quizalofop, 2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propanoic acid, quizalofop ethyl, ethyl 2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propanoate, and quizalofop methyl, methyl 2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propanoate, calculated as the stoichiometric equivalent of quizalofop ethyl, in or on the commodity.

* * * * *

(3) Tolerances are established for residues of the herbicide quizalofop-p-ethyl ester, its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of quizalofop-p-ethyl ester, ethyl (2*R*)-2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propanoate, its acid metabolite quizalofop-p, (2*R*)-2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propanoic acid, and the S-enantiomers of both the ester and the acid, calculated as the stoichiometric equivalent of quizalofop-p-ethyl ester, in or on the commodity.

* * * * *

(c) *Tolerances with regional registrations.* A tolerance with a regional registration, as defined in § 180.1(l), is established for residues of the herbicide quizalofop-p-ethyl ester, its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of quizalofop-p-ethyl ester, ethyl (2*R*)-2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propanoate, its acid metabolite quizalofop-p, (2*R*)-2-[4-[(6-chloro-2-quinoxalinyl)oxy]phenoxy]propanoic acid, and the S-enantiomers of both the ester and the acid, calculated as the stoichiometric equivalent of quizalofop-p-ethyl ester, in or on the commodity.

* * * * *

11. Section 180.442 is amended as follows:

i. Revise the introductory text in paragraph (a)(1);

ii. Revise paragraph (a)(2);

iii. Revise the introductory text in paragraph (b).

The revised text reads as follows:

§ 180.442 Bifenthrin; tolerances for residues.

(a) * * * (1) Tolerances are established for residues of the insecticide bifenthrin, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only bifenthrin, (2-methyl[1,1′-biphenyl]-3-yl)methyl (1*R*,3*R*)-rel-3-[(1*Z*)-2-chloro-3,3,3-trifluoro-1-propenyl]-2,2-dimethylcyclopropanecarboxylate, in or on the commodity.

* * * * *

(2) A tolerance of 0.05 parts per million is established for residues of the insecticide bifenthrin, including its metabolites and degradates, in or on all food/feed commodities (other than those covered by a higher tolerance as a result of use on growing crops) when present from application of bifenthrin in food/feed handling establishments (including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries, feed handling establishments including feed manufacturing and processing establishments), in accordance with the following conditions: Application shall be limited to general surface and spot and/or crack and crevice treatment in food/feed handling establishments where food/feed and food/feed products are held, processed, prepared, and served; general surface application may be used only when the facility is not in operation, provided exposed food/feed has been covered or removed from the area being treated; spot and/or crack and crevice application may be used while the facility is in operation provided exposed food/feed is covered or removed from the area being treated prior to application; spray concentration shall be limited to a maximum of 0.06 percent active ingredient; and contamination of food/feed or food/feed contact surfaces shall be avoided. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only bifenthrin, (2-methyl[1,1′-biphenyl]-3-yl)methyl (1*R*,3*R*)-rel-3-[(1*Z*)-2-chloro-3,3,3-trifluoro-1-propenyl]-2,2-dimethylcyclopropanecarboxylate, in or on the commodity.

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the insecticide bifenthrin, including its metabolites and degradates, in or on the commodities in the table in this paragraph in connection with use of the pesticide under a Section 18 emergency exemption granted by EPA. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only bifenthrin, (2-methyl[1,1′-biphenyl]-3-yl)methyl (1*R*,3*R*)-rel-3-[(1*Z*)-2-chloro-3,3,3-trifluoro-1-propenyl]-2,2-dimethylcyclopropanecarboxylate, in or on the commodity. The tolerances will expire and are revoked on the date specified in the following table.

* * * * *

12. Section 180.466 is amended by revising the introductory text in paragraph (a) to read as follows:

§ 180.466 Fenpropathrin; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide fenpropathrin, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only fenpropathrin, cyano(3-phenoxyphenyl)methyl 2,2,3,3-tetramethylcyclopropanecarboxylate, in or on the commodity.

* * * * *

13. Section 180.494 is amended as follows:

i. Revise the introductory text in paragraph (a);

ii. Revise the introductory text in paragraph (c).

The revised text read as follows:

§ 180.494 Pyridaben; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide pyridaben, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only pyridaben, 4-chloro-2-(1,1-dimethylethyl)-5-[[[4-(1,1-dimethylethyl)phenyl]methyl]thio]-3(2*H*)-pyridazinone, in or on the plant commodity, and only the sum of pyridaben and its metabolites 2-tert-butyl-5-[4-(1-carboxy-1-methylethyl)benzylthio]-4-chloropyridazin-3(2*H*)-one and 2-tert-butyl-5-[4-(1,1-dimethyl-2-hydroxyethyl)benzylthio]-4-chloropyridazin-3(2*H*)-one, calculated as the stoichiometric equivalent of pyridaben, in or on the animal commodity.

* * * * *

(c) *Tolerances with regional registrations.* A tolerance with regional registration, as defined in § 180.1(l), is established for residues of the insecticide pyridaben, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only pyridaben, 4-chloro-2-(1,1-dimethylethyl)-5-[[[4-(1,1-dimethylethyl)phenyl]methyl]thio]-3(2*H*)-pyridazinone, in or on the commodity.

* * * * *

14. Section 180.513 is amended as follows:

i. Revise the introductory text in paragraph (a)(1);

ii. Revise paragraph (a)(2).

The revised text reads as follows:

§ 180.513 Chlorfenapyr; tolerances for residues.

(a) * * * (1) A tolerance is established for residues of the insecticide chlorfenapyr, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only chlorfenapyr, 4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1*H*-pyrrole-3-carbonitrile, in or on the commodity.

* * * * *

(2) A tolerance of 0.01 parts per million is established for residues of the insecticide chlorfenapyr, including its metabolites and degradates, in or on all food commodities (other than those covered by a higher tolerance as a result of use on growing crops) in accordance with the following conditions: Application shall be no greater than a 0.5% active ingredient solution for spot, crack and crevice use in food/feed handling areas where food/feed products are prepared, held, processed, or served; application may only be undertaken when the facility is not in operation, and provided exposed food/feed has been covered, or removed from the area being treated prior to application; food contact surfaces and equipment should be thoroughly washed with an effective cleaning compound, and rinsed with potable water after each use of the product; contamination of food/feed or food/feed

contact surfaces shall be avoided; and application excludes any direct application to any food/feed, food/feed packaging, or any food/feed contact surfaces. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only chlorfenapyr, 4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1*H*-pyrrole-3-carbonitrile, in or on the commodity.

* * * * *

15. Section 180.533 is amended as follows:

i. Revise the introductory text in paragraph (a)(1);

ii. Revise paragraph (a)(2);

iii. Revise the introductory text in paragraph (c).

The revised text reads as follows:

§ 180.533 Esfenvalerate; tolerances for residues.

(a) * * * (1) Tolerances are established for residues of the insecticide esfenvalerate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl (α*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, its non-racemic isomer (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate, and its diastereoisomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, calculated as the stoichiometric equivalent of esfenvalerate, in or on the commodity.

* * * * *

(2) A tolerance of 0.05 parts per million in or on raw agricultural food commodities (other than those food commodities already covered by a higher tolerance as a result of use on growing crops) is established for residues of the insecticide esfenvalerate, including its metabolites and degradates, as a result of the use of esfenvalerate in food-handling establishments. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl (*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, its non-racemic isomer (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate, and its diastereoisomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, calculated as the stoichiometric equivalent of esfenvalerate, in or on the commodity.

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(l), are established for residues of the insecticide esfenvalerate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of esfenvalerate, (*S*)-cyano(3-phenoxyphenyl)methyl (*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, its non-racemic isomer (*R*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate, and its diastereoisomers (*S*)-cyano(3-phenoxyphenyl)methyl-(*R*)-4-chloro-α-(1-methylethyl)benzeneacetate and (*R*)-cyano(3-phenoxyphenyl)methyl-(*S*)-4-chloro-α-(1-methylethyl)benzeneacetate, calculated as the stoichiometric equivalent of esfenvalerate, in or on the commodity.

* * * * *

[FR Doc. 2011–14827 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 515

[Docket No. 11–09]

Notice of Inquiry; Solicitation of Views on Proposal of the Ministry of Transport of the People's Republic of China for Adjustment of the Amount for the FMC Optional Bond Rider

Issued: June 10, 2011.

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Maritime Commission (''FMC'' or ''Commission'') is issuing this Notice of Inquiry (''NOI'') to solicit public comment on the Ministry of Transport of the People's Republic of China's proposal to the Commission to amend the financial responsibility requirements of regulations set forth in Appendix E to subpart C of part 515—Optional Rider for Additional NVOCC Financial Responsibility (Optional Rider to Form FMC 48) [Form 48A] (China Bond Rider).

DATES: Responses are due on or before July 15, 2011.

ADDRESSES: Submit comments to:

Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001.

Or e-mail non-confidential comments to: *Secretary@fmc.gov.* (E-mail comments as attachments in Microsoft Word or PDF.)

FOR FURTHER INFORMATION CONTACT:

Rebecca A. Fenneman, General Counsel, Office of the General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Suite 1018, Washington, DC 20573–0001. *Telephone:* (202) 523–5740. *E-mail: RFenneman@fmc.gov.*

SUPPLEMENTARY INFORMATION:

Submit Comments: Non-confidential filings may be submitted in hard copy or by e-mail as an attachment (in Microsoft Word or PDF) addressed to *Secretary@fmc.gov* on or before July 15, 2011. Include in the subject line: ''Docket No. 11–09–FMC Optional Bond Rider.'' To help assure that all potential respondents will provide usefully detailed information in their submissions, the Commission will provide confidential treatment to the extent allowed by law for those submissions, or parts of submissions, for which the parties request confidentiality. Responses to this inquiry that seek confidential treatment must be submitted in hard copy by U.S. mail or courier. Confidential filings must be accompanied by a transmittal letter that identifies the filing as ''confidential'' and describes the nature and extent of the confidential treatment requested. When submitting documents in response to the NOI that contain confidential information, the confidential copy of the filing must consist of the complete filing and be marked by the filer as ''Confidential-Restricted,'' with the confidential material clearly marked on each page. When a confidential filing is submitted, an original and one additional copy of the public version of the filing must be submitted. The public version of the filing should exclude confidential materials, and be clearly marked on each affected page, ''confidential materials excluded.'' Questions regarding filing or treatment of confidential responses to this inquiry should be directed to the Commission's Secretary, Karen V. Gregory, at the telephone number or e-mail provided above.

Background

On April 15, 2011, the Federal Maritime Commission (FMC or Commission) received a communication

from the Maritime Administration, U.S. Department of Transportation, transmitting a request from the Ministry of Transport (MOT) of the People's Republic of China (China or PRC) to revise the Commission's regulations at Appendix E to subpart C of part 515—Optional Rider for Additional NVOCC Financial Responsibility (Optional Rider to Form FMC 48) [Form 48A] (China Bond Rider). These documents are available to the public on the Commission's Web site at *http://www.fmc.gov.*

Pursuant to an Annex to the 2003 bilateral Maritime Agreement between the United States and the People's Republic of China, the PRC does not require U.S. Non-Vessel-Operating Common Carriers (NVOCCs) to make a cash deposit in a Chinese bank as would otherwise be required by Chinese regulations, as long as the NVOCC:

(1) Is a legal person registered by U.S. authorities;

(2) Obtains an FMC license as an NVOCC; and

(3) Provides evidence of financial responsibility in the total amount of Chinese Renminbi (RMB) 800,000 or U.S. $96,000.

An FMC-licensed U.S. NVOCC that voluntarily provides an additional surety bond in the amount of $21,000 (denominated in USD or RMB), which by its conditions is available for potential claims of the MOT (as well as other Chinese agencies) for violations of the Chinese Regulations on International Maritime Transportation, would be able to register in the PRC without paying the cash deposit otherwise required by Chinese law and regulation.

In 2004, the Commission issued a Notice of Proposed Rulemaking (NPR) to explore mechanisms for NVOCCs to file proof of such additional financial responsibility. 69 FR 4271 (January 29, 2004). The Commission received comments in response to the NPR from the National Customs Brokers and Forwarders Association of America, Inc. (NCBFAA), American Surety Association (ASA), and the Surety Association of America (SAA). The NPR arose from a Commission order issued January 22, 2004 granting in part and denying in part a petition for rulemaking from NCBFAA. *See* Petition No. P10–03, *Petition of the National Customs Brokers and Forwarders Association of America, Inc. for Rulemaking,* 30 S.R.R. 76 (FMC 2004). The proposed rule granted NCBFAA's petition in most substantive respects. On April 1, 2004, the Commission issued a final rule which amended its regulations governing proof of financial responsibility for ocean transportation intermediaries to allow an optional rider to be filed with a licensed NVOCC's proof of financial responsibility to provide additional proof of financial responsibility for such carriers serving the U.S. oceanborne trade with the PRC. Docket No. 04–02, Optional Rider for Proof of Additional NVOCC Financial Responsibility, 30 S.R.R. 179 (FMC 2004).

MOT has now requested that the Commission review its financial responsibility regulations set forth in 46 CFR 515.21 *et seq.* MOT asserts that the exchange rate between the USD and the RMB has risen from 1:8.276 in 2003 to 1:6.536 at present, an increase of approximately 21.02%. Consequently, MOT asserts, the amount of 96,000 USD is inadequate to meet 800,000 RMB at the current exchange rate. Specifically, MOT requests that the regulation be revised to include a provision that would allow for adjustments to the USD amount required in a NVOCC optional bond rider covering transportation activities in the U.S./China trades when the USD and the RMB exchange rate fluctuates 20% higher or lower than that of the last adjustment. MOT also proposes that the adjustment be jointly approved by the U.S. and the PRC at the bilateral maritime consultative meeting of the same year. Finally, if this proposal is adopted, the MOT also proposes that the existing total required bond amount of 96,000 USD, be increased to 122,000 USD, which, MOT asserts, is the equivalent amount of 800,000 RMB at the present exchange rate.

The questions below seek to solicit comments on how the amendment of the financial responsibility requirement would affect business operations. Commenters may address any or all of the questions and/or submit any comments on the optional bond rider generally as well as the effects of an adjustment to the optional bond rider not addressed by any of these questions. Please identify the specific question you are responding to when providing comments.

Questions

1. Describe how, and to what extent, the optional rider to the required NVOCC bond has impacted your company's business operations? Does this make for more certainty in your business operation? Has the optional rider to the required NVOCC bond impacted your overall business costs? If so, how?

2. What do you see as the advantages and disadvantages of an adjustment to the current optional rider to the required NVOCC bond?

3. Please explain whether, and if so, how significantly your business costs/operations would be affected by a provision that allows for adjustments to the U.S. Dollar amount required in a NVOCC optional China bond rider when the USD (U.S. Dollar) and the RMB (Renminbi) exchange rate fluctuates 20% higher or lower.

Along with comments, respondents should provide their name, their title/position, contact information (*e.g.,* telephone number and/or e-mail address), name and address of company or other entity and type of company or entity (*e.g.,* carrier, exporter, importer, trade association, *etc.*).

Responses to this Notice of Inquiry will help the Commission ascertain more precisely how the impact of potentially changing the financial responsibility requirement of the optional rider to the required NVOCC bond would affect U.S. ocean liner commerce, the ocean liner industry, and the economy with a view to determining whether additional analyses or action by the Commission may be necessary.

To promote maximum participation, the NOI questions will be published in the **Federal Register** and on the Commission's Web site at *http://www.fmc.gov* in a downloadable text or pdf file. They can also be obtained by contacting the Commission's Secretary, Karen V. Gregory, by telephone at (202) 523–5725 or by e-mail at *secretary@fmc.gov.* Please indicate whether you would prefer a hard copy or an e-mail copy of the NOI questions. Non-confidential comments may be sent to *secretary@fmc.gov* as an attachment to an e-mail submission. Such attachments should be submitted in Microsoft Word or text-searchable PDF.

The Commission anticipates that filed comments will be made publicly available on its Web site. Public availability of comments will likely improve public awareness of the MOT request, and generate input that the Commission can consider in analyzing the potential impact on the industry of adjustments in the current regulations and requirements concerning the optional rider to the required NVOCC bond. Nevertheless, some commenting parties may wish to include commercially sensitive information as relevant or necessary in their responses by way of explaining their liner shipping experiences or detailing their responses in practical terms. To help assure that all potential respondents will provide usefully detailed information in their submissions, the Commission will provide confidential

treatment to the extent allowed by law for those submissions, or parts of submissions, for which the parties request confidentiality.

By the Commission.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2011–14860 Filed 6–14–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 110131079–1304–01]

RIN 0648–BA79

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Regulatory Amendment

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes revising the reporting requirements for vessels issued Atlantic herring (herring) permits, because more timely catch information is necessary to monitor herring catch against the stock-wide herring annual catch limit (ACL) and herring management area sub-ACLs, to help prevent sub-ACLs overages, and to reduce the chance of premature fishery closures. This proposal would require limited access herring vessels to report catch daily via vessel monitoring systems (VMS), open access herring vessels to report catch weekly via the interactive voice response (IVR) system, and all herring-permitted vessels to submit vessel trip reports (VTRs) weekly.

DATES: Public comments must be received no later than 5 p.m., eastern time, on June 30, 2011.

ADDRESSES: An environmental assessment (EA) was prepared for this regulatory amendment; it describes the proposed action and other considered alternatives, and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of the regulatory amendment, including the EA, the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA), are available from: NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.nmfs.gov.*

You may submit comments, identified by 0648–BA79 by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking portal *http://www.regulations.gov;*
- *Fax:* (978) 281–9135, Attn: Carrie Nordeen;
- Mail to NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Herring Catch Reporting Rulemaking.''

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

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

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to NMFS, at the address above, and to the Office of Management and Budget (OMB) by e-mail at *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, 978–281–9272, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic herring harvest in the United States is managed by a fishery management plan (FMP) developed by the New England Fishery Management Council (Council), and implemented by NMFS, in 2000. The FMP was most recently amended on March 2, 2011 (76 FR 11373), in Amendment 4 to the Herring FMP (Amendment 4), which established ACLs and accountability measures (AMs). Herring is not subject to overfishing; therefore, under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), NMFS must have ACLs and AMs in the Herring FMP by 2011 (See 16 U.S.C. 1353(15)). Initially, in Amendment 4 the Council considered measures related to catch monitoring and reporting, interactions with river herring, access by midwater trawl vessels to groundfish closed areas, and interactions with the Atlantic mackerel fishery. In June 2009, the Council determined there was not sufficient time to develop and implement all the measures contemplated in Amendment 4 by 2011, so it decided to split Amendment 4 into two separate actions. The Council determined that Amendment 4 would continue to address ACL and AM requirements and specification issues, but that all other issues (*e.g.,* catch monitoring and reporting, interactions with river herring and Atlantic mackerel, access to groundfish closed areas) would be considered in Amendment 5 to the Herring FMP (Amendment 5).

The harvest of herring is managed by a stock-wide ACL that is divided between three management areas, one of which has two sub-areas. Area 1 is located in the Gulf of Maine (GOM) and is divided into an inshore section (Area 1A) and an offshore section (Area 1B). Area 2 is located in the coastal waters between Massachusetts and North Carolina, and Area 3 is on Georges Bank (GB). The herring stock complex is considered to be a single stock, but it is comprised of inshore (GOM) and offshore (GB) stock components. The GOM and GB stock components segregate during spawning and mix during feeding and migration. Each management area has its own sub-ACL to allow greater control of the fishing mortality on each stock component.

In order to monitor catch against management area quota allocations (*i.e.,* sub-ACLs), reporting requirements for the herring fishery were implemented as part of the original Herring FMP in 2000, and are specified at § 648.7. Vessels report their herring catch via the IVR system. This information is supplemented by dealer-reported landings, and is monitored against management area sub-ACLs. IVR reports include the following information: Vessel identification; week in which herring was caught; pounds retained; pounds discarded; management areas fished; and pounds of herring caught in each management area. Owners/operators of vessels issued a limited access permit (Categories A–C) report catch weekly via IVR, and owners/operators of vessels issued an open access permit (Category D) report catch via IVR only if they harvest more than 2,000 lb (907.2 kg) of herring on a given trip. All herring-permitted vessels also complete vessel trip reports (VTRs). VTRs include such information as: Vessel identification; date fished; location fished; gear used, number of

crew; total number of hauls; average tow duration; weight of species caught; and dealer information. VTRs are submitted on a monthly basis and are used to verify and/or supplement IVR and dealer data.

To help ensure that herring catch does not exceed management area sub-ACLs, NMFS implements a 2,000-lb (907.2-kg) per trip possession limit in a management area when 95 percent of that management area's sub-ACL is projected to be caught. This measure essentially closes the directed herring fishery in that management area. As catch approaches the sub-ACL's 95 percent closure threshold, NMFS coordinates the timing of implementing possession limit restrictions with the Atlantic States Marine Fisheries Commission and the states of Maine, New Hampshire, and Massachusetts to ensure consistency with state requirements. NMFS then publishes a notice in the **Federal Register** implementing the 2,000-lb (907.2-kg) possession limit.

When approving and implementing Amendment 4, NMFS determined that weekly submission of IVR data and monthly submission of VTR data was sufficient to monitor herring catch against herring sub-ACLs. Between 2001 and 2009, herring catch exceeded individual management area closure thresholds (*i.e.,* 95 percent of sub-ACL) on 8 of the 36 thresholds set over that period (or less than 25 percent of the time). In other words, the four herring management areas were monitored over 9 years, for a total of 36 management area thresholds, and those thresholds were exceeded 8 times. Because catch exceeded the management area closure threshold less than 25 percent of the time, NMFS concluded that existing catch reporting was sufficient to monitor herring catch against sub-ACLs.

Although herring is not overfished and is not experiencing overfishing, the annual acceptable biological catch for herring established for fishing years 2010–2012 was reduced from previous years (55 percent reduction from 2009) due to concerns about a retrospective pattern in the 2009 herring stock assessment that over-estimates biomass (75 FR 48874, August 12, 2010). While the herring optimum yield for 2010–2012 was not reduced below the 2008 catch level, the management area sub-ACLs were reduced from 2009 levels by 20 to 60 percent.

Fishing year 2010 was the first year that NMFS monitored herring catch against the recently reduced management area sub-ACLs. A few weeks prior to approving Amendment 4, NMFS experienced difficulty projecting herring catch to determine whether to close the directed herring fishery in Area 1B because of a pulse of fishing effort in that area. Specifically, in September 2010, catch in Area 1B exceeded its sub-ACL due to a pulse in fishing effort on a relatively small amount of unharvested herring. The 2010 sub-ACL for Area 1B was 4,362 mt. On August 28, herring catch equaled 49 percent of the Area 1B sub-ACL. The next week (September 4) catch equaled 82 percent of the Area 1B sub-ACL, and by the following week (September 11) catch equaled 114 percent of the Area 1B sub-ACL. On September 14, the directed fishery for herring was closed (*i.e.,* 2,000-lb (907.2-kg) possession limit implemented) in Area 1B, but catch equaled 139 percent of the sub-ACL by September 18. More timely reporting of fishing levels may have allowed NMFS to close the fishery sooner, prior to it exceeding the sub-ACL.

NMFS had similar difficulties projecting a closure date in Area 1A a few weeks after approving Amendment 4, because catch rates were highly variable. If data projections suggest that the catch rate in a management area is higher than the amount of fish actually being caught, NMFS may prematurely close the directed herring fishery in that management area, with a risk that some herring may go unharvested. In October and early November 2010, for example, catch in Area 1A was highly variable, ranging from 142 mt to 4,943 mt per week. Catch projections in early November indicated that 95 percent of the sub-ACL had been harvested; therefore, a 2,000-lb (907.2-kg) possession limit was implemented in Area 1A on November 8. However, following a review of updated catch information, NMFS determined that the catch was not approaching 95 percent of the sub-ACL, and removed the 2,000-lb (907.2-kg) possession limit for the period between November 15 and November 17, and again for the period between November 29 and December 3, to allow catch to approach the 95 percent of the Area 1A sub-ACL. While the fishery was eventually able to harvest the entire Area 1A sub-ACL, the premature implementation of the reduced possession limit unnecessarily interrupted fishing and processing operations and likely resulted in increased operational costs to the industry. If herring had moved out of the Area 1A for the year and were no longer available to the fishery by the time the premature possession limit was lifted, a percentage of the Area 1A sub-ACL may have gone unharvested. Ultimately, catch from Area 1B and Area 1A exceeded their respective allocations, and those overages will be deducted from the corresponding sub-ACL in fishing year 2012.

These experiences suggest that NMFS needs more timely catch reporting to better monitor catch against sub-ACLs, help prevent sub-ACL overages, and to reduce the chance of premature fishery closures. As described previously, the Council is in the process of developing Amendment 5, which considers revisions to catch reporting requirements for the herring fishery, but that amendment, if approved, is not anticipated to be implemented before 2013.

MSA section 402(a)(2), in conjunction with regulations at § 648.7, provide NMFS with the authority to revise fishery reporting requirements as necessary to monitor a FMP. NMFS recognizes the importance of timely catch information to monitor herring catch against the stock-wide herring ACL and management areas sub-ACLs, as well as to help catch achieve, but not exceed, sub-ACLs. Therefore, NMFS proposes that limited access herring vessels report herring catch daily via VMS, open access herring vessels report catch weekly via IVR, and all herring-permitted vessels submit VTRs weekly.

Proposed Measures

Reporting Requirements for Limited Access Herring Vessels

Amendment 1 to the Herring FMP (Amendment 1) established a limited access program for the herring fishery in June 2007 (72 FR 11252, March 31, 2007) to better match the capacity of the fleet to the size of the herring resource. Amendment 1 created three limited access permit categories. The All Areas Limited Access Permit (Category A) is issued to fishery participants with the greatest amount of historical fishery participation (*i.e.,* caught at least 500 mt of herring in a year) and enables the permit holder to fish in all four of the herring management areas. The Areas 2/3 Limited Access Permit (Category B) is issued to fishery participants that had caught at least 250 mt of herring in a year and enables the permit holder to fish in herring management areas 2 and 3. The Incidental Catch Limited Access Permit (Category C) is issued to fishery participants that had caught at least 15 mt of herring in a single year. The Category C herring permit enables the permit holder to fish in all of the herring management areas and retain up to 25 mt of herring per calendar day.

Current regulations require limited access vessels to report herring catch weekly via IVR, submit monthly VTRs,

and obtain and operate a VMS. Vessels declare their intent to participate in the herring fishery by entering a herring code into the VMS prior to leaving port on a fishing trip. This requirement facilitates compliance with herring management area requirements. Category A and B vessels fishing with midwater trawl or purse seine gear are required to provide a pre-landing notification to NMFS 6 hr prior to arriving in port at the conclusion of a fishing trip. This requirement allows NMFS personnel to meet vessels at the dock if issues such as bycatch, especially of haddock, or compliance with fishing restrictions warrant investigation.

In 2010, 101 vessels were issued limited access herring permits; 42 were issued Category A permits, 4 were issued Category B permits, and 55 were issued Category C permits. Limited access vessels harvest more than 99 percent of the total annual herring catch, and the limited access fleet is capable of catching up to 5,000 mt of herring in a week.

To ensure timely catch data are available to better inform management decisions, NMFS proposes that owners/operators of vessels issued limited access herring permits (Categories A–C) be required to report herring catch, retained and discarded, daily via VMS. Daily catch reports would include the following information: Vessel name; VTR serial number; date; and the amount of herring retained and discarded from each management area. During a declared herring trip, catch reports would be required to be submitted via VMS by 9 a.m., eastern time, for herring caught the previous calendar day (0000–2400 hr). If no fish were caught on a particular day during the trip, a negative report (0 lb) would be submitted. This requirement is consistent with daily VMS reporting requirements for owners/operators of vessels issued Northeast multispecies permits engaged in fishing in U.S./Canada management areas and special access programs.

NMFS uses VTRs submitted by limited access herring vessels to verify vessel catch reports and resolve discrepancies between IVR and dealer data. VTRs are valuable tools for correcting reporting errors and improving the quality of data used to monitor management area sub-ACLs. While the monthly submission of VTRs is useful, receiving VTRs on a weekly basis would speed NMFS's ability to resolve issues with the herring data and, ultimately, help improve the monitoring of catch in the herring fishery. Therefore, NMFS proposes that owners/operators of vessels issued limited access herring permits be required to submit VTRs on a weekly basis. VTRs would be due by midnight each Tuesday, eastern time, for the previous week (Sunday-Saturday). This requirement would increase the frequency of information reporting from status quo, but the required content of the VTR would be unchanged. The submission of weekly VTRs is currently required for owners/operators of vessels issued Northeast multispecies permits.

Reporting Requirements for Open Access Herring Vessels

In addition to limited access permit categories, Amendment 1 created an open access herring permit. The open access herring permit is available to all fishery participants wanting to harvest small amounts of herring or retain herring encountered incidentally while prosecuting other fisheries. Vessels issued open access herring permits can retain up to 3 mt of herring per trip, and are limited to landing herring once per calendar day. In 2010, 2,258 vessels were issued herring open access permits. Despite the relatively large number of vessels issued an open access herring permit, Category D vessels harvest less than 1 percent of the total annual herring catch.

Current regulations require Category D vessels to report herring catch via IVR only if harvest exceeds 2,000 lb (907.2 kg) of herring in a single trip. If catch is less than 2,000 lb (907.2 kg), Category D vessels report catch monthly on VTRs. In the past, there have been misunderstandings about the 2,000-lb (907.2-kg) threshold triggering the requirement for Category D vessels to report catch via IVR. Some fishery participants understood the requirement to be a weekly limit, while others thought it a daily limit. The IVR system allows catch to be reported by herring management area. The location of fishing (*i.e.,* latitude, longitude) is reported on the VTR, which allows NMFS to attribute catch to the appropriate herring management area, because VTRs do not allow catch to be reported by herring management area.

If a pulse of fishing effort occurs or catch rates are highly variable, using VTR information that is updated monthly may not be timely enough to verify dealer data and resolve any discrepancies between IVR and dealer data. VTRs are valuable tools for correcting reporting errors and improving the quality of data used to monitor management area sub-ACLs. Receiving VTRs more frequently than monthly would speed NMFS's ability to resolve issues with the herring data and, ultimately, help improve the monitoring of catch in the herring fishery.

In an effort to simplify reporting requirements, improve the timeliness of herring catch data, and more efficiently apportion catch to management areas, NMFS proposes that owners/operators of vessels issued open access herring permits be required to report catch weekly via the IVR system. An IVR report would be required by midnight each Tuesday (eastern time), for herring caught the previous week (Sunday-Saturday). If no herring was caught during a week, no IVR report would be required.

Consistent with proposed VTR requirements for limited access vessels, NMFS proposes that owners/operators of vessels issued open access herring permits be required to submit VTRs on a weekly basis. VTRs would be due by midnight each Tuesday (eastern time) for the previous week (Sunday-Saturday). As described previously, VTRs are valuable tools for correcting reporting errors and improving the quality of data used to monitor management area sub-ACLs. This requirement would increase the frequency of information reporting from status quo, but the required content of the VTR would be unchanged. The submission of weekly VTRs is currently required for owners/operators of vessels issued Northeast multispecies permits.

Classification

Pursuant to section 304 (b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Herring FMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Orders 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA, which includes this section of the preamble to this rule and analyses contained in the regulatory amendment and its accompanying EA/RIR/IRFA, describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble, and are not repeated here.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

All participants in the herring fishery are small entities as defined by the Small Business Administration's size standards, as none grossed more than $4 million annually; therefore, there are no disproportionate economic impacts on small entities. In 2010, 42 vessels were issued Category A herring permits, 4 vessels were issued Category B herring permits, 55 vessels were issued Category C herring permits, and 2,258 vessels were issued Category D herring permits. A complete description of the number of small entities to which this rule applies is provided in Section 3.1.5 of this action's EA/RFA/IRFA (see **ADDRESSES**).

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The proposed action contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement will be submitted to OMB for approval under Control Numbers 0648–0202 and 0648–0212. The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

The proposed action would directly affect all participants in the herring fishery because it increases the reporting burden for owners/operators of vessels issued herring permits. A complete description of the economic impacts associated with the proposed action and the non-selected alternatives is provided in Section 4.3 of action's EA/RFA/IRFA (see **ADDRESSES**).

In developing this rule, NMFS considered three alternatives: The no action alternative (status quo); the proposed action, which would require daily VMS reporting by limited access-permitted herring vessels, weekly IVR reporting by open access-permitted herring vessels, and weekly VTR reports from all herring-permitted vessels; and a non-selected action alternative, which would require both limited access and open access-permitted vessels to provide NMFS with trip-by-trip IVR reports and weekly VTR reports.

The proposed action would increase reporting costs for herring fishery participants. VMS reporting and the submission of VTRs have a direct cost associated with the submission of the report. The cost of transmitting a catch report via VMS is $0.60 per transmission. In 2010, the average number of fishing days for a limited access herring vessel was 93. Therefore, the annual cost of daily VMS reporting is estimated to be $55.80 per vessel. The estimated annual VMS reporting burden (*i.e.,* time) would be the submission of 93 reports per limited access vessel. Because the IVR system phone number is toll-free, there is no direct cost associated with reporting via IVR system. The estimated annual IVR reporting burden would be the submission of 52 reports per open access vessel. Additionally, the proposed action would require weekly VTR submissions, which would cost each vessel $17.60. This cost was calculated by multiplying 40 (52 weeks in a year minus 12 (number of monthly reports)) by $0.44 (cost of a postage stamp) to equal $17.60.) The annual VTR reporting burden would be would be the submission of 52 reports per vessel.

Adding these costs together, the proposed action is estimated to have an annual increased reporting cost of approximately $73.40 per limited access herring vessel (submission of 145 VMS reports and VTRs), and approximately $17.60 per open access herring vessel (submission of 104 IVR reports and VTRs). The ex-vessel value of the herring fishery varies by permit category. For limited access vessels, the proposed action would increase reporting costs by less than 1.8 percent of the average ex-vessel value of the fishery (2008–2010). For vessels with open access herring permits, the proposed action would increase reporting costs by 7.2 percent of the average ex-vessel herring value. While the increased reporting costs associated with the proposed action may seem high for open access vessels, open access vessels typically operate in several fisheries and revenue from herring catch is likely only a small portion of their total ex-vessel value. Additionally, the majority of vessels issued open access herring permits (92 percent) are already paying these increased reporting costs, because they also possess a Northeast multispecies permit that requires weekly submission of VTRs.

Under the proposed action, catch data would be updated more frequently and would likely better inform catch projections. If catch projections contain less uncertainty, ACL/sub-ACL overages, and the subsequent overage deduction, may become less likely. Additionally, the fleet may be allowed to harvest up to the 95 percent sub-ACL closure threshold without the management area being prematurely closed and herring potentially left unharvested. For limited access vessels, reporting via VMS is more flexible (reports can be made from sea or from land) than reporting via IVR (reports usually made only from land). For open access vessels, reporting weekly rather than trip-by-trip still provides timely catch data, but likely results in a lower reporting burden. For these reasons, there may be indirect positive impacts for fishery participants with the proposed action.

As compared to the proposed action, the reporting burden under the no action alternative would be less. The no action alternative would require weekly reporting via IVR for limited access vessels, weekly reporting via IVR for open access vessels when catch was greater than 2,000 lb (907.2 kg) per trip, and monthly submission of VTRs for all vessels issued herring permits. The no action alternative is estimated to have an annual reporting cost of approximately $5.28 per limited access herring vessel (submission of 64 reports), and approximately $5.28 per open access herring vessel (submission of 19 reports). Under the no action alternative, there is the possibility that catch data may not be timely enough to inform catch projections increasing the likelihood of either an ACL/sub-ACL overage or a premature implementation of a reduced possession limit. Because of issues with phone reception, reporting via IVR is often not possible while at sea. Therefore, reporting for limited access vessels would be less flexible under the no action alternative than under the proposed action. For these reasons, there may be indirect negative economic impacts to fishery participants resulting from the non action alternative, including overage deductions, increased operational costs if fishing activities are interrupted by a premature closure, and the potential risk that a premature closure may result in a percentage of a management area sub-ACL left unharvested.

The reporting burden under the non-selected action alternative would be less costly than reporting under the proposed action (because IVR is less costly than VMS), but the number of reports submitted may be higher than under the proposed action (because trip-by-trip reporting would likely result in the submission of more reports than weekly reporting). The non-selected action alternative would require trip-by-trip reporting via IVR and weekly submission of VTRs for all vessels issued herring permits. The non-selected action alternative is estimated to have an annual reporting cost of approximately $17.60 per herring vessel. Because trips can vary in length

from 1 day to several days, the frequency of trip-by-trip reporting would be variable. Under the non-selected action alternative, IVR reporting and weekly VTR submission would result in a minimum annual submission of 104 reports per vessel. The ex-vessel value of the herring fishery varies by permit category. For limited access vessels, the non-selected action alternative would have increased reporting costs that are less than 0.0007 percent of the average ex-vessel value of the fishery (2008–2010). The non-selected action alternative would have increased reporting costs of 7.2 percent of the average ex-vessel value of the herring fishery for open access vessels. While the increased reporting costs associated with the non-selected action alternative may seem high for open access vessels, open assess vessels typically operate in several fisheries and revenue from herring catch is likely only a small portion of their total ex-vessel value. Additionally, the majority of vessels issued open access herring permits (92 percent) are already paying these increased reporting costs, because they also possess a Northeast multispecies permit that requires weekly submission of VTRs.

Similar to the proposed action, catch data under the non-selected action alternative would be updated frequently and would likely be sufficient to inform catch projections. If catch projections contained less uncertainty, ACL/sub-ACL overages, and the subsequent overage deduction, may be less likely. Additionally, the fleet may be allowed to harvest up to the 95-percent sub-ACL closure threshold without the management area being prematurely closed and herring potentially left unharvested. For limited access vessels, reporting via IVR is less flexible than reporting via VMS, so reporting for limited access vessels would be less flexible under the non-selected action alternative than under the proposed action. For these reasons, there may be both indirect positive and indirect negative impacts for fishery participants under the non-selected action alternative.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the PRA. As noted above, these collection requests will be submitted to OMB for approval under Control Numbers 0648–0202 and 0648–0212. Public reporting burden for catch reporting is estimated to average 5 min per individual per VMS response, 7 min per individual per IVR response, and 5 min per individual per VTR response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these, or any other aspects of the collection of information, to NMFS, Northeast Regional Office (see **ADDRESSES**) and to the OMB by e-mail at *OIRA_Submission@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: June 10, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.7, paragraphs (b)(2)(i) and (f)(2)(i) are revised, and paragraph (b)(3) is added to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(2) * * *

(i) *Atlantic herring owners or operators issued an open access permit.* The owner or operator of a vessel issued an open access permit to fish for herring must report catch (retained and discarded) of herring to an IVR system for each week herring was caught, unless exempted by the Regional Administrator. IVR reports are not required for weeks when no herring was caught. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification; week in which herring are caught; management areas fished; and pounds retained and pounds discarded of herring caught in each management area. The IVR reporting week begins on Sunday at 0001 hrs (12:01 a.m.) local time and ends Saturday at 2400 hrs (12 midnight). Weekly Atlantic herring catch reports must be submitted via the IVR system by midnight each Tuesday, eastern time, for the previous week. Reports are required even if herring caught during the week has not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

(A) Atlantic herring IVR reports are not required from Atlantic herring carrier vessels.

(B) *Reporting requirements for vessels transferring herring at sea.* A vessel that transfers herring at sea must comply with these requirements in addition to those specified at § 648.13(f).

(*1*) A vessel that transfers herring at sea to a vessel that receives it for personal use as bait must report all transfers on the Fishing Vessel Trip Report.

(*2*) A vessel that transfers herring at sea to an authorized carrier vessel must report all transfers weekly via the IVR system and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the carrier vessel is defined as a trip for the purposes of reporting requirements and possession allowances.

(*3*) A vessel that transfers herring at sea to an at-sea processor must report all transfers weekly via the IVR system and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the at-sea processing vessel is defined as a trip for the purposes of the reporting requirements and possession allowances. For each trip, the vessel must submit a Fishing Vessel Trip Report and the at-sea processing vessel must submit the detailed dealer report specified in paragraph (a)(1) of this section.

(*4*) A transfer between two vessels issued open access permits requires each vessel to submit a Fishing Vessel Trip Report, filled out as required by the LOA to transfer herring at sea, and a weekly IVR report for the amount of herring each vessel lands.

* * * * *

(3) *VMS Catch Reports.* (i) *Atlantic herring owners or operators issued a*

limited access permit. The owner or operator of a vessel issued a limited access permit to fish for herring must report catches (retained and discarded) of herring daily via VMS, unless exempted by the Regional Administrator. The report shall include at least the following information, and any other information required by the Regional Administrator: Fishing Vessel Trip Report serial number; month and day herring was caught; pounds retained for each herring management area; and pounds discarded for each herring management area. Daily Atlantic herring VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 0900 hr of the following day. Reports are required even if herring caught that day has not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

(A) The owner or operator of any vessel issued a limited access herring permit must submit an Atlantic herring catch report via VMS each day, regardless of how much herring is caught (including days when no herring is caught), unless exempted from this requirement by the Regional Administrator.

(B) Atlantic herring VMS reports are not required from Atlantic herring carrier vessels.

(C) *Reporting requirements for vessels transferring herring at sea.* The owner or operator of a vessel issued a limited access permit to fish for herring that transfers herring at sea must comply with these requirements in addition to those specified at § 648.13(f).

(*1*) A vessel that transfers herring at sea to a vessel that receives it for personal use as bait must report all transfers on the Fishing Vessel Trip Report.

(*2*) A vessel that transfers herring at sea to an authorized carrier vessel must report all catch daily via VMS and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the carrier vessel is defined as a trip for the purposes of reporting requirements and possession allowances.

(*3*) A vessel that transfers herring at sea to an at-sea processor must report all catch daily via VMS and must report all transfers on the Fishing Vessel Trip Report. Each time the vessel offloads to the at-sea processing vessel is defined as a trip for the purposes of the reporting requirements and possession allowances. For each trip, the vessel must submit a Fishing Vessel Trip Report and the at-sea processing vessel must submit the detailed dealer report specified in paragraph (a)(1) of this section.

(*4*) A transfer between two vessels issued limited access permits requires each vessel to submit a Fishing Vessel Trip Report, filled out as required by the LOA to transfer herring at sea, and a daily VMS catch report for the amount of herring each vessel catches.

* * * * *

(f) * * *

(2) * * *

(i) For any vessel not issued a NE multispecies or Atlantic herring permit, fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received by NMFS within 15 days after the end of the reporting month. If no fishing trip is made during a particular month for such a vessel, a report stating so must be submitted, as instructed by the Regional Administrator. For any vessel issued a NE multispecies or Atlantic herring permit, Fishing Vessel Trip Reports must be postmarked or received by midnight of the first Tuesday following the end of the reporting week. If no fishing trip is made during a reporting week for such a vessel, a report stating so must be submitted and received by NMFS by midnight of the first Tuesday following the end of the reporting week, as instructed by the Regional Administrator. For the purposes of this paragraph (f)(2)(i), the date when fish are offloaded will establish the reporting week or month that the Fishing Vessel Trip Report must be submitted to NMFS, as appropriate. Any fishing activity during a particular reporting week (*i.e.,* starting a trip, landing, or offloading catch) will constitute fishing during that reporting week and will eliminate the need to submit a negative fishing report to NMFS for that reporting week. For example, if a vessel issued a NE multispecies or Atlantic herring permit begins a fishing trip on Wednesday, but returns to port and offloads its catch on the following Thursday (*i.e.,* after a trip lasting 8 days), the VTR for the fishing trip would need to be submitted by midnight Tuesday of the third week, but a negative report (*i.e.,* a ''did not fish'' report) would not be required for either week.

* * * * *

[FR Doc. 2011–14874 Filed 6–14–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 76, No. 115
Wednesday, June 15, 2011

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Funding Opportunity Title: Risk Management Education in Targeted States (Targeted States Program); Announcement Type: Announcement of Availability of Funds and Request for Applications (RFA) for Competitive Cooperative Agreements

Catalog of Federal Domestic Assistance (CFDA) Number: 10.458.

DATES: All applications, which must be submitted electronically through Grants.gov, must be received by 11:59 p.m. Eastern Time on July 15, 2011. *Hard copy applications shall NOT be accepted.*

SUMMARY: The Federal Crop Insurance Corporation (FCIC), operating through the Risk Management Agency (RMA), announces its intent to award approximately $5,000,000 (subject to availability of funds) to fund cooperative agreements under the Risk Management Education in Targeted States Program (the Targeted States Program). The purpose of this cooperative agreement program is to deliver crop insurance education and information to U.S. agricultural producers in States where there is traditionally, and continues to be, a low level of Federal crop insurance participation and availability, and producers are underserved by the Federal crop insurance program. These states, defined as Targeted States for the purposes of this RFA, are Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. Any cooperative agreements that may be funded shall not exceed the maximum funding amount established for each of the Targeted States. Awardees must agree to the substantial involvement of RMA in the project. Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate program, the Risk Management Education and Outreach Partnership Program (CFDA No. 10.455) and (CFDA No. 10.459). Prospective applicants must carefully examine and compare the notices of each announcement.

The collections of information in this announcement have been approved by the Office of Management and Budget (OMB) under control number 0563–0067.

This Announcement Consists of Eight Sections

Full Text of Announcement

I. Funding Opportunity Description

A. Legislative Authority

The Targeted States Program is authorized under section 524(a)(2) of the Federal Crop Insurance Act (FCIA), 7 U.S.C. 1524(a)(2).

B. Background

RMA promotes and regulates sound risk management solutions to improve the economic stability of American agriculture. On behalf of FCIC, RMA does this by offering Federal crop insurance products through a network of private-sector partners, overseeing the creation of new risk management products, seeking enhancements in existing products, ensuring the integrity of crop insurance programs, offering outreach programs aimed at equal access and participation of underserved communities, and providing risk management education and information.

One of RMA's strategic goals is to ensure that its customers are well-informed of risk management solutions available. This educational goal is authorized by section 524(a)(2) of the FCIA (7 U.S.C. 1524(a)(2)). This section authorizes funding for the establishment of crop insurance education and information programs in States where there is traditionally, and continues to be, a low level of Federal crop insurance participation and availability, and producers are underserved by the Federal crop insurance program. In accordance with the FCIA, the States with this designation for FY 2011 are Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New

Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming (defined as ''Targeted States'' for the purposes of this RFA).

C. Project Goal

The goal of the Targeted States Program is to ensure that producers in the Targeted States are fully informed of existing and emerging crop insurance products in order to take full advantage of such products. In carrying out the requirements under Section 12026 of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture has placed Special Emphasis on risk management strategies, education, and outreach specifically targeted to the following Producer Groups—

(A) Beginning farmers or ranchers;

(B) Legal immigrant farmers or ranchers that are attempting to become established producers in the United States;

(C) Socially disadvantaged farmers or ranchers;

(D) Farmers or ranchers that—

(i) Are preparing to retire; and

(ii) Are using transition strategies to help new farmers or ranchers get started; and

(E) New or established farmers or ranchers that are converting production and marketing systems to pursue new markets.

D. Purpose

The purpose of the Targeted States Program is to provide producers in Targeted States with education and information to be able to understand:

- The kinds of risks addressed by crop insurance;
- The features of existing and emerging crop insurance products;
- The use of crop insurance in the management of risk;
- How the use of crop insurance can affect other risk management decisions, such as the use of marketing and financial tools;
- How to make informed decisions on crop insurance prior to the sales closing date deadline; and
- Recordkeeping requirements for crop insurance.

In addition, for 2011, the FCIC Board of Directors and the FCIC Manager are seeking projects that also include the Priority Topics listed below which highlight the educational priorities within each of the Targeted States. Applications that do not address at least one (1) Priority Topic shall not be considered for funding.

Priority Topics

In All Targeted States (where the crop insurance programs or options are available): Livestock Gross Margin Dairy; Pasture, Rangeland and Forage Rainfall and Vegetative Index; Common Crop Insurance Policy Basic Provisions (''COMBO''); Enterprise Units, and Specialty Crops;

Maine: Northern Potatoes;

North Carolina, Virginia, and West Virginia: Livestock Risk Protection—Feeder Cattle;

North Carolina, Virginia, and West Virginia: Livestock Risk Protection—Swine;

Pennsylvania and Virginia: Livestock Risk Protection—Lamb;

Wyoming: Livestock Risk Protection—Feeder Cattle.

In addition, applications must clearly designate that educational activities shall be directed to at least one (1) Producer Group below. Applications that do not address at least one (1) Producer Group shall not be considered for funding.

Producer Groups

(A) Beginning farmers or ranchers;

(B) Legal immigrant farmers or ranchers that are attempting to become established producers in the United States;

(C) Socially disadvantaged farmers or ranchers;

(D) Farmers or ranchers that—

(i) Are preparing to retire; and

(ii) Are using transition strategies to help new farmers or ranchers get started; and

(E) New or established farmers or ranchers that are converting production and marketing systems to pursue new markets.

II. Award Information

A. Type of Application

Only electronic applications only shall be accepted and they must be submitted through Grants.gov. Hard copy applications shall NOT be accepted. Applications submitted for the Risk Management Education in Targeted States Program are new applications: There are no renewals. All applications shall be reviewed competitively using the selection process and evaluation criteria described in Section V—Application Review Process. Each award shall be designated as a Cooperative Agreement, which shall require substantial involvement by RMA.

B. Funding Availability

There is no commitment by USDA to fund any particular application or make a specific number of awards. RMA intends to award approximately $5,000,000 (subject to availability of funds) in fiscal year 2011 to fund one or more cooperative agreement(s) not to exceed the maximum funding amount established for each of the Targeted States. The maximum funding amount anticipated for the agreement(s) in each Targeted State is as follows. An applicant must apply for funding for that Targeted State where the applicant intends to deliver the educational activities, and must limit its request for funding in a particular Targeted State based upon the funding levels available below.

Connecticut	$250,000
Delaware	$287,000
Hawaii	$246,000
Maine	$259,000
Maryland	$371,000
Massachusetts	$239,000
Nevada	$248,000
New Hampshire	$216,000
New Jersey	$282,000
New York	$586,000
Pennsylvania	$700,000
Rhode Island	$206,000
Utah	$316,000
Vermont	$259,000
West Virginia	$242,000
Wyoming	$293,000
Total	$5,000,000

Funding amounts were determined by first allocating an equal amount of $200,000 to each Targeted State. Remaining funds were allocated on a pro rata basis according to each Targeted State's share of agricultural cash receipts reported in the National Agricultural Statistics Service (NASS) 2007 Agricultural Census, relative to the total for all Targeted States. Both the equal allocation and the pro rata allocation were totaled together and rounded to the nearest $1,000 to arrive at the funding limit for each Targeted State.

In the event that additional funds become available under this program or in the event that no application for a given Targeted State is recommended for funding by the evaluation panel, these additional funds, or unused funds for a particular Targeted State, may be allocated pro-rata to other awardees. These additional or unused funds may be offered to selected awardees for use in broadening the size or scope of awarded projects within the Targeted States in which funds were awarded, if such selected awardees agree to any changes to the project necessary determined by RMA to make use of the additional funds. The decision of whether any additional or unused funds are offered to other award recipients, and the pro-rata manner in which they may be distributed to recipients that are willing to make required adjustments to

their awarded projects to accept such additional funds, is within the discretion of the FCIC Manager. RMA is not required to distribute any additional or unused funds to the awardees.

In the event that the Manager of FCIC determines that available RMA resources cannot support the administrative and substantial involvement requirements of all agreements recommended for funding, the Manager may elect to fund fewer agreements than the available funding might otherwise allow. All awards shall be made and agreements finalized no later than September 30, 2011.

C. Location and Target Audience

The RMA Regional Offices that service the Targeted States are listed below. Staff from these respective RMA Regional Offices shall provide the RMA substantial involvement for Targeted States projects conducted within the respective Regions.

Billings, MT Regional Office: (WY)

Davis, CA Regional Office: (HI, NV and UT)

Raleigh, NC Regional Office: (CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT and WV)

Each application must clearly designate the Targeted State where crop insurance educational activities for the project shall be delivered in block 14 of the SF–424, ''Application for Federal Assistance.'' Applications without this designation in block 14 shall be rejected. Applicants may apply to deliver education to producers in more than one Targeted State, but a separate application must be submitted for each Targeted State because applications shall be compared to applications submitted for the same state. Any single application proposing to conduct educational activities in more than one Targeted State shall be rejected.

D. Maximum Award

Any application that requests funding under this Announcement of more than the amount listed above for a project in a given Targeted State shall be rejected.

E. Project Period

Projects shall be funded for a period of up to one year from the project starting date.

F. Description of Agreement Award-Awardee Tasks

In conducting activities to achieve the purpose and goal of this program in a designated Targeted State, the awardee shall be responsible for performing the following tasks:

- Develop and conduct a promotional program. This program shall include activities using media, newsletters, publications, or other appropriate informational dissemination techniques that are designed to: (a) Raise awareness for crop insurance; (b) inform producers of the availability of crop insurance; (c) inform producers of the crop insurance sales closing dates prior to the deadline; and (d) inform producers (and may inform agribusiness professionals), in the designated Targeted State of training and informational opportunities.
- Deliver crop insurance training and informational opportunities to agricultural producers (and may deliver to agribusiness professionals) in the designated Targeted State in a timely manner, prior to crop insurance sales closing dates, in order for producers to make informed decisions regarding risk management tools prior to the crop insurance sales closing dates deadline. This delivery shall include organizing and delivering educational activities using instructional materials that have been assembled to meet the local needs of agricultural producers. Activities must be directed primarily to agricultural producers, but may include those agribusiness professionals that frequently advise producers on crop insurance tools and decisions and shall use the information gained from these trainings to advise producers.
- Document all educational activities conducted under the cooperative agreement and the results of such activities, including criteria and indicators used to evaluate the success of the program. The awardee shall also be required, if requested by RMA, to provide information to RMA-selected contractor(s) to evaluate all educational activities and advise RMA regarding the effectiveness of activities.

G. RMA Activities

RMA shall be substantially involved during the performance of the funded project through three of RMA's ten Regional Offices. Potential types of substantial involvement by these three Regional Offices shall include, but are not limited to, the following activities.

- Collaborate with the awardee in assembling, reviewing, and approving risk management materials for producers in the designated Targeted States.
- Collaborate with the awardee in reviewing and approving a promotional program for raising awareness for risk management and for informing producers of training and informational opportunities in the Targeted States.
- Collaborate with the awardee on the delivery of education to producers and agribusiness professionals for the Targeted States. This collaboration shall include: (a) Reviewing and approving in advance all producer and agribusiness professional educational activities; (b) advising the awardee on technical issues related to crop insurance education and information; and (c) assisting the awardee in informing producers and agribusiness professionals about educational activity plans and scheduled meetings.
- Conduct an evaluation of the performance of the awardee in meeting the purpose and goals of the project.
- Assist in the selection of subcontractors and project staff.

Applications that do not contain substantial involvement by RMA shall be rejected.

H. Other Tasks

In addition to the specific, required tasks listed above, the applicant may propose additional tasks that would contribute directly to the purpose of this program. For any proposed additional task, the applicant must identify the objective of the task, the specific subtasks required to meet the objective, specific time lines for performing the subtasks, and the specific responsibilities of partners. The applicant must also identify specific ways in which RMA would have substantial involvement in the proposed project task.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants include: State Departments of Agriculture, State Cooperative Extension Services; Federal, State, or Tribal agencies; community based organizations; nongovernmental organizations; junior and four-year colleges or universities or foundations maintained by a college or university; private for-profit organizations; and other entities with the capacity to lead a program of risk management education for producers in one or more Targeted States. Individuals are not eligible applicants. Although an applicant may be eligible to compete for an award based on its status as the type of entity described immediately above, other factors may exclude an applicant from receiving Federal assistance under this program, which is governed by Federal law and regulations (*e.g.* debarment and suspension; a determination of non-performance on a prior contract, cooperative agreement, grant or cooperative partnership; a determination of a violation of applicable ethical standards). Applications in which the applicant or any of the partners are ineligible or

excluded persons shall be rejected in their entirety.

B. Cost Sharing or Matching

Although RMA prefers cost sharing by the applicant, this program has neither a cost sharing nor a matching requirement.

IV. Application and Submission Information

A. Electronic Application Package

RMA shall only accept electronic applications for this program. These electronic applications must be submitted via Grants.gov to the Risk Management Agency in response to this RFA. Prior to preparing an application, it is suggested that the Project Director (PD) first contact an Authorized Representative (AR) (also referred to as Authorized Organizational Representative or AOR) to determine if the organization is prepared to submit electronic applications through Grants.gov. If the organization is not prepared, the AR should see, *http://www.grants.gov/applicants/get_registered.jsp,* for steps for preparing to submit applications through Grants.gov.

Grants.gov assistance is available as follows:

- Grants.gov customer support,
  Toll Free: 1–800–518–4726,
  Business Hours: 24 Hours a day.
  E-mail: support@grants.gov.

B. Content and Form of Application Submission

The title of the application must include (1) The Targeted State, (2) the Producer Group(s) and, and (3) the Priority Topic(s).

For an application to potentially be considered complete and valid, an application must include the following items, at a minimum:

1. A completed OMB Standard Form 424, ''Application for Federal Assistance.''

2. A completed OMB Standard Form 424–A, ''Budget Information—Non-construction Programs.''

3. A completed OMB Standard Form 424–B, ''Assurances, Non-constructive Programs.''

4. An Executive Summary (One page) and Proposal Narrative (Not to Exceed 10 single-sided pages in Microsoft Word), which shall also include a Statement of Work as specified in section V.A. of this Announcement.

5. Budget Narrative (in Microsoft Excel) describing how the categorical costs listed on the SF 424–A are derived. The budget narrative should provide enough detail for reviewers to easily understand how costs were determined and how they relate to the goals and objectives of the project.

6. Partnering Plan, if applicable, that includes how each partner shall aid in carrying out the project goal providing specific tasks. Letters of commitment from individuals and/or groups must be included in the Partnering Plan, and these letters must include the specific tasks they have agreed to do with the applicant.

7. A completed and signed OMB Standard Form LLL, ''Disclosure of Lobbying Activities.''

8. A completed and signed AD–1049, ''Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—For Grantees Other Than Individuals.''

Applications that do not include, at a minimum, the items listed above shall be considered incomplete, shall not receive further consideration, and shall be rejected.

The percentage of each person's time devoted to the project must be identified in the application. Applicants must list all current public or private employment arrangements or financial support associated with the project or any of the personnel that are part of the project, regardless of whether such arrangements or funding constitute part of the project under this Announcement (supporting agency, amount of award, effective date, expiration date, expiration date of award, *etc.*). An application submitted under this RFA that duplicates or overlaps substantially with any application already reviewed and funded (or to be funded) by any other organization or agency, including but not limited to other RMA, USDA, and Federal government programs, shall not be funded under this program. The application package from Grants.gov contains a document called the *Current and Pending Report.* On the Current and Pending Report you must state for this fiscal year if this application is a duplicate application or overlaps substantially with another application already submitted to or funded by another USDA Agency, including RMA, or other private organization. RMA reserves the right to reject your application based on the review of this information. The total percentage of time for both ''Current'' and ''Pending'' projects must not exceed 100% of each person's time.

C. Funding Restrictions

Cooperative agreement funds may not be used to:

a. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

b. Purchase, rent, or install fixed equipment;

c. Repair or maintain privately owned vehicles;

d. Pay for the preparation of the cooperative agreement application;

e. Fund political activities;

f. Purchase alcohol, food, beverage, or entertainment;

g. Lend money to support farming or agricultural business operation or expansion;

h. Pay costs incurred prior to receiving a cooperative agreement; or

i. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

D. Limitation on Use of Project Funds for Salaries and Benefits

Total costs for salary and benefits allowed for projects under this Announcement shall be limited to not more than 70 percent reimbursement of the funds awarded under the cooperative partnership agreement. The reasonableness of the total costs for salary and benefits allowed for projects under this Announcement shall be reviewed and considered by RMA as part of the application review process. Applications for which RMA does not consider the salary and benefits reasonable for the proposed application shall be rejected, or shall only be offered a cooperative agreement upon the condition of changing the salary and benefits structure to one deemed appropriate by RMA for that application. The goal of the Targeted States Program is to maximize the use of the limited funding available for crop insurance education to producers in Targeted States.

E. Indirect Cost Rates

a. Indirect costs allowed for projects submitted under this announcement shall be limited to ten (10) percent of the total direct cost of the cooperative agreement. Therefore, when preparing budgets, applicants should limit their requests for recovery of indirect costs to the lesser of their institution's official negotiated indirect cost rate or 10 percent of the total direct costs.

b. RMA reserves the right to negotiate final budgets with successful applicants.

F. Other Submission Requirements

Applicants are entirely responsible for ensuring that RMA receives a complete application package by the closing date and time. RMA *strongly encourages applicants to submit applications well before the deadline* to allow time for correction of technical errors identified by Grants.gov. Application packages submitted after the deadline shall be rejected.

G. Acknowledgement of Applications

Receipt of applications shall be acknowledged by e-mail, whenever possible. Therefore, applicants are encouraged to provide e-mail addresses in their applications. If an e-mail address is not indicated on an application, receipt shall be acknowledged by letter. There shall be no notification of incomplete, unqualified or unfunded applications until the award decisions have been made. When received by RMA, applications shall be assigned an identification number. This number shall be communicated to applicants in the acknowledgement of receipt of applications. An application's identification number must be referenced in all correspondence submitted by any party regarding the application. If the applicant does not receive an acknowledgement of application receipt by 15 days following the submission deadline, the applicant must notify RMA's point of contact indicated in Section VII, Agency Contact.

V. Application Review Information

A. Criteria

Applications submitted under the Targeted States program shall be evaluated within each Targeted State according to the following criteria:

Project Impacts—maximum 20 points available

Each application must demonstrate that the project benefits to producers warrant the funding requested. Applications shall be scored according to the extent they can: (a) Identify the specific actions producers shall likely be able to take as a result of the educational activities described in the Statement of Work; (b) identify the specific measures for evaluating results that shall be employed in the project; (c) reasonably estimate the total number of producers that shall be reached through the various methods and educational activities described in the Statement of Work; (d) identify the number of meetings that shall be held; (e) provide an estimate of the number of training hours that shall be held; and (f) justify such estimates with specific information. Reviewers' scoring shall be based on the scope and reasonableness of the application's clear descriptions of specific expected actions producers shall accomplish, and well-designed methods for measuring the project's results and effectiveness. Applications using direct contact methods with producers shall be scored higher.

Applications must identify the type and number of producer actions expected as a result of the projects, and how results shall be measured, in the following categories:

- Understanding risk management tools;
- Evaluating the feasibility of implementing various risk management options;
- Developing risk management plans and strategies;
- Deciding on and implementing a specific course of action (*e.g.,* participation in crop insurance programs or implementation of other risk management actions).

Statement of Work—maximum 20 points available

Each application must include a clear and specific Statement of Work for the project. For each of the tasks contained in the Description of Agreement Award (see Section II, Award Information), the application must identify and describe specific subtasks, responsible entities, expected completion dates, RMA substantial involvement, and deliverables that shall further the purpose of this program. Applications shall obtain a higher score to the extent that the Statement of Work is specific, measurable and reasonable, has specific deadlines for the completion of subtasks, and relates directly to the required activities and the program purpose described in this Announcement. All narratives must provide estimates of the number of producers that shall be reached through this project. Estimates for reaching agribusiness professionals may also be provided but such estimates must be provided separately from the estimates of producers.

Partnering—maximum 15 points available

Each application must demonstrate experience and capacity to partner with and gain the support of producer organizations, agribusiness professionals, and agricultural leaders to carry out a local program of education and information in a designated Targeted State. Each application must establish a written partnering plan that describes how each partner shall aid in carrying out the project goal and purpose stated in this announcement and should include letters of commitment dated no more than 60 days prior to submission of the relevant application stating that the partner has agreed to do this work. Each application must ensure this plan includes a list of all partners working on the project, their titles, and how they will be contribute to the deliverables listed in the application. The partnering plan shall not count towards the maximum length of the application narrative. Applications shall receive higher scores to the extent that the application demonstrates: (a) That partnership commitments are in place for the express purpose of delivering the program in this announcement; (b) that a broad group of producers shall be reached within the Targeted State; (c) that partners are contributing to the project and involved in recruiting producers to attend the training; (d) that a substantial effort has been made to partner with organizations that can meet the needs of producers in the designated Targeted State; and (e) statements from each partner regarding the number of producers that partner is committed to recruit for the project that would support the estimates specified under the Project Impacts criterion.

Project Management—maximum 15 points available

Each application must demonstrate an ability to implement sound and effective project management practices. Higher scores in this category shall be awarded to applications that demonstrate organizational skills, leadership, and experience in delivering services or programs that assist agricultural producers in the designated Targeted State. Each application must demonstrate that the Project Director has the capability to accomplish the project goal and purpose stated in this announcement by (a) Having a previous or existing working relationship with the agricultural community in the designated Targeted State of the application, including being able to recruit approximately the number of producers to be reached in the application and/or (b) having established the capacity to partner with and gain the support of producer organizations, agribusiness professionals, and agribusiness leaders locally to aid in carrying out a program of education and information, including being able to recruit approximately the number of producers to be reached in this application. Applications must designate an alternate individual to assume responsibility as Project Director in the event the original Project Director is unable to finish the project. Applications that shall employ, or have access to, personnel who have experience in directing local educational programs that benefit agricultural producers in the respective Targeted State shall receive higher rankings in this category.

Budget Appropriateness and Efficiency—maximum 15 points available

Applications must provide a detailed budget summary that clearly explains and justifies costs associated with the project. Applications shall receive higher scores in this category to the extent that they can demonstrate a fair and reasonable use of funds appropriate for the project and a budget that contains the estimated cost of reaching each individual producer.

Special Emphasis Producers—maximum 15 points available

Applications shall obtain a higher score to the extent that the project places Special Emphasis on risk management strategies, education, and outreach specifically targeted at:

- Beginning farmers or ranchers;
- Legal immigrant farmers or ranchers that are attempting to become established producers in the United States;
- Socially disadvantaged farmers or ranchers;
- Farmers or ranchers that—
  - Are preparing to retire; and
  - Are using transition strategies to help new farmers or ranchers get started; and
- New or established farmers or ranchers that are converting production and marketing systems to pursue new markets.

Bonus Points for Diversity Partnering—Maximum 15 points available

RMA is focused on adding diversity to this program. RMA may add up to an additional 15 points to the final paneled score of any submission demonstrating a *partnership with* another group or entity that is a member of a specific population listed under Special Emphasis Producers above.

B. Selection and Review Process

Applications shall be evaluated using a two-part process. First, each application shall be screened by RMA personnel to ensure that it meets the requirements in this announcement. Applications that do not meet the minimum requirements of this announcement or are incomplete shall not advance to the second portion of the review process. Applications that meet announcement requirements shall be grouped together for comparison by the Targeted State for which the application proposes to conduct the project and shall be presented to a review panel for consideration in such groups. Thus, applications shall only be compared against other applications for the same Targeted State.

Second, the review panel shall meet to consider and discuss the merits of each application. The panel shall consist of at least three independent reviewers. Reviewers shall be drawn from USDA, other Federal agencies, and/or public and private organizations, as needed. After considering the merits of all applications within a Targeted State, panel members shall score each application according to the criteria and point values described above. The panel shall then rank each application against others within the Targeted State according to the scores received. The review panel shall report the results of the evaluation to the Manager of FCIC. The panel's report shall include the applicants recommended to receive awards for each Targeted State. An application receiving a total score less than 60 shall not receive funding.

An organization, or group of organizations in partnership, may apply for funding under other FCIC or RMA programs, in addition to the program described in this announcement. However, if the Manager of FCIC determines that an application recommended for funding under this Announcement is substantially similar to or duplicative of a project that has been funded or has been recommended to be funded under another RMA or FCIC program, then the Manager may elect to not fund that application under this program in whole or in part, depending upon the extent of the similarity or duplicity of applications. The Manager of FCIC shall make the final determination on those applications that shall be awarded funding.

VI. Award Administration Information

A. Award Notices

The award document shall provide pertinent instructions and information including, at a minimum, the following:

(1) Legal name and address of performing organization or institution to which the FCIC Manager has issued an award under the terms of this Request for Applications;

(2) Title of project;

(3) Name(s) and employing institution(s) of Project Directors chosen to direct and control approved activities;

(4) Identifying award number assigned by RMA;

(5) Project period, specifying the amount of time RMA intends to support the project without requiring recompeting for funds;

(6) Total amount of RMA financial assistance approved by the Manager of FCIC for the project period;

(7) Legal authority(ies) under which the award is issued;

(8) Appropriate Catalog of Federal Domestic Assistance (CFDA) number;

(9) Applicable award terms and conditions (*see http://www.rma.usda.gov/business/awards/awardterms.html* to view RMA award terms and conditions);

(10) Approved budget plan for categorizing allowable project funds to accomplish the stated purpose of the award; and

(11) Other information or provisions required by RMA to carry out its respective awarding activities or to accomplish the purpose of a particular award.

Following approval by the Manager of FCIC of the applications to be selected for funding, awardees whose applications have been selected for funding shall be notified. Within the limit of funds available for such a purpose, the Manager of FCIC shall enter into cooperative agreements with the awardees. After a cooperative agreement has been signed by all Parties (including RMA), RMA shall extend to awardees, in writing, the authority to draw down funds for the purpose of conducting the activities listed in the agreement. All funds provided to the awardee by RMA must be expended solely for the purpose for which the funds are obligated in accordance with the approved agreement and any applicable Federal law. No commitment of Federal assistance beyond the project period is made or implied for any award resulting from this notice. Notification to applicants for whom funding is denied shall be sent to applicants after final funding decisions have been made and awardees have been announced publicly. Reasons for denial of funding may include, but are not limited to, incomplete applications, applications with evaluation scores below 60, or applications with evaluation scores that are lower than those of other applications in a Targeted State.

B. Administrative and National Policy Requirements

1. Requirement to Use Program Logo

Awardees of cooperative agreements shall be required to use a program logo and design provided by RMA for all instructional and promotional materials, if appropriate.

2. Requirement to Provide Project Information to RMA-selected Representative(s)

Awardees of cooperative agreements may be required to assist RMA in evaluating the effectiveness of its

educational programs by providing documentation of educational activities and related information to any representative(s) selected by RMA for program evaluation purposes.

3. Private Crop Insurance Organizations and Potential Conflict(s) of Interest

Private organizations that are involved in the sale of Federal crop insurance, or that have financial ties to such organizations, are eligible to apply for funding under this Announcement. However, such entities and their partners and collaborators for this Announcement shall not receive funding to conduct activities that are required under a Standard Reinsurance Agreement or any other agreement in effect between FCIC/RMA and the entity, or between FCIC/RMA and any of the partners or collaborators for awards under this Announcement. In addition, such entities and their partners and collaborators for this Announcement shall not be allowed to receive funding to conduct activities that could be perceived by producers as promoting the services or products of one company over the services or products of another company that provides the same or similar services or products. If applying for funding, such organizations must be aware of potential conflicts of interest and must describe in their application the specific actions they shall take to avoid actual and perceived conflicts of interest.

4. Access to Panel Review Information

Upon written request from the applicant, scores from the evaluation panel, not including the identity of reviewers, shall be sent to the applicant after the review and awards process has been completed.

5. Confidential Aspects of Applications and Awards

The names of applicants, the names of individuals identified in the applications, the content of applications, and the panel evaluations of applications shall remain confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of review panel members shall remain confidential throughout the entire review process and shall not be released to applicants. At the end of the fiscal year, names of panel members may be made available. However, panelists shall not be identified with the review of any particular application. When an application results in a cooperative agreement, that agreement becomes a part of the official record of RMA transactions, available to the public upon specific request. Information that the Secretary of Agriculture determines to be of a confidential, privileged, or proprietary nature shall be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to be considered confidential, privileged, or proprietary must be clearly marked within an application, including the legal basis for such designation. The original copy and extra copies of all applications, regardless of whether the application results in an award, shall be retained by RMA for a period of at least three years, then may be destroyed. Any copies of an application shall be released only to the extent required by law. An application may be withdrawn at any time prior to the time when award decisions are made.

6. Audit Requirements

Awardees of cooperative agreements may be subject to audit.

7. Prohibitions and Requirements With Regards to Lobbying

All cooperative agreements shall be subject to the requirements of 7 CFR part 3015, ''Uniform Federal Assistance Regulations.'' A signed copy of the certification and disclosure forms must be submitted with the application and are available at the address and telephone number listed in Section VII, Agency Contact.

Departmental regulations published at 7 CFR part 3018 impose prohibitions and requirements for disclosure and certification related to lobbying on awardees of Federal contracts, grants, cooperative partnership agreements and loans. It provides exemptions for Indian Tribes and Tribal organizations. Current and prospective awardees, and any subcontractors, are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative partnership agreement or loan. In addition, for each award action in excess of $100,000 ($150,000 for loans) the law requires awardees and any subcontractors to complete a certification in accordance with Appendix A to Part 3018 and a disclosure of lobbying activities in accordance with Appendix B to Part 3018.: The law establishes civil penalties for non-compliance.

8. Applicable OMB Circulars

All cooperative agreements funded as a result of this notice shall be subject to the requirements contained in all applicable OMB circulars.

9. Requirement To Assure Compliance with Federal Civil Rights Laws

Awardees and all partners/collaborators of all cooperative agreements funded as a result of this notice are required to know and abide by Federal civil rights laws, which include, but are not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), and 7 CFR part 15. RMA requires that awardees submit an Assurance Agreement (Civil Rights), assuring RMA of this compliance prior to the beginning of the project period.

10. Requirement To Participate in a Post-Award Teleconference

RMA requires that project leaders participate in a post-award teleconference, if conducted, to become fully aware of agreement requirements and for delineating the roles of RMA personnel and the procedures that shall be followed in administering the agreement and shall afford an opportunity for the orderly transition of agreement duties and obligations if different personnel are to assume post-award responsibility.

11. Requirement To Submit Educational Materials to the National AgRisk Education Library

RMA requires that awardees upload digital copies of all risk management educational materials developed as part of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting, if electronically reporting. RMA must be clearly identified as having provided funding for the materials.

12. Requirement To Submit Proposed Results to the National AgRisk Education Library

RMA requires that awardees submit results of the project to the National AgRisk Education Library (*http://www.agrisk.umn.edu/*) for posting, if electronically reporting. RMA must be clearly identified as having provided funding for the materials.

13. Requirement To Submit a Project Plan of Operation in the Event of a Human Pandemic Outbreak

RMA requires that project leaders submit a project plan of operation in case of a human pandemic event. The plan must address the concept of continuing operations as they relate to the project. This plan must include the roles, responsibilities, and contact information for the project team and individuals serving as back-ups in case of a pandemic outbreak.

C. Reporting Requirements

Awardees shall be required to submit quarterly progress reports using the Performance Progress Report (OMB SF–PPR) as the cover sheet and quarterly financial reports (OMB SF 425) throughout the project period, as well as a final program and financial report not later than 90 days after the end of the project period. The quarterly progress reports and final program reports MUST be submitted through the Results Verification System. The Web site address is for the Results Verification System is *http://www.agrisk.umn.edu/RMA/Reporting.*

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties must contact:, USDA–RMA–RME, phone: 202–720–0779, e-mail: *RMA.Risk-Ed@rma.usda.gov.* You may also obtain information regarding this announcement from the RMA Web site at: *http://www.rma.usda.gov/aboutrma/agreements/*.

VIII. Additional Information

A. Required Registration With the Central Contract Registry (CCR) for Submission of Proposals

Under the Federal Funding Accountability and Transparency Act of 2006, the applicant must comply with the additional requirements set forth in Attachment A regarding the Dun and Bradstreet Universal Numbering System (DUNS) Requirements and the CCR Requirements found at 2 CFR part 25. For the purposes of this RFA, the term ''you'' in Attachment A shall mean ''applicant.'' The applicant shall comply with the additional requirements set forth in Attachment B regarding Subawards and Executive Compensation. For the purpose of this RFA, the term ''you'' in Attachment B shall mean ''applicant''. The Central Contract Registry CCR is a database that serves as the primary Government repository for contractor information required for the conduct of business with the Government. This database will also be used as a central location for maintaining organizational information for organizations seeking and receiving grants from the Government. Such organizations must register in the CCR prior to the submission of applications. A DUNS number is needed for CCR registration. For information about how to register in the CCR, visit ''Get Registered'' at the Web site, *http://www.grants.gov.* Allow a minimum of 5 business days to complete the CCR registration.

B. Related Programs

Funding availability for this program may be announced at approximately the same time as funding availability for similar but separate programs—and CFDA No. 10.458 (Crop Insurance Education in Targeted States). These programs have some similarities, but also key differences. The differences stem from important features of each program's authorizing legislation and different RMA objectives. Prospective applicants should carefully examine and compare the notices for each program.

Attachment A

I. Central Contractor Registration and Universal Identifier Requirements

A. Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS)

Numbers if you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award) may receive a subaward from you unless the entity has provided its DUNS number to you.

2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions for Purposes of This Award Term:

1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at *http://www.ccr.gov*).

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 1–866–705–5711) or the Internet (currently at *http://fedgov.dnb.comlwebform*).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

a. A Governmental organization, which is a State, local government, or Indian Tribe;

b. A foreign public entity;

c. A domestic or foreign nonprofit organization;

d. A domestic or foreign for-profit organization; and

e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. 10 of the attachment to OMB Circular A–I33, ''Audits of States, Local Governments, and Non-Profit Organizations'').

c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

a. Receives a subaward from you under this award; and

b. Is accountable to you for the use of the Federal funds provided by the subaward.

Attachment B

I. Reporting Subawards and Executive Compensation.

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates $25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) for a subaward to an entity (*see* definitions in paragraph e. of this award term).

2. Where and when to report.

i. You must report each obligating action described in paragraph a.I. of this award term to *http://www.fsrs.gov.*

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action

that the submission instructions posted at *http://www.fsrs.gov* specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. The total Federal funding authorized to date under this award is $25,000 or more;

ii. In the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 780(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission total compensation filings at *http://www.sec.gov/answers/execomp.htm.*)

2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile at *http://www.ccr.gov.*

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at ~ CFR 170.320 (and subawards); and

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 780(d) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Securities and Exchange Commission total compensation filings at *http://www.sec.gov/answers/execomp.htm.*)

2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.,* between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under $300,000, you are exempt from the requirements to report:

i. Subawards, and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR Part 25:

i. A Governmental organization, which is a State, local government, or Indian Tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

1. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. _ .210 of the attachment to OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations'').

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. Subrecipient means an entity that:

i. Receives a sub award from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (*e.g.* severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

Signed in Washington, DC on June 9, 2011.

William J. Murphy,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2011–14838 Filed 6–14–11; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sabine Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sabine Resource Advisory Committee will meet in Hemphill, Texas. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to discuss New Title II Project Proposals.

DATES: The meeting will be held Thursday, July 7, 2011, 3:30 p.m.

ADDRESSES: The meeting will be held at the Sabine NF Office, 5050 State Hwy 21 East, Hemphill, TX 75948. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 5050 State Hwy 21 East, Hemphill, TX 75948. Please call ahead to (409) 625–1940 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: William E. Taylor, Jr., Designated Federal Officer, Sabine National Forest, 5050 State Hwy. 21 E., Hemphill, TX 75948: Telephone: 936–639–8501 or e-mail at: *etaylor @fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accommodation for access to the facility or procedings may be made by contacting the person listed **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The following business will be conducted: The purpose of the meeting is to discuss/approve New Title II Project Proposals. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by July 1, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to 5050 State Hwy 21 East, Hemphill, TX 75948 or by e-mail to *etaylor@fs.fed.us* or via facsimile to 409–625–1953.

Dated: June 8, 2011.

William E. Taylor, Jr.,

Designated Federal Officer, Sabine National Forest RAC.

[FR Doc. 2011–14638 Filed 6–14–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee will meet on June 24, 2011 from 9 a.m. to 3 p.m. at the Okanogan-Wenatchee National Forest Headquarters Office, 215 Melody Lane, Wenatchee, WA. During this meeting information will be shared about Okanogan-Wenatchee National Forest Travel Management Planning, Forest Plan Revision and an overview of forest activities that have occurred during the past year. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Clint Kyhl, Designated Federal Official, USDA, Okanogan-Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, phone 509–664–9200.

Dated: June 8, 2011.

Clinton Kyhl,

Designated Federal Official, Okanogan-Wenatchee National Forest.

[FR Doc. 2011–14735 Filed 6–14–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Project Waiver of Section 1605 (Buy American Requirements) of the American Recovery and Reinvestment Act of 2009 (ARRA) for the Haywood County, North Carolina, Social Services, Adaptive Renovation Project

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture (USDA) grants a project waiver of the Buy American Requirements [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] of ARRA, to Haywood County, North Carolina, (County) for the purchase of foreign-manufactured Heating,Ventilation, Air Conditioning (HVAC) equipment for an adaptive reuse renovation project for the Haywood County Department of Social Services. This is a project-specific waiver under section 1605(b)(2) of ARRA. This waiver only applies to the use of the specified product for the ARRA project being proposed. Any other ARRA recipient that wishes to use the same product must apply for a separate waiver based on project-specific circumstances. The County-proposed HVAC improvements were selected to address the unique conditions presented by the existing building. Based upon information submitted by the County and its consultants, it was determined that the HVAC equipment that will meet the County's design and performance specifications is manufactured only by Daikin of Japan and Thailand. This determination is based on the review and recommendations of the Rural Development Buy American Coordinator. The County, through its design engineer, has provided sufficient documentation to support its request. The Under Secretary for Rural Development has concurred in this decision to waive section 1605 of ARRA. This action permits the purchase of a Daikin VRV III HVAC unit. This unit addresses the operational requirements to heat and cool simultaneously, perform very efficiently, and is compatible and adaptable to the space restrictions created by the existing facility.

DATES: June 15, 2011.

ADDRESSES: Dallas Tonsager, Under Secretary, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 205–

W, Washington, DC 20250–0107, (202) 720–4581.

FOR FURTHER INFORMATION CONTACT: William Downs, Senior Architect, Program Support Staff, (202) 720–1499, Rural Housing Service, Stop 0761, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–0761.

SUPPLEMENTARY INFORMATION: In accordance with ARRA section 1605(c) and pursuant to section 1605(b)(2), USDA hereby provides notice that it is granting a project-specific waiver of the Buy American Requirements of ARRA, to Haywood County, North Carolina, for the purchase of HVAC equipment, manufactured by Daikin of Japan for the Haywood County Department of Social Services Adaptive Reuse, Renovation Project.

I. Background

Section 1605(a) of ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States, or unless a waiver is provided to the recipient by the head of the appropriate department or agency, here, the Secretary of USDA. According to section 1605(b) of ARRA, a waiver may be granted if the Secretary determines that (1) applying these requirements would be inconsistent with public interest; (2) iron, steel, and manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent. The County has requested a waiver from the Buy American Requirement for the purchase of HVAC equipment suitable for the conditions of the existing facility.

The purchase of the new HVAC equipment is intended to provide the specified conditioning for the Haywood County Department of Social Services Adaptive Reuse, Renovation project. The estimated cost of the overall improvements to the County's Social Services building project is $5.2 million. In designing the HVAC equipment, the designers of record evaluated the various technologies based on the following factors:

- The project requirements include addressing the limitations of space for HVAC equipment and the associated accessories.
- The project requires a very high-efficiency performance for the conditions presented by the region and the requirement for simultaneous heating and cooling with the added benefit of using non-ozone depleting refrigerant.
- The project requires a system that uses inverter technology.

As part of an exhaustive review and search for potentially viable HVAC units, the County and their consultants determined that there is no domestic manufacturer of HVAC equipment that provides the specified performance and technical features required for this project.

According to the County, the only HVAC equipment that meets the technical specifications is not manufactured in the United States. As a result, the County requested a waiver of the ARRA Buy American provisions on the basis of nonavailability of a United States manufactured product that will meet the design and performance criteria specified for this HVAC system.

II. Nonavailability Finding

The evaluation by USDA's technical review team and architect supports the County's claim that a suitable HVAC system that meets the specifications for this project is not available in sufficient and reasonably available commercial quantities of a satisfactory quality that are manufactured in the United States. USDA's technical review team and architects reviewed a memorandum submitted by the County describing the foreign equipment that fits the technical specifications for the HVAC equipment and the process the County followed in adopting the HVAC design. USDA's technical review team and architects conducted a nationwide review of equipment vendors, manufacturers' representatives, and associated resources typically relied on by designers of HVAC equipment. The purpose of USDA's review process was to determine whether there was any HVAC equipment manufactured in the United States that meets the County's design specifications and performance requirements. As a result of this review, the Secretary has determined that, based on the available information, and to the best of USDA's knowledge, there is no HVAC equipment manufactured in the United States that meets the County's design specifications and performance requirements for the County's Social Services Adaptive Reuse, Renovation Project.

The Rural Development Buy American Coordinator has reviewed this waiver request and has determined that the supporting documentation provided by the County established a proper basis that the manufactured good was not available from a producer in the United States able to meet the design specifications and performance requirements for the proposed project.

III. Waiver

Having established a proper basis that this manufactured good was not available from a producer in the United States, the County is hereby granted a waiver from the Buy American requirements. This waiver permits use of ARRA funds for the purchase of the specified Daikin VRV III heat recovery system documented in the County's waiver request submittal dated February 18, 2011, as part of its Social Services Adaptive Reuse, Renovation Project. This supplementary information constitutes the detailed written justification required by section 1605(c) of ARRA for waivers ''based on a finding under subsection (b).''

IV. Equal Opportunity and Non-Discrimination Requirements

USDA prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and, where applicable, sex, marital 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 Civil Rights, 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.''

Authority: Public Law 111–5, Section 1605.

Signed in Washington, DC on June 8, 2011.

Thomas J. Vilsack,

Secretary of Agriculture.

[FR Doc. 2011–14738 Filed 6–14–11; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 41–2011]

Foreign-Trade Zone 41—Milwaukee, Wisconsin; Application for Reissuance of the Grant of Authority

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting the reissuance of the grant of authority for FTZ 41 to the Port of Milwaukee. The Port of Milwaukee has similarly submitted a request for the reissuance and is authorized to accept such reissuance under Wisconsin Statute 182.50. The application was filed on June 9, 2011.

FTZ 41 was initially approved by the Board on September 29, 1978 (Board Order 136, 43 FR 46887, 10/11/1978) and currently consists of five sites and five subzones in the Milwaukee, Wisconsin, area. An application to reorganize the zone under the Alternative Site Framework (ASF) is currently pending (FTZ Docket 23–2011). The Port of Milwaukee has indicated its support for the reorganization of FTZ 41 under the ASF.

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 July 15, 2011. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 1, 2011.

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 *http://www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: June 9, 2011.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2011–14851 Filed 6–14–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Partial Rescission of Antidumping Duty Administrative Review

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

DATES: *Effective Date:* June 15, 2011.

FOR FURTHER INFORMATION CONTACT: Mahnaz Khan or Yasmin Nair, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0914 and (202) 482–3813, respectively.

SUPPLEMENTARY INFORMATION: On February 1, 2011, the Department of Commerce (''Department'') issued a notice of opportunity to request an administrative review of the antidumping duty order on stainless steel bar from India for the period of review February 1, 2010, through January 31, 2011. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 76 FR 5559 (February 1, 2011). On February 28, 2011, Venus Wire Industries Pvt. Ltd (''Venus'') and Chandan Steel Limited (''Chandan'') requested administrative reviews of their entries. On February 28, 2011, the Department also received a request from domestic interested parties, Carpenter Technology Corp.; Electralloy Co., a division of G.O. Carlson, Inc.; Outokumpu Stainless Bar, Inc.; Universal Stainless & Alloy Products, Inc.; and Valbruna Slater Stainless, Inc. (collectively, ''Petitioners''), for a review of Venus, Ambica Steels Limited (''Ambica''), Atlas Stainless Corporation (''Atlas Stainless''), Bhansali Bright Bars Pvt. Ltd. (''Bhansali''), FACOR Steels Limited (''Facor''), Grand Foundry Ltd. (''Grand Foundry''), India Steel Works Ltd. (''India Steel''), Meltroll Engineering Pvt. Ltd. (''Meltroll''), Mukand Ltd. (''Mukand''), Sindia Steels Limited (''Sindia Steels''), and Snowdrop Trading Pvt. Ltd. (''Snowdrop''), and their respective affiliates.

On March 31, 2011, the Department published the notice of initiation of this antidumping duty administrative review, covering Ambica, Atlas Stainless, Bhansali, Chandan, Facor, Grand Foundry, India Steel, Meltroll, Mukand, Sindia Steels, Snowdrop and Venus. *See Initiation of Antidumping Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review,* 76 FR 17825 (March 31, 2011).

On April 26, 2011, Petitioners withdrew their request for a review for the following nine companies: Ambica, Atlas Stainless, Bhansali, Facor, Grand Foundry, India Steel, Meltroll, Sindia Steels, and Snowdrop.

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party who requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Because Petitioners withdrew their request for review of Ambica, Atlas Stainless, Bhansali, Facor, Grand Foundry, India Steel, Meltroll, Sindia Steels, and Snowdrop within the 90-day period and no other party requested a review of these companies, we are rescinding this review with respect to these nine companies and their respective affiliates in accordance with 19 CFR 351.213(d)(1).

The Department intends to issue appropriate assessment instructions directly to U.S. Customs and Border Protection (''CBP'') 15 days after the publication of this notice. The Department will direct CBP to assess antidumping duties at the cash deposit rate in effect on the date of entry for entries of subject merchandise produced and/or exported by Ambica, Atlas Stainless, Bhansali, Facor, Grand Foundry, India Steel, Meltroll, Sindia Steels, and Snowdrop, during the period February 1, 2010, through January 31, 2011.

This notice is published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 9, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–14858 Filed 6–14–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Office of the Secretary

National Institute of Standards and Technology

International Trade Administration

National Telecommunications and Information Administration

[Docket No. 110527305–1303–02]

Cybersecurity, Innovation, and the Internet Economy

AGENCY: Office of the Secretary, National Institute of Standards and Technology, International Trade Administration, and National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice and Request for Public Comments.

SUMMARY: The Department of Commerce's (Department) Internet Policy Task Force is conducting a comprehensive review of the nexus between cybersecurity and innovation in the Internet economy. On July 28, 2010, the Department published a Notice of Inquiry seeking comment from all Internet stakeholders on the impact of cybersecurity policy issues in the United States and around the world on the pace of innovation in the information economy. The Department now seeks further comment on its report entitled, ''Cybersecurity, Innovation and the Internet Economy,'' available at *http://www.nist.gov/itl.* Through this Notice requesting comments on the report, the Department hopes to spur further discussion with Internet stakeholders that will lead to the development of a series of Administration positions that will help develop an action plan in this important area.

DATES: Comments are due on or before 11:59 p.m. on August 1, 2011.

ADDRESSES: Comments will be accepted by e-mail only. Comments should be sent to *SecurityGreenPaper@nist.gov* with the subject line ''Comments on Cybersecurity Green Paper.'' Comments will be posted at *http://www.ntia.doc.gov/internetpolicytaskforce/.*

FOR FURTHER INFORMATION CONTACT: Jon Boyens, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 893, Gaithersburg, MD 20819, *jon.boyens@nist.gov.* Please direct media inquires to NIST's Office of Public Affairs at (301) 975–NIST.

SUPPLEMENTARY INFORMATION: Over the past two decades, the Internet has become increasingly important to fueling the Nation's economic competitiveness, to promoting innovation, and to enhancing our collective well-being. As the Internet continues to grow in all aspects of our lives, the parallel issue of cybersecurity risks continues to increase and evolve.

Today's cybersecurity threats include indiscriminate and broad-based attacks designed to exploit the interconnectedness of the Internet. Increasingly, the threats also involve targeted attacks, the purpose of which is to steal, manipulate, destroy or deny access to sensitive data, or to disrupt computing systems. These threats are exacerbated by the interconnected and interdependent architecture of today's computing environment. Theoretically, security deficiencies in one area may provide opportunities for exploitation elsewhere.

Despite increasing awareness of the associated risks, broad swaths of the economy and individual actors, ranging from consumers to large businesses, do not take advantage of available technology and processes to secure their systems, and protective measures are not evolving as quickly as the threats. This general lack of investment puts firms and consumers at greater risk, leading to economic loss at the individual and aggregate levels and poses a threat to national security.

President Obama's *Cyberspace Policy Review* in May 2009 articulated the many reasons government must work closely with the private sector and other partners to address these risks. As stated in the *Review,* ''information and communications networks are largely owned and operated by the private sector, both nationally and internationally. Thus, addressing network security issues requires a public-private partnership as well as international cooperation and norms.''

In addition, the Administration has promoted cybersecurity legislation that would catalyze the development of norms for practices of entities that maintain our critical infrastructure. These entities include sectors such as energy, critical manufacturing, and emergency services whose disruption would have a debilitating impact on individual security, national economic security, national public health and safety. The proposed legislation requires these entities to develop a baseline framework of protection based on risk—a function of threat, vulnerability, and consequences. The Department of Homeland Security (DHS), in coordination with sector-specific agencies and other relevant departments, would promulgate the list of covered entities using the established criteria and input from the Federal Government, state and local governments, and the private sector.

The U.S. Department of Commerce (Department) has focused its efforts on developing public policies and private sector norms whose voluntary adoption could improve the overall cybersecurity posture of private sector infrastructure operators, software and service providers, and users outside the critical infrastructure. Entities in these areas have not been the main focus of cybersecurity activities to date, yet they can be at great risk—and can put others at great risk—if they do not adequately secure their networks and services. Yet, attempting to develop policies to protect each industry with equal weight, regardless of criticality, will lead to placing too much emphasis on lesser concerns. We must instead find the right protections for each sector and sub-sector and promote the right policies to get them implemented.

In early 2010, the Department launched the Internet Policy Task Force (Task Force), charged with addressing the Internet's most pressing policy issues and with recommending new policies. After several months of consultations with stakeholders, the Task Force published a Notice of Inquiry (NOI) and convened a symposium on Cybersecurity, Innovation, and the Internet Economy leading to this preliminary set of recommendations in the Green Paper entitled ''Cybersecurity, Innovation, and the Internet Economy''.[1] In this paper, the Task Force asks many follow-up questions to gain additional feedback and to help the Department determine how to proceed. The goal of this undertaking is to ensure that the Task Force is on the right course with its recommendations and to identify technical and policy measures that might close the gap between today's status quo and reasonably achievable levels of cyber-protection outside of critical infrastructure sectors. The Green Paper will also serve as a vehicle to spur further discussion with Internet stakeholders on this important area of policy development.

In particular, many responses to the 2010 NOI highlighted a large group of functions and services that should be the subject of our efforts. The Task Force is calling this group the ''Internet and Information Innovation Sector'' (I3S). The I3S includes functions and

[1] The text of the Green Paper is available at *http://www.nist.gov/itl.*

services that create or utilize the Internet or networking services and have large potential for growth, entrepreneurship, and vitalization of the economy, but would fall outside the classification of covered critical infrastructure as defined by existing law and Administration policy. Business models may differ, but the following functions and services are included in the I3S:

- Provision of information services and content;
- Facilitation of the wide variety of transactional services available through the Internet as an intermediary;
- Storage and hosting of publicly accessible content; and
- Support of users' access to content or transaction activities, including, but not limited to application, browser, social network, and search providers.

The I3S is comprised of companies, from small businesses to ''brick and mortar-based firms'' with online services to large companies that only exist on the Internet. These companies are significantly impacted by cybersecurity concerns, yet do not have the same level of operational criticality that would cause them to be designated as covered critical infrastructure. The Task Force supports efforts to increase the security posture of I3S services and functions from cybersecurity risks without regulating these services as covered critical infrastructure. A primary goal of this Green Paper is to spark a discussion of the scope of this newly defined sector and the policies needed to protect it independently of, but in concert with, the discussion on protections within the critical infrastructure.

Request for Information

Request for Comment: This Notice seeks input on the report ''Cybersecurity, Innovation, and the Internet Economy'' (*http://www.nist.gov/itl*). The questions below, which also appear in Appendix A of the report, are intended to assist in identifying issues. They should not be construed as a limitation on comments that parties may submit. Comments that contain references to studies, research and other empirical data that are not widely published should include copies of the referenced materials with the submitted comments.

1. How should the Internet and Information Innovation Sector (I3S) be defined? What kinds of entities should be included or excluded? How can its functions and services be clearly distinguished from critical infrastructure?

2. Is the Department of Commerce's focus on an I3S the right one to target the most serious cybersecurity threats to the Nation's economic and social well-being related to non-critical infrastructure?

3. What are the most serious cybersecurity threats facing the I3S as currently defined?

4. Are there other sectors not considered critical infrastructure where similar approaches might be appropriate?

5. Should I3S companies that also offer functions and services to covered critical infrastructure be treated differently than other members of the I3S?

6. Are there existing codes of conduct that the I3S can utilize that adequately address these issues?

7. Are there existing overarching security principles on which to base codes of conduct?

8. What is the best way to solicit and incorporate the views of small and medium businesses into the process to develop codes?

9. What is the best way to solicit and incorporate the views of consumers and civil society?

10. How should the U.S. Government work internationally to advance codes of conduct in ways that are consistent with and/or influence and improve global norms and practices?

11. Are the standards, practices, and guidelines indicated in section III, A, 2 and detailed in Appendix B of the Green Paper appropriate to consider as keystone efforts? Are there others not listed in the Green Paper that should be included?

12. Is there a level of consensus today around all or any of these guidelines, practices, and standards as having the ability to improve security? If not, is it possible to achieve consensus? If so, how?

13. What process should the Department of Commerce use to work with industry and other stakeholders to identify best practices, guidelines, and standards in the future?

14. Should efforts be taken to better promote and/or support the adoption of these standards, practices, and guidelines?

15. In what way should these standards, practices, and guidelines be promoted and through what mechanisms?

16. What incentives are there to ensure that standards are robust? What incentives are there to ensure that best practices and standards, once adopted, are updated in light of changing threats and new business models?

17. Should the government play an active role in promoting these standards, practices, and guidelines? If so, in which areas should the government play more of a leading role? What should this role be?

18. How can automated security be improved?

19. What areas of research in automation should be prioritized and why?

20. How can the Department of Commerce, working with its partners, better promote automated sharing of threat and related signature information with the I3S?

21. Are there other examples of automated security that should be promoted?

22. What conformance-based assurance programs, in government or the private sector need to be harmonized?

23. In a fast changing and evolving security threat environment, how can security efforts be determined to be relevant and effective? What are the best means to review procedural improvements to security assurance and compliance for capability to pace with technological changes that impact the I3S and other sectors?

24. What are the right incentives to gain adoption of best practices? What are the right incentives to ensure that the voluntary codes of conduct that develop from best practices are sufficiently robust? What are the right incentives to ensure that codes of conduct, once introduced, are updated promptly to address evolving threats and other changes in the security environment?

25. How can the Department of Commerce or other government agencies encourage I3S subsectors to build appropriate best practices?

26. How can liability structures and insurance be used as incentives to protect the I3S?

27. What other market tools are available to encourage cybersecurity best practices?

28. Should Federal procurement play any role in creating incentives for the I3S? If so, how? If not, why not?

29. How important is the role of disclosure of security practices in protecting the I3S? Will it have a significant financial or operational impact?

30. Should an entity's customers, patients, clients, etc. receive information regarding the entity's compliance with certain standards and codes of conduct?

31. Would it be more appropriate for some types of companies within the I3S to be required to create security plans

and disclose them to a government agency or to the public? If so, should such disclosure be limited to where I3S services or functions impact certain areas of the covered critical infrastructure?

32. What role can the Department of Commerce play in promoting public-private partnerships?

33. How can public-private partnerships be used to foster better incentives within the I3S?

34. How can existing public-private partnerships be improved?

35. What are the barriers to information sharing between the I3S and government agencies with cybersecurity authorities and among I3S entities? How can they be overcome?

36. Do current liability structures create a disincentive to participate in information sharing or other best practice efforts?

37. What is the best means to promote research on cost/benefit analyses for I3S security?

38. Are there any examples of new research on cost/benefit analyses of I3S security? In particular, has any of this research significantly changed the understanding of cybersecurity and cybersecurity related decision-making?

39. What information is needed to build better cost/benefit analyses?

40. What new or increased efforts should the Department of Commerce undertake to facilitate cybersecurity education?

41. What are the specific areas on which education and research should focus?

42. What is the best way to engage stakeholders in public/private partnerships that facilitate cybersecurity education and research?

43. What areas of research are most crucial for the I3S? In particular, what R&D efforts could be used to help the supply chain for I3S and for small and medium-sized businesses?

44. What role does the move to cloud-based services have on education and research efforts in the I3S?

45. What is needed to help inform I3S in the face of a particular cyber threat? Does the I3S need its own ''fire department services'' to help address particular problems, respond to threats, and promote prevention or do enough such bodies already exist?

46. What role should Department of Commerce play in promoting greater R&D that would go above and beyond current efforts aimed at research, development, and standards?

47. How can the Department of Commerce work with other Federal agencies to better cooperate, coordinate, and promote the adoption and development of cybersecurity standards and policy internationally?

Dated: June 9, 2011.

Gary Locke,

Secretary of Commerce.

Patrick Gallagher,

Under Secretary of Commerce for Standards and Technology.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

Francisco J. Sánchez,

Under Secretary of Commerce for International Trade.

[FR Doc. 2011–14710 Filed 6–14–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA493

Marine Fisheries Advisory Committee Meeting

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

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Marine Fisheries Advisory Committee (MAFAC). The members will discuss and provide advice on issues outlined under **SUPPLEMENTARY INFORMATION** below.

DATES: The meeting is scheduled for June 27, 2011, 3–4:30 p.m., Eastern Daylight Time.

ADDRESSES: Conference call. Public access is available at SSMC3, Room 14400, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Mark Holliday, MAFAC Executive Director; (301) 713–2239 x-120; e-mail: *Mark.Holliday@noaa.gov.*

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given of a meeting of MAFAC. The MAFAC was established by the Secretary of Commerce (Secretary), and, since 1971, advises the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. The complete charter and summaries of prior meetings are located online at *http://www.nmfs.noaa.gov/ocs/mafac/.*

Matters To Be Considered

This agenda is subject to change.

The meeting is convened to discuss policies and guidance on National Ocean Policy Strategic Action Plans.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Holliday, MAFAC Executive Director; (301) 713–2239 x 120 by May13, 2011.

Dated: June 10, 2011.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–14845 Filed 6–10–11; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA494

Endangered Species; File No. 10027

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

ACTION: Notice; receipt of application for a permit modification.

SUMMARY: Notice is hereby given that the Center for Biodiversity and Conservation, American Museum of Natural History (Responsible Party: Eleanor Sterling, PhD), Central Park West at 79th Street, New York, New York 10024, has requested a modification to scientific research Permit No. 10027.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 15, 2011.

ADDRESSES: The modification request and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov/,* and then selecting File No. 10027–05 from the list of available applications. These documents are also available upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI

96814–4700; phone (808) 944–2200; fax (808) 973–2941.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by e-mail to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the e-mail comment.

Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Kristy Beard, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 10027, issued on July 30, 2008 (73 FR 44224), is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The permit currently authorizes the permit holder to study the population biology and connectivity of green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) sea turtles focusing on distribution and abundance, ecology, health, and threats to sea turtles at the Palmyra Atoll in the Pacific Ocean. The permit holder requests a modification to their existing permit to increase the number of green sea turtles taken annually from 100 to 250 turtles per year. Of the total 250 green sea turtles, researchers request to increase the number tagged with sonic transmitters from 30 to 40 turtles annually. The modification is needed to accommodate higher than anticipated capture rates and an increase in capture efforts. These data will help determine if temporal, stage-specific, or sex-specific movement patterns exist for the population of sea turtles at Palmyra. The modified permit would expire July 31, 2013.

Dated: June 10, 2011.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–14857 Filed 6–14–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

Intent to Grant an Exclusive License of U.S. Government-Owned Inventions

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 209(e), and 37 CFR 404.7(a)(1)(i) and 37 CFR 404.7(b)(1)(i), announcement is made of the intent to grant an exclusive, revocable license to the invention claimed in the PCT/US2009/060091 (Publication Number WO 2010/042780), entitled ''Methods and Compositions for Treating Status Epilepticus and Seizures Causing Status Epilepticus'', to Biomedisyn Corporation with its principal place of business at 12 Indian Trail Road, Woodbridge, Connecticut 06525.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For licensing issues, Dr. Paul Mele, Office of Research & Technology Applications, (301) 619–6664. For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808; both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Anyone wishing to object to grant of this license can file written objections along with supporting evidence, if any, within 15 days from the date of this publication. Written objections are to be filed with the Command Judge Advocate (see **ADDRESSES**).

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–14802 Filed 6–14–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability for Exclusive, Non-Exclusive, or Partially; Exclusive Licensing of an Invention Concerning the Intrepid Dynamic Exoskeletal Orthosis

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/518,801, entitled ''Intrepid Dynamic Exoskeletal Orthosis (IDEO),'' filed on April 20, 2011. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The invention relates to a dynamic exoskeletal orthosis applied to the leg below the knee, designed to compensate for weakness, pain, and/or decreased range of motion at the ankle.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–14803 Filed 6–14–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning the Methods and Compositions for Treating Status Epilepticus and Seizures Causing Status Epilepticus

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Announcement is made of the availability for licensing of the invention set forth in the PCT/US2009/060091, entitled ''Methods and Compositions for Treating Status Epilepticus and Seizures Causing Status Epilepticus'' filed on October 9, 2009. The United States Government, as represented by the Secretary of the Army, has rights to this invention. U.S. and selected foreign rights are available.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For licensing issues, Dr. Paul Mele, Office of Research & Technology Applications, (301) 619–6664. For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301)

619–7808, both at telefax (301) 619–5034.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–14801 Filed 6–14–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2011–OII–0001]

Investing in Innovation Fund

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice announcing the location, dates, and times of pre-application meetings.

Overview Information

Investing in Innovation Fund

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.411A (Scale-up grants), 84.411B (Validation grants), and 84.411C (Development grants).

SUMMARY: The Assistant Deputy Secretary for Innovation and Improvement announces pre-application meetings for the fiscal year (FY) 2011 Investing in Innovation Fund (i3) competition. The Department of Education (Department) published three notices inviting applications for the i3 program in the **Federal Register** on June 3, 2011 (76 FR 32148–32182). These notices include the priorities and selection criteria that the Department will use for the FY 2011 i3 competition. The Department published a separate notice inviting applications for each grant type—Scale-up, Validation, and Development—under the i3 program.

FOR FURTHER INFORMATION CONTACT: Thelma Leenhouts, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W302, Washington, DC 20202–5960. Telephone: (202) 453–7122; or by e-mail: *i3@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department intends to hold pre-application meetings designed to provide technical assistance to interested applicants for all three types of i3 grants (Scale-up, Validation, and Development). The Department will hold two pre-application meetings on June 17, 2011, in Washington, DC, from 9:00 a.m. to 12:30 p.m. (Eastern Time) and from 1:30 p.m. to 5:00 p.m. (Eastern Time). The Department will also hold one pre-application meeting on June 24, 2011, in San Francisco, California, from 10:00 a.m. to 2:00 p.m. (Pacific Time). The Department will hold another pre-application meeting on June 28, 2011, in Houston, Texas, from 10:00 a.m. to 2:00 p.m. (Central Time). Each of these four on-site pre-application meetings will also be transmitted live through the Internet as a webinar. Detailed information on the pre-application meetings, including registration information for the on-site meetings and webinars, specific location information for the on-site meetings, and information on how to notify the Department if an attendee will need special accommodations, is available on the i3 Web site at *http://www2.ed.gov/programs/innovation/index.html.*

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the *Federal Digital System at: http://www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *http://www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 10, 2011.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2011–14861 Filed 6–14–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Extension of Scoping Period for the Northern Pass Transmission Line Project Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Reopening of scoping period.

SUMMARY: The U.S. Department of Energy (DOE) is reopening the public scoping period for the Northern Pass Transmission Line Project Environmental Impact Statement (EIS) (DOE/EIS–0463). In anticipation of additional alternative route information being provided by Northern Pass, DOE is reopening the scoping period. DOE will determine the close of the scoping period once the additional routing information is received from Northern Pass, and DOE will provide at least 45 days for public review and scoping comments on any such routing information.

DATES: The reopened public scoping period starts with the publication of this notice in the **Federal Register** and will remain open until DOE provides further notice of its closing.

ADDRESSES: Comments on the scope of the EIS and requests to be added to the document mailing list should be addressed to: Brian Mills, Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; by electronic mail to *Brian.Mills@hq.doe.gov;* or by facsimile to 202–586–8008. For general information on the DOE NEPA process contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; by electronic mail at *askNEPA@hq.doe.gov;* by facsimile at 202–586–7031; or by phone at 202–586–4600, or leave a message at 800–472–2756.

FOR FURTHER INFORMATION CONTACT: For information on DOE's proposed action, contact Brian Mills by one of the methods listed in **ADDRESSES** above, or at 202–586–8267. For general information on the DOE NEPA process, contact Ms. Carol M. Borgstrom by one of the methods listed in **ADDRESSES** above. For information on the Forest Service's role as a cooperating agency, contact Tiffany Benna by electronic mail at *tbenna@fs.fed.us;* by phone at 603–536–6241; by facsimile at 603–536–3685; or by mail at 71 White Mountain Drive, Campton, NH 03223. For information on the Army Corps of Engineers' permit process, contact Erika Mark at 978–318–8250; by electronic mail at *Erika.L.Mark@usace.army.mil;* or by mail at 696 Virginia Road, Concord, MA 01742. For information on the EPA role in the EIS, contact Timothy L. Timmermann by electronic mail at *timmermann.timothy@epa.gov;* by phone at 617–918–1025; or by mail at 5 Post Office Square, Suite 100, Boston, MA 02109–3912. Information on the EIS also is available at DOE's Web site for

the proposed action at *http://www.northernpasseis.us.*

SUPPLEMENTARY INFORMATION: On February 11, 2011, DOE announced in the **Federal Register** (76 FR 7828) its intention to prepare an EIS to assess the potential environmental impacts from its proposed action of granting a Presidential Permit to Northern Pass Transmission, LLC, to construct, operate, maintain, and connect a new electric transmission line across the U.S.-Canada border in northern New Hampshire. The EIS will address the potential environmental impacts from the proposed action, no action and the range of reasonable alternatives. The U.S. Forest Service, White Mountain National Forest, the Army Corps of Engineers, New England District, and the U.S. Environmental Protection Agency Region 1 are cooperating agencies.

DOE held seven public scoping meetings from March 14 to 20, 2011, in New Hampshire. The public scoping period closed on April 12, 2011. On April 15, 2011, DOE reopened the public scoping period until June 14, 2011, in response to public requests and to ensure that the public had ample opportunity to provide comments (76 FR 21338).

On April 12, 2011, Northern Pass submitted scoping comments stating that it was working to identify additional routing alternatives in the northern portion of the proposed route (the area within approximately 40 miles of the U.S.-Canada border). Northern Pass has not yet provided additional routing alternatives to DOE, but in anticipation of this information, DOE is reopening the public scoping period for an indefinite period. DOE will determine the close of the scoping period once any additional routing information is received from Northern Pass. DOE will announce in the **Federal Register** any additional proposed routing alternatives submitted by Northern Pass, the locations, dates and times of any additional scoping meetings, as well as the end of the scoping period. The scoping period will close no sooner than 45 days after DOE publishes the above notice in the **Federal Register**.

Issued in Washington, DC, on June 9, 2011.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2011–14823 Filed 6–14–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2545–148]

Avista Corporation; 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:* Amendment of License.

b. *Project No.:* 2545–148.

c. *Date Filed:* April 15, 2011.

d. *Applicant:* Avista Corporation.

e. *Name of Project:* Spokane River Project.

f. *Location:* The project is located on the Spokane River in Spokane, Lincoln, and Stevens Counties, Washington, and in Kootenai and Benewah Counties, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Hamill, Avista Corporation, P.O. Box 3727, Spokane, WA 99220–3727, (509) 495–4611, or Ms. Michele Drake, Avista Corporation, P.O. Box 3727, Spokane, WA 99220–3727, (509) 495–8941.

i. *FERC Contact:* Kelly Houff, (202) 502–6393, *Kelly.Houff@ferc.gov*.

j. *Deadline for filing comments, motions to intervene, and protests:* July 8, 2011.

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. 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 Application:* The applicant seeks approval to replace the existing turbine/generator Unit Nos. 1 and 2 at the Nine Mile Development, with a combined hydraulic capacity of 2,600 cfs and a combined nameplate capacity of 6.4 MW, with a two new turbine/generator units, having a combined hydraulic capacity of 3,700 cfs and a combined nameplate capacity of 15.6 MW. The replacement of the Units 1 and 2 will increase the total project generation from 137.67 MW to 146.87 MW, and increase total project hydraulic capacity from 23,550 cfs to 24,650 cfs.

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 (P–2545–148) 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 e-mail 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.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must

also be served upon each representative of the Applicant specified in the particular application.

o. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14754 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI11–8–000]

City of Dover, NH; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI11–8–000.

c. *Date Filed:* May 24, 2011.

d. *Applicant:* City of Dover, New Hampshire.

e. *Name of Project:* Effluent Outfall Hydraulic Energy Harvester Project (Outfall Project).

f. *Location:* The Effluent Outfall Hydraulic Energy Harvester Project will be located on an outfall pipe discharging effluence from a wastewater treatment plant located in the City of Dover, Strafford County, New Hampshire.

g. *Filed Pursuant to:* section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Henry Russell, Walker Wellington, P.O. Box 308, 95 Brewery Lane/Unit #9, Portsmouth, NH 03802; *Telephone:* (603) 498–2384; *FAX:* (207) 439–6049; e-mail: *www.Henry@walkerwellington,com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or E-mail address: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and motions*: July 8, 2011.

All documents should 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*. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be filed with: 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*. Please include the docket number (DI11–8–000) on any comments, protests, and/or motions filed.

k. *Description of Project*: The Outfall Project would consist of an in-line hydraulic energy harvester, placed on the outfall pipe that discharges treated effluence from the city's wastewater treatment plant. The source of water for power generation comes from the city's sewer system, supplemented with water from gravel-packed wells. The unit is expected to generate between 5 kW and 15 kW. The generated power will be used on-site to operate ventilation and lighting equipment at the treatment facility.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the proposed project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application*: Copies of this filing are on file with the Commission and are available for public inspection. This filing may 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. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

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, and/or Motions To Intervene*—Anyone may submit comments, a protest, and 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, and/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 filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and/or ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14750 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–492–000]

ANR Pipeline Company; Notice of Application

Take notice that on May 25, ANR Pipeline Company (ANR), 717 Texas Street, Houston, Texas 77002–2761, filed with the Commission an

application under section 7(b) of the Natural Gas Act (NGA) for authorization to abandon its obligation to provide transportation service through approximately 15.1 miles of non-contiguous 20-inch diameter pipeline from South Pelto Block 13 to a manifold platform in Ship Shoal Block 70, and appurtenances, located in Federal waters, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the petition should be directed to Rene Staeb, Manager, Project Determinations & Regulatory Administration, ANR Pipeline Company, 717 Texas Street, Houston, Texas 77002–2761, at (832) 320–5215 or fax (832) 320–6215 or *Rene_Staeb@transcanada.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 seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: June 29, 2011.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14748 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–494–000]

USG Pipeline Company; Notice of Application

Take notice that on May 31, 2011, USG Pipeline Company (USGPC), Department 143–61, 550 West Adams Street, Chicago, Illinois 60661–3676, filed with the Commission an application in Docket No. CP11–494–000, pursuant to section 7 of the Natural Gas Act (NGA) and subpart F of Part 157 of the Commission's Regulations, for a blanket certificate to perform certain activities under section 157.201, *et seq.,* of the Commission's Regulations, as more fully set forth in the application which is open to public inspection. This filing may be also 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, please contact FERCOnline Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Counsel for USG Pipeline Company, William H. Penniman, Paul F. Forshay or Sandra E. Safro, Sutherland Ashbill & Brennan LLP, 1275 Pennsylvania Avenue, Washington DC 20004–2415, or via telephone at (202) 383–0100, facsimile number (202) 637–3593, and e-mail: *william.penniman@sutherland.com, paul.forshay@sutherland.com* or *sandra.safro@sutherland.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 an original and 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other

party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronic filings of comments, protests and interventions via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: June 30, 2011.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14749 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 459–305]

Union Electric Company, dba AmerenUE; 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-project use of project lands and waters.

b. *Project No:* 459–305.

c. *Date Filed:* May 3, 2011.

d. *Applicant:* Union Electric Company, dba AmerenUE.

e. *Name of Project:* Osage Hydroelectric Project.

f. *Location:* The proposed non-project use would be located near mile marker 83.7 + 0.7 in Feaster Cove on the Lake of the Ozarks, in Benton County, Missouri.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Jeff Green, Shoreline Supervisor, AmerenUE, P.O. Box 993, Lake Ozark, MO 65049, (573) 365–9214.

i. *FERC Contact:* Shana High at (202) 502–8674, or e-mail: *shana.high@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protest:* July 8, 2011.

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 at *http://www.ferc.gov/docs-filing/efiling.asp*. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: 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–459–305) on any comments, motions, or recommendations filed.

k. *Description of Request:* AmerenUE requests Commission authorization to permit Lake Ridge Bay Property Owners Association to maintain two existing docks and install three new community docks. The completed development would have five docks with 54 boat slips.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

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: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14751 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2157–000]

Public Utility District No. 1 of Snohomish County; Notice of Authorization for Continued Project Operation

On June 1, 2009 the Public Utility District No. 1 of Snohomish County, licensee for the Henry M. Jackson Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Henry M. Jackson Hydroelectric Project is located on the Sultan River in Snohomish County, Washington.

The license for Project No. 2157 was issued for a period ending May 31, 2011. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2157 is issued to the Public Utility District No. 1 of Snohomish County for a period effective June 1, 2011 through May 31, 2012, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before May 31, 2012, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise. If the project is not subject to section 15 of the FPA, notice is hereby given that the Public Utility District No. 1 of Snohomish County is authorized to continue operation of the Henry M. Jackson Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14753 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR11–113–000]

Cranberry Pipeline Corporation; Notice of Filing

Take notice that on June 6, 2011, Cranberry Pipeline Corporation (Cranberry) filed to request a case-specific waiver of section 284.126(b)(1)(iv) of the Commission's regulations which was promulgated in Order No. 735.[1] Order No. 735 requires all section 311 and Hinshaw pipelines to file quarterly reports containing transportation transaction information including receipt points for each transaction. Cranberry requests waiver so that it can identify ''production pool'' as the receipt point for its transactions instead of a specific receipt point as more fully described in the filing.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

[1] Contract Reporting Requirements of Intrastate Natural Gas Companies, Order No. 735, 131 FERC ¶ 61,150 (May 20, 2010).

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

DATES: Comment Date: 5 p.m. Eastern time on Friday, June 17, 2011.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14758 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR11–114–000]

Regency Intrastate Gas LP; Notice of Filing

Take notice that on June 7, 2011, Regency Intrastate Gas LP, (Regency) filed to revise its Operating Statement. Regency states the modifications are to remove the anchor shipper provisions, which are no longer applicable, and to add provisions related to the collection of information from its shippers, as more fully described in the filing.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant.

Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Friday, June 17, 2011.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14759 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–139–000]

Kinder Morgan Texas Pipeline, LLC; Notice of Petition for Rate Approval

Take notice that on March 24, 2010, Kinder Morgan Texas Pipeline, LLC, (KMTP) filed a petition pursuant to section 284.123(b)(1) of the Commission's regulations a rate election for transportation service. KMTP states the rate election is a continuation of one of its effective cost-based transportation component for city-gate services on file with the Railroad Commission of Texas, a more fully detailed in the petition.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Friday, June 17, 2011.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14756 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR11–112–000]

Atmos Pipeline-Texas; Notice of Petition for Rate Approval

Take notice that on June 6, 2011, Atmos Pipeline-Texas (APT) filed a petition pursuant to section 284.123(b)(1) of the Commission's regulations a rate election for transportation service. APT states the rate election reflects its cost-based transportation rates on file with the Railroad Commission of Texas, a more fully detailed in the petition.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Friday, June 17, 2011.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14757 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14102–000]

U.S. Farmers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 22, 2011, U.S. Farmers, 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

Deep Creek Hydroelectric Project to be located on Deep Creek, Oxbow Creek, and Snake River in Adams County, Idaho. 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 will consist of the following; (1) a 20-foot-wide, 6-feet-high concrete diversion on Deep Creek; (2) a 20-foot-wide, 6-feet-high concrete diversion on Oxbow Creek; (3) a 10,000-foot-long, 2-foot-diameter steel penstock; (4) a powerhouse situated at the confluence of Deep Creek and the Snake River containing one Pelton-type impulse turbine at 3-megawatts; (5) a 500-foot-long, 12.5-kilovolt-ampere transmission line connecting to the Idaho Power Company's Hell Canyon Dam sub-station at the Hells Canyon Dam; (6) a 10,000-foot-long gravel road. The estimated annual generation of the project would be 13 gigawatt-hours.

Applicant Contact: Mr. John J. Straubhar, P.O. Box 5071, Twinfalls, ID 83303; *phone:* (208) 794–2930.

FERC Contact: Ian Smith; *phone:* (202) 502–8943.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14102–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14755 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

EXEMPT

Docket No.	File date	Presenter or requester
1. CP11–46–000	5–23–11	Kenneth Warn[1].
2. P–2299–000	5–23–11	Hon. Jeff Denham.
3. P–2299–000	5–31–11	Hon. Dick Monteith, *et al.*

[1] Record of conference call and supporting documents.

Dated: June 8, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–14747 Filed 6–14–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9319–4]

Science Advisory Board Staff Office Notification of a Public Meeting of the Science Advisory Board Panel for the Review of Great Lakes Restoration Initiative Action Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public face-to-face meeting of the SAB panel to review the interagency *Great Lakes Restoration Initiative (GLRI) Action Plan (FY 2010–FY2014)* that describes restoration priorities, goals, objectives, measurable ecological targets, and specific actions for the Great Lakes.

DATES: The meeting will be held on July 12, 2011 from 9 a.m. to 5:30 p.m. and July 13, 2011 from 8 a.m. to 5 p.m. (Central Time).

ADDRESSES: The Panel meeting will be held at the *Congress Plaza Hotel, 520 South Michigan Avenue, Chicago, IL 60605.*

FOR FURTHER INFORMATION: Any member of the public wishing further information regarding this meeting may contact Mr. Thomas Carpenter, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–4885; by fax at (202) 565–2098 or via e-mail at *carpenter.thomas@epa.gov.* General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at *http://www.epa.gov/sab.* Any inquiry regarding the Great Lakes Restoration Initiative's Action Plan should be directed to Mr. Paul Horvatin, Chief, Monitoring Indicators and Reporting Branch, *horvatin.paul@epa.gov* (312) 353–3612, or Mr. Todd Nettesheim, *nettesheim.todd@epa.gov* (312) 353–9153, U.S. EPA Great Lakes National Program Office, 77 West Jackson Boulevard (G–17J), Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

EPA is leading an interagency Great Lakes Restoration Initiative (GLRI) to protect and restore the chemical, biological, and physical integrity of the Great Lakes. The GLRI Action Plan is designed to target the most significant environmental problems in the region, as documented in extensive scientific studies, conferences and workshops. To guide the efforts of the GLRI, EPA and its Federal partners, through the Great Lakes Interagency Task Force, developed a comprehensive multi-year Action Plan. The GLRI Action Plan identifies outcome-oriented performance goals, objectives, measurable ecological targets, and specific actions for five major focus areas: Toxic substances and areas of concern; invasive species; near-shore health and nonpoint source pollution; habitat and wildlife protection and restoration; and accountability, education, monitoring, evaluation, communication, and partnerships. EPA is seeking SAB review and comment regarding the Great Lakes Restoration Initiative's Action Plan. The SAB Staff Office requested public nominations of experts to serve on a review panel to advise the Agency on scientific and technical issues related to the GRLI Action Plan (75 FR 185, 58383–58385, September 24, 2010). The SAB Staff Office sought nominations of nationally and internationally recognized scientists and engineers with demonstrated expertise and research or management experience in one or more of the following areas: Limnology, landscape ecology, restoration ecology, ecotoxicology, population biology, aquatic biology, fisheries and wildlife management, invasive species, water chemistry, environmental engineering, environmental monitoring, and environmental assessment. Information about formation of the panel, the Action Plan, and additional information describing the scientific background and basis for the Action Plan can be found at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Review%20of%20GLRI%20Action%20Plan?OpenDocument.* The purpose of the July 12–13, 2011, meeting is for the Panel to discuss their review comments on The Great Lakes Restoration Initiative Action Plan and scientific background document.

Availability of the review materials: The GLRI Action Plan is available on the Great Lakes National Program Office Web site *http://greatlakesrestoration.us/?page_id=24.* The agenda, the GLRI Action Plan, and scientific background document are available at the SAB Web site *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Review%20of%20GLRI%20Action%20Plan?OpenDocument.* For questions concerning the GLRI, please contact Paul Horvatin, Chief, Monitoring Indicators and Reporting Branch, U.S. EPA Great Lakes National Program Office, 77 West Jackson Boulevard (G–17J), Chicago, Illinois 60604, phone (312) 353–3612; fax (312) 385–5456, or at *horvatin.paul@epa.gov.*

Procedures for Providing Public Input: Public comment for consideration by EPA's Federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a Federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a Federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer for the relevant advisory committee directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at this public meeting will be limited to five minutes per speaker. Interested parties should contact Mr. Thomas Carpenter, DFO, in writing (preferably via e-mail), at the contact information noted above, by June 28, 2011 to be placed on the list of public speakers for the meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by July 5, 2011 so that the information may be made available to the SAB Panel for their consideration. Written statements should be supplied to the DFO in the following formats: One hard copy with

original signature and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). Submitters are requested to provide two versions of each document submitted: One each with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Members of the public should be aware that their contact information, if included in any written comments, will appear on the SAB Web page. Furthermore, special care should be taken not to include copyrighted material.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Thomas Carpenter at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 9, 2011.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–14810 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0207; FRL–8875–1]

Petition Supplement Requesting Cancellation of Propoxur Pet Collar Uses; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice makes available for review and public comment a second petition supplement submitted by the Natural Resources Defense Council (NRDC) to the Environmental Protection Agency (EPA or the Agency) on January 18, 2011. This second supplement supports NRDC's original petition, dated November 26, 2007, requesting that the Agency cancel all pet collar uses for the pesticide propoxur. The petitioner, NRDC, initially requested these cancellations based on their belief that EPA failed to adequately assess residential exposures to pet collars. NRDC believes that modifications to the non-dietary oral exposure pathway presented in the Revised N-methyl Carbamate (NMC) Cumulative Risk Assessment (CRA) underestimate exposure to propoxur from pet collar uses. On April 23, 2009, NRDC supplemented their original petition with additional information on the pesticide. In its most recent supplement, dated January 18, 2011, NRDC states that the EPA's occupational and residential exposure (ORE) risk assessment for propoxur pet collars uses, dated April 7, 2010, as well as the follow-up memorandum refining the ORE risk assessment, dated July 12, 2010, present health risks above EPA's level of concern. NRDC believes that the Agency used incorrect exposure assumptions and failed to adequately assess all routes of exposure, leading to an underestimation of residential risk to children from propoxur pet collars. Finally, under cover letter dated February 4, 2011, NRDC also submitted to EPA 7,577 letters supporting its petition supplement.

DATES: Comments must be received on or before July 15, 2011.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–0207, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009–0207. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at: *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Kaitlin Keller, Chemical Review Manager, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8172; e-mail address: *keller.kaitlin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental and human health advocates; the chemical industry; pet owners; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all

the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

What action is the agency taking?

EPA requests public comment during the next 30 days on a second petition supplement received from NRDC, dated January 18, 2011, requesting that the Agency cancel all pet collar uses for the pesticide propoxur. To date, NRDC has submitted:

1. A petition dated November 26, 2007 as a public comment to the Revised N-methyl Carbamate Cumulative Risk Assessment docket EPA–HQ–OPP–2007–0935;

2. A petition supplement, dated April 23, 2009, which included an NRDC study report;

3. A mass comment campaign from April 8, 2009 to June 8, 2009 which includes approximately 8,600 letters to EPA requesting the cancellation of tetrachlorvinphos and propoxur in pet products;

4. Comments on the Propoxur Preliminary Work Plan for registration review, dated February 16, 2010;

5. A second petition supplement dated January 18, 2011; and,

6. A mass comment campaign, which includes approximately 7,577 letters supporting its January 18, 2011 petition supplement, submitted under cover letter dated February 2, 2011.

7. All documents are available under EPA docket ID number EPA–HQ–OPP–2009–0207. Again, however, by today's notice, EPA seeks comment only on NRDC's second petition supplement dated January 18, 2011.

In its second petition supplement dated January 18, 2011, on which EPA now seeks comment, NRDC states that the April 7, 2010 ORE assessment indicates risks above EPA's level of concern for children's incidental oral exposure, and that EPA should, therefore, take action to cancel propoxur pet collar uses. NRDC claims that exposure levels from pet collars for household children may be significantly higher than EPA estimates based on common daily activities and contact between children and pets. Furthermore, NRDC claims that the April 7, 2010 ORE risk assessment includes inadequate assumptions in exposure scenarios for children and lacks adequate consideration for dermal exposure and cancer risks.

In 2009, EPA initiated the registration review process of propoxur. The final work plan and related documents are available on the electronic docket at: EPA–HQ–OPP–2009–0806. The 2007 Revised N-methyl Carbamate Cumulative Risk Assessment (NMCCRA), related documents, and comments are available in the electronic docket at: EPA–HQ–OPP–2007–0935. EPA's 1997 Reregistration Eligibility Decision (RED) for Propoxur is available on EPA's pesticide Web page at: *http://www.epa.gov/pesticides/reregistration/status.htm.*

List of Subjects

Environmental protection, Natural Resources Defense Council, Pesticides and pests, Propoxur.

Dated: June 7, 2011.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2011–14763 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0014; FRL–8876–1]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 of Unit II., pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows a November 10, 2010 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II. to voluntarily cancel these product registrations. In the November 10, 2010 notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 180-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective June 15, 2011.

FOR FURTHER INFORMATION CONTACT: Maia Tatinclaux, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–0123; fax number: (703) 308–8090; e-mail address: *tatinclaux.maia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0014. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. What action is the agency taking?

This notice announces the cancellation, as requested by registrants, of 48 products registered under FIFRA section 3. These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

EPA registration number	Product name	Active ingredients
000264–00499	Rootone F Brand Rooting Hormone	1-Naphthaleneacetamide Thiram
000432–01454	Merit 240 SC Insecticide	Imidacloprid
000707–00302	Cunilate 2002	Copper, bis(8-quinolinolato-N1, O8)-
001475–00159	Willert Mosquito Coils	Bioallethrin
001529–00054	Nuosept 91T	Grotan
002517–00006	Double Duty Cat Flea & Tick Spray	Pyrethrins Piperonyl butoxide MGK 264
002517–00034	Sergeant's Foam 'N Comb Dry Shampoo for Dogs and Cats	Pyrethrins Piperonyl butoxide
002517–00099	Pyrethroid W.B. Concentrate	Permethrin
002517–00104	Preventic L.A. Flea and Tick Spray for Dogs	Permethrin
002517–00105	Natura Flea & Tick Collar for Dogs and Cats	Permethrin
002517–00108	Permethrin- IGR #1 Flea and Tick Spray for Dogs	Permethrin Pyriproxyfen
002517–00113	Permethrin-Pyriproxifen Residual Shampoo for Dogs #2	Permethrin Pyriproxyfen
002829–00042	Socci 3500 WP	Copper, bis(8-quinolinolato-N1, O8)-
002829–00044	Cunilate 2174–NO	Copper, bis(8-quinolinolato-N1, O8)-
002829–00049	Socci 3500	Copper, bis(8-quinolinolato-N1, O8)-
002829–00082	Vinyzene BP–5	10, 10′-Oxybisphenoxarsine
002829–00112	Cunilate 2419–75	Copper, bis(8-quinolinolato-N1, O8)-
002829–00135	Nytek 10WP	Copper, bis(8-quinolinolato-N1, O8)-
002829–00136	Nytek 10	Copper, bis(8-quinolinolato-N1, O8)-
002829–00137	Nytek WD	Copper, bis(8-quinolinolato-N1, O8)-
005905–00066	MSMA Plus	MSMA (and salts)
005905–00162	Helena Brand MSMA High Concentrate	MSMA (and salts)
005905–00164	MSMA Plus* H.C.	MSMA (and salts)
006218–00041	Summit Sumithrin Greenhouse Spray	Phenothrin
006218–00046	Summit Sumithrin Greenhouse Aerosol	MGK 264 Phenothrin
009630–00004	6% Copper Nap-All	Copper naphthenate
009630–00005	M-Gard S120	Copper naphthenate
009630–00006	8% Zinc Nap-All	Zinc naphthenate
009630–00007	Zinc Hydro-Nap	Zinc naphthenate
009630–00010	M-Gard W550	Zinc naphthenate
009630–00012	M-Gard S520	Copper naphthenate
009630–00021	M-Gard S550	Zinc naphthenate
040849–00069	Scorcher Total Vegetation Killer	Prometon
043437–00003	8% Zinc Naphthenate	Zinc naphthenate
043437–00004	8% Copper Naphthenate	Copper naphthenate
044446–00072	Areo Blast	Piperonyl butoxide Tetramethrin Permethrin
053853–00002	Black Flag Fogging Insecticide Formula 2	Permethrin Piperonyl butoxide Tetramethrin
066330–00313	Bifenthrin 98% Technical	Bifenthrin
066330–00322	Sulfometuron Methyl Technical	Sulfometuron
066330–00326	Sulfometuron 75EG Herbicide	Sulfometuron
074530–00024	Helm Diquat AG	Diquat dibromide
083071–00001	Activ-Ox 20	Sodium chlorite Sodium hypochlorite

TABLE 1—PRODUCT CANCELLATIONS—Continued

EPA registration number	Product name	Active ingredients
084456–00001	Abamectin Technical	Abamectin
084456–00003	Abamectin 2% Ornamental Miticide/Insecticide	Abamectin
084456–00004	Abamectin 2% Miticide/Insecticide	Abamectin
AR980003	Dylox 80 Turf and Ornamental Insecticide	Trichlorfon
OR050018	Prometryne 4L Herbicide	Prometryn
WA040010	Warrior Insecticide with Zenon Technology	lambda-Cyhalothrin

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

EPA company number	Company name and address
264	Bayer CropScience LP, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.
432	Bayer Environmental Science, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.
707	Rohm & Hass Co., 100 Independence Mall West, Philadelphia, PA 19106–2399.
1475	Willert Home Products, 4044 Park Ave., St Louis, MO 63110.
1529	International Specialty Products, 1361 Alps Rd., Wayne, NJ 07470.
2517	Sergeant's Pet Care Products, Inc., 2625 South 158th Plaza, Omaha, NE 68130–1703.
2829	Rohm & Hass Co., 100 Independence Mall West, Ste. 1A, Philadelphia, PA 19106–2399.
5905	Helena Chemical Company, 7664 Moore Road, Memphis, TN 38120.
6218	Summit Chemical Co., 235 S Kresson St., Baltimore, MD 21224.
9630	OMG Americas Inc., 811 Sharon Drive, Westlake, OH 44145.
40849	ZEP Commercial Sales & Service, 1310 Seaboard Industrial Blvd., NW., Atlanta, GA 30318.
43437	OMG Belleville Limited, 811 Sharon Drive, Cleveland, OH 44145–1522.
44446	QuestVaptco Corporation, P.O. Box 624, Brenham, TX 77834.
53853	The Fountainhead Group, Inc., 23 Garden Street, New York Mills, NY 13417.
66330	Arysta Lifescience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
74530	Helm Agro US, Inc., Agent: Ceres International LLC, 1087 Heartsease Drive, West Chester, PA 19382.
83071	Feedwater Limited, 1415 Crystal Court, Naperville, IL 60563–0142.
84456	Hebei Veyong Bio-Chemical Company, Ltd., Agent Name: Wagner Regulatory Associates, Inc., 7460 Lancaster Pike, Suite 9, P.O. Box 640, Hockessin, DE 19707–0640.
AR980003	Arkansas Bait and Ornamental Fish Growers Assn, P.O. Box 509, Lonoke, AR 72086.
OR050018	Loveland Products, Inc., P.O. Box 1286, Greeley, CO 80632–1286.
WA040010	Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419–8300.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the November 10, 2010 **Federal Register** notice (75 FR 69070) (FRL–8851–9) announcing the Agency's receipt of the requests for voluntary cancellations of products listed in Table 1 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II are cancelled. The effective date of the cancellations that are the subject of this notice is June 15, 2011. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

V. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** issue of November 10, 2010. The comment period closed on May 9, 2011.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows.

The registrants may continue to sell and distribute existing stocks of products listed in Table 1 of Unit II. until June 15, 2012, which is 1 year after the publication of the Cancellation Order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1, except for export in accordance with FIFRA section 17, or proper disposal. Persons other than the registrants may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II. until existing stocks are exhausted, provided that such sale,

distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 7, 2011.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2011–14765 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9319–7]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by WildEarth Guardians and Elizabeth Crowe in the United States District Court for the Northern District of California: *WildEarth Guardians and Elizabeth Crowe* v. *Jackson,* No. 4:11–cv–02205–SI (N.D. Cal.). On May 5, 2011, Plaintiffs filed a complaint alleging that EPA failed to perform a mandatory duty under the CAA to act on a State Implementation Plan submitted by the State of Arizona. In accordance with section 113(g) of the Clean Air Act, as amended (''CAA''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree, between Petitioners: WildEarth Guardians and Elizabeth Crowe, and Respondent, the U.S. Environmental Protection Agency (EPA) (collectively ''the Parties''). On or about June 13, 2007, the Petitioners submitted to EPA, Arizona's State Implementation Plan for the 1997 8-hour ozone nonattainment area of Phoenix-Mesa, Arizona (Phoenix-Mesa SIP). The Petitioners allege that EPA failed to take timely final action to approve, disapprove, or partially approve/disapprove the Phoenix-Mesa SIP. Under the terms of the proposed consent decree deadlines have been established for EPA to take action.

DATES: Written comments on the proposed consent decree must be received by *July 15, 2011.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2011–0350, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Jan Tierney, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5598; fax number*:* (202) 564–5603; *e-mail* address: *tierney.jan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree establishes deadlines for EPA to take final action under section 110(k) of the CAA to approve, disapprove, or partially approve/disapprove the Phoenix-Mesa SIP. The proposed consent decree requires that no later than May 31, 2012, EPA shall sign for publication in the **Federal Register** a notice taking final action pursuant to section 110(k) of the CAA, 42 U.S.C. 7410(k), on the portions of the Phoenix-Mesa SIP that do not pertain to New Source Review (NSR). The proposed consent decree also requires that no later than October 31, 2012, EPA shall sign for the publication in the **Federal Register** a notice of the Agency's final action on the portions of the Phoenix-Mesa SIP that pertain to NSR. In addition, the proposed consent decree states that within fifteen (15) business days following signature of such action(s), EPA shall deliver notice of such action to the Office of the Federal Register for publication. The proposed consent decree further states that if EPA takes final action on its proposed rule to classify the Phoenix-Mesa, Arizona nonattainment area under Title I, part D, subpart 2 of the CAA before May 31, 2012 or if EPA takes final action redesignating the Phoenix-Mesa, Arizona nonattainment area to attainment or unclassifiable before May 31, 2012 then the deadline for action on the non-NSR portions of the plan is voided and that if EPA takes final action on either of those two rules by October 31, 2012, then the deadline for action on the NSR portion of the SIP is voided. The proposed consent decree also states that after EPA fulfills its obligations under the decree, the parties will file a joint request to the Court to dismiss this matter with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2011–0350) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., 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 Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov*. You may use the *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *http://*

www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 8, 2011.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. 2011–14830 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9319–6]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address lawsuits filed by WildEarth Guardians, National Parks Conservation Association, and the Environmental Defense Fund (collectively, ''Plaintiffs'') in the United States District Court for the District of Colorado: *WildEarth Guardians, et al.* v. *Jackson,* No. 1:11–cv–0001–CMA–MEH (D. CO) and consolidated case (No. 11–cv–00743–CMA–MEH). Plaintiffs filed complaints alleging that EPA failed to perform certain nondiscretionary duties under sections 110(k)(2) and 110(c) of the CAA, 42 U.S.C. 7410(k)(2). Specifically, Plaintiffs' complaints alleged that EPA: failed to act on two State Implementation Plan (''SIP'') submissions, one addressing Colorado regional haze and the other addressing North Dakota excess emissions during startup, shutdown, malfunction and maintenance; failed to act on a Wyoming SIP submission addressing Wyoming regional haze, and failed to promulgate regional haze Federal Implementation Plans (''FIPs'') for Montana, North Dakota, Colorado and Wyoming; and failed to promulgate a regional haze FIP for the State of Colorado or, alternatively, to finally approve a regional haze SIP for the State of Colorado. Under the terms of the proposed consent decree, deadlines are established for EPA to take action on the relevant SIPs and FIPs.

DATES: Written comments on the proposed consent decree must be received by *July 15, 2011.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2011–0533, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov*; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Lea Anderson, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5571; fax number (202) 564–5603; e-mail address: *anderson.lea@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve lawsuits filed by Plaintiffs for EPA's alleged failure to take timely action under CAA sections 110(k)(2) and 110(c) on SIPs and FIPs as described in the Summary section of this notice. Under the terms of the proposed consent decree, deadlines are established for EPA to sign rulemaking actions to meet the relevant obligations. In addition, the proposed consent decree requires that no later than 10 business days following signature of the notice of any proposed or final rulemaking, EPA shall send the notice to the Office of the Federal Register for review and publication. After EPA fulfills its obligations under the proposed consent decree, the consent decree may be terminated.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice

determines that consent to this consent decree should be withdrawn, the terms of the proposed consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2011–0533) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., 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 Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov*. You may use *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 9, 2011.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. 2011–14833 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–1195; FRL–8875–3]

Propetamphos Registration Review Final Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's final registration review decision for the pesticide propetamphos, case no. 2550. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact:* Kylie Rothwell, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (703) 308–8055; *fax number:* (703) 308–8090; *e-mail address: rothwell.kylie@epa.gov.*

For general information on the registration review program, contact: Kevin Costello, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–1195. Publicly available docket materials are

available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. Background

A. What action is the agency taking?

Pursuant to 40 CFR 155.58(c), this notice announces the availability of EPA's final registration review decision for propetamphos, case no. 2550. Propetamphos is an organophosphate insecticide used for non-residential indoor crack and crevice treatment to control crawling insects, primarily, ants, cockroaches, and fleas. Pursuant to 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA. EPA has considered propetamphos in light of the FIFRA standard for registration. The Propetamphos Registration Final Review Decision document in the docket describes the Agency's rationale for issuing a registration review final decision for this pesticide.

In addition to the final registration review final decision document, the registration review docket for propetamphos also includes other relevant documents related to the registration review of this case. The proposed registration review decision was posted to the docket and the public was invited to submit any comments or new information. During the 60-day comment period, no public comments were received.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review.* Links to earlier documents related to the registration review of this pesticide are provided at: *http://www.epa.gov/oppsrrd1/registration_review/propetamphos/index.htm.*

B. What is the agency's authority for taking this action?

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Registration review, Pesticides and pests, Propetamphos.

Dated: June 3, 2011.

Richard P. Keigwin,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2011–14568 Filed 6–14–11; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act; Notice of Meeting

DATE AND TIME: Wednesday, June 22, 2011, 9:30 a.m. Eastern Time.

PLACE: Commission Meeting Room on the First Floor of the EEOC Office Building, 131 ''M'' Street, NE., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Votes, and

2. Disparate Treatment in 21st Century Hiring Decisions.

Note: In accordance with the Sunshine Act, the meeting will be open to public observation of the Commission's deliberations and voting. Seating is limited and it is suggested that visitors arrive 30 minutes before the meeting in order to be processed through security and escorted to the meeting room. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides information about Commission meetings on its Web site, *http://www.eeoc.gov,* and provides a recorded announcement a week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings. The EEOC provides sign language interpretation and Communication Access Realtime Translation (CART) services at Commission meetings for the hearing impaired. Requests for other reasonable accommodations may be made by using the voice and TTY numbers listed above.

CONTACT PERSON FOR MORE INFORMATION: Stephen Llewellyn, Executive Officer on (202) 663–4070.

Dated: June 13, 2011.

Stephen Llewellyn,

Executive Officer, Executive Secretariat.

[FR Doc. 2011–14980 Filed 6–13–11; 4:15 pm]

BILLING CODE 6570–01–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Farm Credit System Insurance Corporation Board Meeting

AGENCY: Farm Credit System Insurance Corporation.

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

DATE AND TIME: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on June 21, 2011, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available) and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Closed Sesson

- FCSIC Report on System Performance.

Open Session

A. Approval of Minutes

- April 14, 2011.

B. Business Reports

- FCSIC Financial Reports.
- Report on Insured Obligations.
- Quarterly Report on Annual Performance Plan.

C. New Business

- Policy Statement Concerning Adjustments to the Insurance Premiums and Policy Statement on the Secure Base Amount and AIRAs.
- Mid-Year Review of Insurance Premium Rates.

Dated: June 10, 2011.

Dale L. Aultman,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. 2011–14856 Filed 6–14–11; 8:45 am]

BILLING CODE 6710–01–P

FEDERAL ELECTION COMMISSION

[Notice 2011–06]

Agency Procedure for Disclosure of Documents and Information in the Enforcement Process

AGENCY: Federal Election Commission.

ACTION: Notice of Agency Procedure.

SUMMARY: The Federal Election Commission (''Commission'') is establishing an agency procedure to formally define the scope of documents that will be provided to respondents by the agency, and to formalize the agency's process of disclosing such documents, during the Commission's investigation in enforcement matters brought under the Federal Election Campaign Act of 1971, as amended (the Act).

DATES: Effective June 30, 2011.

FOR FURTHER INFORMATION CONTACT: William A. Powers or Ana J. Pena-Wallace, Attorneys, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

I. Recent Changes to the Commission's Enforcement Procedures

The Commission has, in recent years, adopted several changes to its enforcement process in an effort to provide complainants, respondents and the public with greater transparency with respect to the Commission's process.

On May 1, 2003, the Commission published a Notice of Public Hearing and Request for Public Comment concerning its enforcement procedures.[1] The Commission received written comments from the public, many of which urged increased transparency in Commission procedures and expanded opportunities to contest allegations.[2] On June 11, 2003, the Commission held an open hearing on its enforcement procedures during which the Commission considered written comments received and oral testimony from several witnesses. In response to issues raised in written comments and at the hearing, the Commission issued several new agency procedures.[3]

On December 8, 2008, the Commission issued a Notice of Public Hearing and Request for Public Comment regarding the compliance and enforcement aspects of its agency procedures.[4] There were numerous written comments filed in response to the Notice and on January 14–15, 2009, the Commission received testimony at a public hearing.[5]

Some commenters proposed alternative procedures with respect to information and documents in the possession of the Commission. One commenter recommended instituting a program whereby potential respondents in internally generated matters[6] would be given a written summary of the matter and an opportunity to respond in writing before the Commission makes a reason to believe (RTB) finding and to provide earlier notice to respondents about the Office of General Counsel's (OGC) recommendation to the Commission.[7] Other commenters urged the Commission to adopt procedures to provide respondents with the opportunity to review and respond to any adverse course of action recommended by the Commission's Office of General Counsel before the Commission considers such recommendation.[8] Still others requested even more general access by respondents to documents and information held by the Commission.[9]

The Commission has since updated and augmented several of its procedures including the adoption of: (1) A pilot program providing opportunity to persons requesting an advisory opinion to appear before the Commission to answer questions,[10] (2) a pilot program providing audited committees with an opportunity to request a hearing before the Commission prior to the Commission's adoption of a Final Audit Report,[11] and (3) a procedure providing respondents with notice of a non-complaint generated referral[12] and an opportunity to respond prior to the Commission's consideration of whether it has reason to believe that a violation has occurred.[13] Further, in December 2009, the Commission issued a Guidebook for Complainants and Respondents on the FEC Enforcement Process, which provides a step-by-step guide to assist and educate complainants, respondents and the public concerning the Commission enforcement process.[14]

The procedure set forth herein formalizes the Commission's policy on disclosure to respondents of relevant information gathered by the Commission in the investigative stage of its enforcement proceedings.

II. Disclosure of Exculpatory Information

A. Criminal Proceedings: The Constitutional Obligation Under Brady—the Government's Duty To Disclose

One issue that must inform the Commission in its consideration of any procedure regarding the disclosure of documents and information to respondents in the enforcement process is whether, and to what extent, there are relevant requirements or constraints imposed by the United States Constitution. The seminal Supreme Court case involving the Constitutional

---

[1] *See Enforcement Procedures,* 68 FR 23311 (May 1, 2003), available at *http://www.fec.gov/agenda/agendas2003/notice2003-09/fr68n084p23311.pdf.*

[2] Comments and statements for the record are available at *http://www.fec.gov/agenda/agendas2003/notice2003-09/comments.shtml.*

[3] *See Statement of Policy Regarding Deposition Transcripts in Nonpublic Investigations,* 68 FR 50688 (Aug. 22, 2003), available at *http://www.fec.gov/agenda/agendas2003/notice2003-15/fr68n163p50688.pdf; Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings,* 70 FR 3 (Jan. 3, 2005), available at *http://www.fec.gov/law/policy/2004/notice2004–20.pdf; Procedural Rules for Probable Cause Hearings,* 72 FR 64919 (Nov. 19, 2007), available at *http://www.fec.gov/law/cfr/ej_compilation/2007/notice_2007-21.pdf.*

[4] *See Agency Procedures,* 73 FR 74495 (Dec. 8, 2008), available at *http://www.fec.gov/law/policy/enforcement/notice_2008-13.pdf.*

[5] The comments received by the Commission, as well as the transcript of the hearing are available at *http://www.fec.gov/law/policy/enforcement/publichearing011409.shtml.*

[6] Enforcement matters may be internally generated based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. 437g. These non-complaint generated matters can arise from internal referrals to the Office of General Counsel from the Commission's Reports Analysis Division or Audit Division.

[7] *See* Comment of Scott E. Thomas dated January 5, 2009, available at *http://www.fec.gov/law/policy/enforcement/2009/comments/comm15.pdf.*

[8] *See* Comments of Perkins Coie LLP Political Law Group dated January 5, 2009, available at *http://www.fec.gov/law/policy/enforcement/2009/comments/comm25.pdf.*

[9] *See* Comments of Election Law and Government Ethics Practice Group of Wiley Rein LLP dated January 5, 2009, available at *http;//www.fec.gov/law/policy/enforcement/2009/comments/comm33.pdf;* Comments of Perkins Coie LLP Political Law Group dated January 5, 2009, available at *http://www.fec.gov/law/policy/enforcement/2009/comments/comm25.pdf;* Comments of Laurence E. Gold dated January 5, 2009, available at *http://www.fec.gov/law/policy/enforcement/2009/comments/comm20.pdf;* Comments of Robert K, Kelner dated January 5, 2009, available at *http://www.fec.gov/law/policy/enforcement/2009/comments/comm10.pdf.*

[10] *See Advisory Opinion Procedures,* 74 FR 32160 (July 7, 2009), available at *http://www.fec.gov/law/cfr/ej_compilation/2009/notice_2009-11.pdf.*

[11] *See Procedural Rules for Audit Hearings,* 74 FR 33140 (July 10, 2009), available at *http://www.fec.gov/law/cfr/ej_compilation/2009/notice_2009-12.pdf.*

[12] Non-complaint generated referrals, also referred to as ''internally generated matters,'' are based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. 437g and note 6 above.

[13] *See Procedural Rule for Notice to Respondents in Non-Complaint Generated Matters,* 74 FR 38617 (August 4, 2009), available at *http://www.fec.gov/law/cfr/ej_compilation/2009/notice_2009-18.pdf.*

[14] This Guidebook is available at *http://www.fec.gov/em/respondent_guide.pdf.*

parameters required by, and imposed upon, the government, in the context of criminal proceedings, is *Brady* v. *Maryland*.[15] *Brady* held that the Due Process Clause of the Fifth Amendment to the United States Constitution requires the government to provide criminal defendants with exculpatory evidence—*i.e.,* ''evidence favorable to an accused,'' that is ''material to guilt or punishment''—known to the government but unknown to the defendant.

As noted, the Supreme Court in *Brady* held that the Due Process Clause requires the government to provide criminal defendants with exculpatory or potentially exculpatory evidence that is ''material to guilt or punishment.'' ''The rationale underlying *Brady* is not to supply a defendant with all the evidence in the Government's possession which might conceivably assist in the preparation of his defense, but to assure that the defendant will not be denied access to exculpatory evidence known only to the Government.'' [16] *Brady* is a rule of disclosure, not of discovery.[17] Therefore, *Brady* obligations apply even when a defendant does not request the evidence.[18] The obligations also apply regardless of the good faith of the prosecutor.[19] However, no constitutional duty exists under *Brady* to provide evidence already in the defendant's possession or which can be obtained with reasonable diligence.[20]

In *Giglio* v. *United States,* 405 U.S. 150, the Supreme Court went one step further by requiring disclosure in criminal proceedings ''[w]hen the 'reliability of a particular witness may well be determinative of guilt or innocence,' '' and the prosecution has evidence that impeaches that witness' testimony.[21] ''Such [impeachment] evidence is 'evidence favorable to an accused' so that if disclosed and used effectively, it may make the difference between conviction and acquittal.'' [22] For example, courts have held that impeachment evidence for a key testifying witness includes but is not limited to the following: Prior statements by a witness that are materially inconsistent with the witness's trial testimony; [23] a conviction of perjury; [24] prosecutorial intimidation of a witness; [25] and plea bargains and informal statements by the prosecution that a witness would not be prosecuted in exchange for his testimony.[26]

Because *Brady* disclosure in criminal proceedings is required under the Due Process Clause, legal privileges against discovery such as attorney-client, work-product, or deliberative process do not allow the government in criminal proceedings to avoid disclosure on these grounds.[27] However, courts have recognized that *Brady* does not apply to attorney strategies, legal theories, and evaluations of evidence because they are not ''evidence.'' [28]

B. The Legal, Professional, and Ethical Duties To Disclose—the Lawyer's Independent Obligations in Criminal Proceeding

In addition to, and quite separate from, the Constitutional requirements in criminal cases, there is broad acceptance in the legal and judicial professions that there is also an ethical obligation to provide exculpatory or incriminating information to respondents and litigants that, if not provided, may negatively impact the ability of a respondent or litigant to obtain a just result through a fair and impartial proceeding with the government.

For example, Rule 3.8(d) of the American Bar Association's Model Rules of Professional Conduct (ABA Model Rules), imposes an ethical duty on criminal prosecutors that is separate and independent from the Constitutional disclosure obligations addressed in *Brady.* The ABA Model Rules are in force in most State courts and many Federal Courts. Specifically, Rule 3.8(d) requires that a criminal prosecutor ''make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense'' so that the defense can make meaningful use of the evidence and information in making such decisions as whether to plead guilty and how to conduct its defense.[29]

The Supreme Court has also referred to the status of a U.S. Attorney in the ''Federal system'' as ''the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.'' [30] Therefore, both Constitutional issues and ethical issues must be considered when a procedure such as the one enunciated here today is formulated and adopted.

C. Disclosure in Governmental Civil Proceedings

Courts have held that the Due Process Clause does not require application of *Brady* in administrative proceedings.[31] Nevertheless, some Federal agencies recently have applied *Brady* principles to their civil administrative enforcement proceedings. For example, the Federal Energy Regulatory Commission (FERC) recently issued a policy statement that provides respondents with access to certain exculpatory evidence during that agency's investigations and adjudications.[32] Under FERC's regulations, FERC can conduct either an informal or formal investigation. The new FERC Policy Statement provides, in relevant part that ''[d]uring the course of an investigation * * *, Enforcement staff will scrutinize materials it receives

[15] *Brady* v. *Maryland,* 373 U.S. 83, 87–88 (1963) (*Brady*).

[16] *United States* v. *LeRoy,* 687 F.2d 610, 619 (2d Cir. 1983) (citations omitted).

[17] *See United States* v. *Bagley,* 473 U.S. 667, 675 n.7 (1985) (*Bagley*).

[18] *See United States* v. *Agurs,* 427 U.S. 97, 107–10 (1976).

[19] *Brady,* 373 U.S. at 87.

[20] *See, e.g., United States* v. *Meros,* 866 F.2d 1304, 1308 (11th Cir 1989); *Hoke* v. *Netherland,* 92 F.3d 1350, 1355–56 (4th Cir. 1996); *United States* v. *Beaver,* 524 F.2d 963, 966 (5th Cir. 1975).

[21] *Giglio* v. *United States,* 405 U.S. 150, 154–55 (1972) (*Giglio*).

[22] *Bagley,* 473 U.S. at 676 (quoting *Brady,* 373 U.S. at 87).

[23] *Id.* at 677.

[24] *United States* v. *Cuffie,* 80 F.3d 514, 517–19 (D.C. Cir. 1996).

[25] *Simmons* v. *Beard,* 581 F.3d 158, 169 (3rd Cir. 2009).

[26] *Giglio,* 405 U.S. at 154–55; *United States* v. *Edwards,* 191 F. Supp. 2d 88, 90 (D.D.C. 2002); *United States* v. *Buettner-Janusch,* 500 F. Supp. 1287, 1288 (S.D.N.Y. 1980).

[27] *See* Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure 254 (4th ed. 2009); *United States* v. *Goldman,* 439 F. Supp. 337, 350 (S.D.N.Y. 1977).

[28] *Morris* v. *Ylst,* 447 F.3d 735, 742 (9th Cir. 2006); *U.S.* v. *NYNEX Corp.,* 781 F. Supp. 19, 25–26 (D.D.C. 1991); *see Williamson* v. *Moore,* 221 F.3d 1177, 1182 (11th Cir. 2000).

[29] *See* American Bar Association, Model Rules of Professional Conduct, Rule 3.8, Special Responsibilities of a Prosecutor, available at *http://www.abanet.org/cpr/mrpc/rule_3_8.html. See also* Formal Opinion 09–454, Prosecutor's Duty to Disclose Evidence and Information Favorable to the Defense, American Bar Association, Standing Committee on Ethics and Professional Responsibility, available at *http://www.nacdl.org/public.nsf/whitecollar/ProsecutorialMisconduct/$FILE/09-454.pdf.*

[30] *Berger* v *United States,* 295 U.S. 78, 88 (1935); *see also* Statement of Attorney General Eric Holder Regarding *United States* v. *Theodore F. Stevens,* available at *http://www.justice.gov/opa/pr/2009/April/09-ag-288.html.*

[31] *Mister Discount Stockbrokers* v. *SEC,* 768 F.2d 875, 878 (7th Cir. 1985) (no right to exculpatory evidence in National Association of Securities Dealers (NASD) proceedings which are treated the same as administrative agency action); *Sanford* v. *NASD,* 30 F. Supp. 2d 1, 22 n.12 (D.D.C. 1998) (same); *NLRB* v. *Nueva Eng'g, Inc.,* 761 F.2d 961, 969 (4th Cir. 1985) (''[W] e find *Brady* inapposite and hold that the ALJ properly denied Nueva's demand for exculpatory materials.'').

[32] *See* FERC Policy Statement on Disclosure of Exculpatory Materials, Docket No. PL10–1–000, 129 FERC 61,248 (Dec. 17, 2009) (FERC Policy Statement), available at *http://www.ferc.gov/whats-new/comm-meet/2009/121709/M-2.pdf.*

from sources other than the investigative subject(s) for material that would be required to be disclosed under *Brady.* Any such materials or information that are not known to be in the subject's possession shall be provided to the subject.'' [33]

Similarly, the Securities and Exchange Commission (SEC) adopted a rule of practice in 1995 for its civil enforcement proceedings whereby its Division of Enforcement shall make available for inspection and copying ''documents obtained by the Division prior to the institution of proceedings, in connection with the investigation leading to the Division's recommendation to institute proceedings.'' [34] The SEC rule permits certain documents to be withheld by the agency, including those documents that are privileged, pre-decisional or work product, a document that would identify a confidential source, or documents identified to a hearing officer as being properly withheld for good cause.[35]

However, SEC rule 201.230(b)(2) specifically states that nothing in the rule ''authorizes the [SEC's] Division of Enforcement in connection with an enforcement or disciplinary proceeding to withhold, contrary to the doctrine of *Brady,* * * * documents that contain material exculpatory evidence.'' [36] Although the SEC has limited the application of rule 201.230 to require the ''production of examination and inspection reports to circumstances where the Division of Enforcement intends to introduce the report into evidence, either in reliance on the report to prove its case, or to refresh the recollection of any witness,'' this limitation ''does not alter the requirement that the Division produce documents containing material exculpatory evidence as required by *Brady* v. *Maryland.''* [37]

As with FERC and the SEC, the Commodity Futures Trading Commission (CFTC) also provides for disclosure of certain information during the ''discovery'' phase of its formal adjudications.[38] In addition to a prehearing exchange of documents, identities of witnesses, and an outline of its case, the CFTC's Division of Enforcement ''shall make available for inspection and copying by the respondents'' certain documents.[39] These documents include all documents subpoenaed by the CFTC and all transcripts of investigative testimony and exhibits to those transcripts.[40] However, the Division of Enforcement may withhold, for example, the identity of a confidential source, confidential investigatory techniques, and other confidential information, such as trade secrets.[41] Privileged documents and information may also be withheld by CFTC's Division of Enforcement.[42]

In the case of this Commission, as a Federal agency engaged in proceedings to find liability of persons under Federal laws, whose conduct can lead to civil penalties and potentially has the reach of the criminal system, it has been the Commission's practice to provide certain types of information to respondents. The Commission is formalizing its practice to ensure effective and fair enforcement of the Act.

The Commission recognizes that *Brady* was decided in the context of a criminal proceeding and that its holding, therefore, does not extend, by its own terms, to a Federal agency civil enforcement agency proceeding. However, the Commission is empowered (a) To civilly pursue matters that may have potential criminal consequences, and (b) to engage respondents in the enforcement process, and possibly in litigation if the Commission and respondents are unable to reach a mutually acceptable voluntary conciliation agreement, where a Court may impose a civil monetary penalty, injunctive, or other relief. *See* 2 U.S.C. 437g(a)(6)(A).

The Commission has also entered into a Memorandum of Understanding with the Department of Justice (DOJ) whereby the Commission will refer certain matters to the DOJ for criminal prosecution review and whereby DOJ will refer matters to the Commission.[43] Nothing in the procedure adopted herein is intended to impact in anyway the Commission's conduct with respect to, and relationship with, the DOJ, including any agreement between the Commission and the DOJ whereby the Commission agrees not to disclose information obtained from the DOJ. The procedure adopted herein provides for mandatory withholding of information by the Office of General Counsel of any documents or information submitted to the Commission by the DOJ either pursuant to an agreement between the Commission and the DOJ or simply upon request from the DOJ not to disclose the information.[44] Moreover, the procedure adopted herein protects from disclosure not only the information submitted by the DOJ but also any information that was derived from such information, including all separate documents quoting, summarizing, or otherwise using information provided by the DOJ.[45]

Accordingly, the Constitutional and ethical principles of fairness and due process in *Brady,* as well as the procedures adopted by other Federal agencies, inform the Commission's adoption of the procedure announced today in its civil administrative enforcement process.

In summary, while the Commission does not believe that the Constitution requires the agency to institute a procedure requiring disclosure of documents and information, including exculpatory information, to respondents in its civil enforcement process, the Commission's enforcement proceedings may, in some instances, inform potential or concurrent criminal proceedings. Accordingly, adopting a formal internal procedure requiring disclosure of information to respondents will (1) Eliminate uncertainty regarding the Commission's position on this issue, (2) serve the Commission's goal of providing fairness to respondents, and (3) set forth a written procedural framework within which disclosures are made.

III. Current Disclosure Process

Before the Commission may determine that there is probable cause to believe a violation of the Act has occurred or is about to occur, the Act permits respondents to present directly to the Commission their interests and positions on the matter under review.

---

[33] *See* FERC Policy Statement at paragraph 9.

[34] *See* 17 CFR 201.230(a)(1) (2010), available at *http://edocket.access.gpo.gov/cfr_2010/aprqtr/pdf/17cfr201.230.pdf.*

[35] 17 CFR 201.230(b)(1).

[36] 17 CFR 201.230(b)(2).

[37] *See* Securities and Exchange Commission, Explanation and Justification: Adoption of Amendments to the Rules of Practice and Delegations of Authority of the Commission, 69 FR 13166, 13170 (Mar. 19, 2004), available at *http://www.sec.gov/rules/final/34-49412.htm.*

[38] *See* 17 CFR 10.42 (2010), available at *http://edocket.access.gpo.gov/cfr_2010/aprqtr/pdf/17cfr10.42.pdf.*

[39] *See* 17 CFR 10.42(a)(1) & (2); 17 CFR 10.42(b)(1).

[40] *Id.* See also *In re First National Monetary Corp.,* Opinion and Order, CFTC No. 79–56, CFTC No. 79–57 (Nov. 13, 1981) (Any material * * * known to the Division of Enforcement, or which by the exercise of due diligence may become known to the Division, that is arguably exculpatory and material to guilt or punishment within the meaning of *Brady* [and its progeny] should be either provided to respondent directly, or provided to the [ALJ], for his determination as to whether it is productible [sic] or not).

[41] 17 CFR 10.42(b)(2).

[42] 17 CFR 10.42(b)(3).

[43] *See* Department of Justice and Federal Election Commission, *Memorandum of Understanding,* 43 F 5441 (Feb. 8, 1978).

[44] *See* Updated Formal Procedure at paragraph (b)(1)(v), below.

[45] *Id.*

The Commission's General Counsel shall notify respondents prior to any recommendation to the Commission by the General Counsel to proceed to a vote on probable cause.[46] Included in this notification is a written brief stating the position of the General Counsel on the legal and factual issues of the case to which respondents may reply.[47] This allows the Commission to be informed not only by the recommendations of its General Counsel, but also by the factual presentations and legal arguments of respondents. By requirement of the Act, or by its discretion, the Commission has similar procedures at various stages of the enforcement process to keep the Commissioners informed both by its staff and by respondents.

In addition, while the Commission may attempt to conciliate matters with respondents at any time, the Act requires the Commission to attempt conciliation after it finds probable cause.[48] If the Commission determines that there is probable cause, the Act requires that, for a period of at least 30 day (or at least 15 days, if the probable cause determination occurs within 45 days of an election), the Commission must attempt to correct or prevent the violation through conference, conciliation, and persuasion.[49]

The General Counsel provides a probable cause brief to respondents presenting OGC's analysis of the information and may address any available exculpatory evidence. The Commission's current practice at the probable cause stage has generally been to provide respondents, upon request, with information cited or relied upon (whether or not cited) in the General Counsel's probable cause brief. Where possible, this has included documents containing the information upon which OGC is relying to support its recommendation to the Commission that there is probable cause to believe a violation of the Act has occurred. This production of documents is subject to all applicable privileges and confidentiality considerations, including the confidentiality provisions of the Act. Where such considerations apply, OGC has generally provided only the relevant information derived from the document, and not the document itself. Examples of the types of documents OGC has provided at this stage are deposition transcripts, responses to formal discovery, and documents obtained in response to requests for documents. In instances where OGC obtains factual information from a source other than the respondent that tends to exculpate the respondent, OGC may note the existence of the information in its brief, particularly if OGC does not know whether a respondent is already aware of the information.[50] In instances where OGC provides mitigating or exculpatory information, OGC provides any documents cited to in connection with that information, such production is also subject to the same privilege and confidentiality concerns noted above.

In two limited instances, OGC may provide information to respondents earlier than the probable cause stage in the enforcement process. First, pursuant to the Commission's Statement of Policy Regarding Deposition Transcriptions in Nonpublic Investigations, all deponents, including respondent deponents, may obtain a copy of the transcript of their own deposition, including any exhibits that may have been obtained from sources other than the respondent, provided there is no good cause to limit the deponent's access to the transcript.[51] Second, OGC may share information, including documents, with respondents during the post-investigative pre-probable cause conciliation process to assist in explaining the factual basis for a violation. That information may include documents not already in the respondent's possession. This practice is used solely for the purpose of facilitating conciliation.

As the current practice has demonstrated, the Commission's probable cause considerations and subsequent conciliation efforts are furthered when, in presenting their respective positions, respondents have the greatest practicable access to documents and information gathered by the agency, including certain information that might be favorable to the respondent. This allows both the Commission's Office of General Counsel and the respondents that are under investigation to present fully informed submissions and frame legal issues for the Commission's consideration.

At the same time, however, the Act and other laws restrict information that the Commission may make public without the consent of persons under investigation.[52] Investigations that involve multiple respondents, each of whom may be at different stages of the enforcement process, raise questions as to what documents and information the Commission may disclose to any given respondent before determining probable cause.

The procedure adopted herein is not intended to expand the disclosure of information regarding a co-respondent as to any such information that is subject to existing confidentiality requirements under the Act. In order to reconcile the Commission's interests in permitting respondents to present fully their positions without compromising the Commission's confidentiality obligations, the Commission is formalizing its procedure. This agency procedure clarifies how the Commission will, consistent with the confidentiality provisions of 2 U.S.C. 437g(A)(12), enhance its enforcement process by permitting increased access to documents and information held by the Commission.

This procedure will allow efficient, fair and just resolution of issues regarding disclosure of exculpatory information and avoid unnecessary consumption of respondent and Commission staff resources in future proceedings.

IV. The Updated Formal Procedure

The Commission is formalizing its agency procedure to provide respondents in enforcement proceedings with relevant information ascertained by the Commission as the result of an investigation. The Commission believes that, while not mandated by the Constitution, the principle of *Brady,* and its judicial progeny, should apply following investigations conducted under Section 437g of the Act and Subpart A of Part 111 of the Commission's regulations.[53]

The Commission believes that formalizing the procedure will promote fairness in the Commission's Section 437g enforcement process. The Commission also believes the procedure articulated in this Notice will promote administrative efficiency and certainty, and will contribute to the Commission's goal of open, fair and just investigations and enforcement proceedings.

For purposes of this procedure, the term ''documents'' includes writings, drawings, graphs, charts, photographs, recordings and other data compilations, including data stored by computer, from which information can be obtained.

[46] *See* 2 U.S.C. 437g(a)(3).

[47] *See* 2 U.S.C. 437g(a)(3); *see also* 11 CFR 111.16.

[48] *See* 2 U.S.C. 437g(a)(4).

[49] *Id.*

[50] When advising the Commission on whether OGC intends either to proceed with its probable cause recommendation or to withdraw the recommendation, OGC will also provide and discuss the potentially exculpatory evidence, as well as any available mitigating evidence. *See* 11 CFR 111.16(d).

[51] *See Statement of Policy Regarding Deposition Transcriptions in Nonpublic Investigations,* 68 FR 50688 (Aug. 22, 2003), available at *http://www.fec.gov/agenda/agendas2003/notice2003-15/fr68n163p50688.pdf.*

[52] *See, e.g.,* 2 U.S.C. 437g(a)(4)(B)(i) and (a)(12).

[53] *See generally* 2 U.S.C. 437g and 11 CFR part 111.

For purposes of this procedure, the term ''exculpatory information'' means information gathered by the Office of General Counsel in its investigation, not reasonably knowable by the respondent, that is relevant to a possible violation of the Act or the Commission's regulations, under investigation by the Commission and that may tend to favor the respondent in defense of violations alleged or which would be relevant to the mitigation of the amount of any civil penalty resulting from a finding of such a violation by a court.

The procedure is as follows:

(a) Documents To Be Produced or Made Available

(1) Subject to paragraphs (b) through (e) of this procedure, and unless otherwise directed by the Commission, by an affirmative vote of four or more Commissioners,[54] the Office of General Counsel shall make available to a respondent all relevant documents gathered by the Office of General Counsel in its investigation, not publicly available and not already in the possession of the respondent, in connection with its investigation of allegations against the respondent. This includes any documents that contain exculpatory information, as defined herein. This shall not include any documents created internally by a Commissioner or by a member of a Commissioner's staff. This shall be done either by producing copies in electronic format or permitting inspection and copying of such documents. The documents covered by this procedure shall include:

(i) Documents, not in possession of a respondent, turned over in response to any subpoenas or other requests, written or otherwise;

(ii) All deposition transcripts and deposition transcript exhibits; and

(iii) Any other documents, not otherwise publicly available and not in possession of a respondent, gathered by the Commission from sources outside the Commission.

(2) Nothing in this paragraph (a) shall limit the authority of the Commission, by an affirmative vote of four or more Commissioners, to make available or withhold any other document, or shall limit the capacity of a respondent to seek access to, or production of, a document through timely written requests to the Commission subsequent to the production of documents pursuant to paragraph (d) below. If respondent submits such a written request, respondent must, if requested to do so by the Commission, sign a tolling agreement for the time necessary to resolve the request.

(3) Nothing in this procedure requires the Office of General Counsel to conduct any search for materials other than those it receives in the course of its investigatory activities. This procedure does not require staff to conduct any search for exculpatory materials that may be found in the offices of other agencies or elsewhere.

(b) Documents That May Be Withheld

(1) Unless otherwise determined by the Commission, as provided in subparagraph (2) below, the Office of General Counsel shall withhold a document or a category of documents from a respondent if:

(i) The document contains privileged information, such as, but not limited to, attorney-client communications, attorney-work product, staff-work product or work product subject to the deliberative process privilege; provided, however, if the document contains only a portion of material that should not be disclosed, if possible to do so effectively, the Office of General Counsel shall excise or redact from such document any information that prevents disclosure if the remaining portion is informative and otherwise qualifies for disclosure as provided herein, prior to disclosing the document or information contained therein;

(ii) The document or category of documents is determined by the General Counsel to be not relevant to the subject matter of the proceeding;

(iii) The Commission is prevented by law or regulation from disclosing the information or documents, including, under certain circumstances, information obtained from, or regarding, co-respondents; [55]

(iv) The document contains information only a portion of which prevents disclosure as provided herein, and that portion cannot be excised or redacted without affecting the main import of the document; or

(v) The Commission obtained the information or documents from the Department of Justice or another government entity, either pursuant to a written agreement with the Department of Justice, or the other government entity, not to disclose the information, documents or category of documents or upon written request from the Department of Justice, or the other government entity. Withholding any such information obtained from the Department of Justice also includes withholding any information that was derived from such information, including all separate documents quoting, summarizing, or otherwise using information provided by the other government entity.

(2) For any document withheld by the General Counsel pursuant to subparagraphs (1)(i)–(1)(iv) above, the Commission may, pursuant to a timely written request by the respondent or otherwise, consider whether to make available such document and, after consideration of relevant law and regulation, by an affirmative vote of four or more Commissioners, may determine, consistent with relevant law and regulation, whether or not it is appropriate to produce such document. If respondent submits such a written request, it must be within 15 days of the Commission's production of documents and respondent must, if requested to do so by the Commission, sign a tolling agreement for the time necessary to resolve the request.

(3) For any document withheld by the General Counsel pursuant to a written agreement with, or written request from, the Department of Justice or the other government entity under subparagraph (1)(v) above, the General Counsel shall provide a report to the Commission identifying the documents and information that has been withheld and providing the Commission with a copy of the written agreement with, or request from, the Department of Justice or the other government entity.

(c) Withheld Document List

(1) Within ten business days of receipt of documents disclosed pursuant to paragraph (d) below, a respondent may request in writing that the Commission direct the General Counsel to produce to the respondent a list of documents or categories of documents withheld pursuant to paragraph (b)(1) of this procedure. If respondent submits such a written request, respondent must sign a tolling agreement for the time necessary, not to exceed 60 days, for the General Counsel to provide the list of documents, unless the Commission, by an affirmative vote of four or more Commissioners, determines that a tolling agreement is not required. Requests for a list of documents or categories of documents shall be granted, unless the Commission, by an

[54] In any instance in which the Office of General Counsel has concerns that disclosure of information pursuant to this procedure would lead to a result that is materially inconsistent with either the Commission's administrative responsibilities or with the promotion of fairness and efficiency in the Commission's enforcement process, the Office of General Counsel may seek formal guidance from the Commission on how it should proceed.

[55] *See* paragraph (e) of this procedure addresses issues regarding documents and information that may be subject to confidentiality pursuant to sections 437g(a)(4)(B)(i) and 437g(a)(12) of the Act. 2 U.S.C. 437g(a)(4)(B)(i) and 437g(a)(12).

affirmative vote of four or more Commissioners, denies the request, in whole or in part. Once the Commission has voted upon the written request, respondent may not seek reconsideration of that decision.

(2) When similar documents are withheld pursuant to paragraph (b)(1), those documents may be identified by category instead of by individual document.

(d) Timing of Production or Inspection and Copying

(1) The disclosure of documents and information referenced herein shall be made pursuant to a timely written request by the respondent filed within fifteen days of the dates specified in subparagraphs (i) and (ii) below, and subject to paragraph (e), or unless otherwise determined by the Commission by an affirmative vote of four or more Commissioners. The General Counsel shall produce in electronic format, or commence making documents available to a respondent for inspection and copying pursuant to this procedure, at the earlier of the following:

(i) The date of the General Counsel's notification to a respondent of a recommendation to the Commission to proceed to a vote on probable cause; or

(ii) No later than seven days after certification of a vote by the Commission to conciliate with a respondent.

(e) Issues Respecting Documents Provided by, or Relating to, Co-respondents

(1) If there is more than one respondent that is under investigation in the same matter, or in related matters, before the General Counsel may produce documents, other than exculpatory information or documents cited or relied on in the General Counsel's brief that accompanies its notice of a recommendation to vote on probable cause, to one co-respondent that either (a) have been provided to the Commission by another co-respondent or (b) that relate to another co-respondent, the General Counsel must obtain a confidentiality waiver from the co-respondent who provided the document or about whom the document relates. Additionally, the respondent receiving such documents may be required to sign a nondisclosure agreement to keep confidential any document or information it obtains from the Commission.

(2) If the co-respondent who provided the document or about whom the document relates does not agree to provide a confidentiality waiver, the General Counsel shall, if it is possible to do so effectively, in accordance with 2 U.S.C. 437g(a)(4)(B)(i) and 437g(a)(12), summarize or redact those portions of the document or documents that are subject to confidentiality under the Act, or are determined to be in the category of documents to be withheld under paragraph (b) in order to remove that portion of material that may not be disclosed.

(3) If the co-respondent who provided the document or about whom the document relates does not agree to provide a confidentiality waiver and it is not possible to effectively summarize or redact those portions of the document or documents that are subject to confidentiality, the General Counsel shall seek direction from the Commission, by an affirmative vote of four or more Commissioners, regarding how to balance the competing concerns of disclosure and confidentiality. In any event, the General Counsel shall produce complete or appropriately redacted copies of those documents cited or relied on in the brief that accompanies its notice of a recommendation to vote on probable cause, whether or not the documents have been specifically identified in the brief.

(4) If the confidentiality issue cannot be resolved with respect to a co-respondent (*e.g.,* lack of waiver, ineffective redaction, *etc.*), the General Counsel may, in an appropriate case make a recommendation to the Commission for segregation of the matters under review.

(5) If any document or information provided to the Commission by a one co-respondent contains exculpatory information, or is cited or relied on in the General Counsel's brief that accompanies its notice of a recommendation to vote on probable cause for another co-respondent, that information or document will be provided to the other co-respondent, which shall be subject to the same redactions described in paragraph (b)(1)(i).

(6) Before disclosing any portion of the document that raises an unresolved confidentiality issue, the General Counsel shall seek a determination by the Commission, by an affirmative vote of four or more Commissioners, that disclosure of a document containing exculpatory information (redacted, summarized, or in any other way altered) conforms to the confidentiality provisions of 2 U.S.C. 437g(a)(4)(B)(i) and 437g(a)(12).

(f) Place of Inspection and Copying Costs and Procedures

(1) Documents subject to inspection and copying pursuant to this procedure shall be made available to the respondent for inspection and copying at the Commission's office, or at such other place as the Commission, in writing, may agree. A respondent shall not be given custody of the documents or leave to remove the documents from the Commission's offices pursuant to the requirements of this procedure unless formal written approval is provided by an affirmative vote of four or more Commissioners.

(2) The respondent may obtain a photocopy of any documents made available for inspection. The respondent is responsible for all costs related to photocopying of any documents.

(g) Continuing Obligation To Produce During Conciliation

(1) If, prior to the completion of an investigation, the Commission votes to enter into conciliation, the General Counsel shall take reasonable and appropriate steps to limit any further formal investigation related to that respondent, so long as the respondent enters into a tolling agreement of the applicable statute of limitation. If there is no such tolling agreement, the formal investigation and conciliation may take place simultaneously. The tolling agreement must have a specific time for its duration approved by the Commission, by an affirmative vote of four or more Commissioners, and shall not be open-ended. If there is more than one respondent under investigation in the same matter, or in related matters, and the Commission votes to enter into conciliation with one or more respondents prior to the completion of a formal investigation, the General Counsel shall take reasonable and appropriate steps to limit any further formal investigation as to those respondents in conciliation, so long as the respondents enter into a tolling agreement of the applicable statute of limitation. If the Commission receives documents in the course of the formal investigation as to respondents not in conciliation that would otherwise be required to be produced under this procedure during such investigation, the Commission shall promptly produce them to the respondent in conciliation pursuant to this procedure.

(2) If the Commission receives documents during such conciliation, from whatever source, the General Counsel shall within a reasonable period of time inform the respondent of any documents obtained that would

otherwise be required to be produced under this procedure, and as to such documents, the General Counsel shall timely produce them to the respondent, consistent with the statutory confidentiality provision preventing disclosure of any information derived in connection with conciliation attempts. 2 U.S.C. 437g(a)(4)(B).

V. Failure To Produce Documents as Required Herein—Remedies and Consequences

In the event that a document required to be made available to a respondent pursuant to this procedure is not made available, no reconsideration by the Commission is required, unless the Commission concludes, by an affirmative vote of four or more Commissioners, that there is a reasonable likelihood that the decision of the Commission or result of the conciliation would have been different than the one made had such disclosure taken place. Any failure by the Commission to make a document available does not create any rights for a respondent to seek judicial review, nor any right for a defendant in litigation to request or receive a dismissal or remand or any other judicial remedy. A respondent may not request reconsideration by the Commission more than ten days after the conclusion of conciliation.

VI. Consequences of Disclosure

Disclosure of documents pursuant to this procedure is not an admission by the Commission that the information or document exculpates or mitigates respondent's liability for potential violations of the Act.

VII. Applicability During Civil Litigation

In any civil litigation with the respondent, the discovery rules of the court in which the matter is pending, and any order made by that court, shall govern the obligations of the Commission. The intention of the Commission is for this procedure to serve as internal guidance only and the procedure adopted herein does not create any rights that are reviewable or enforceable in any court.

VIII. Annual Review

No later than June 1 of each year, the General Counsel shall prepare and distribute to the Commission a report describing the application of the procedure adopted herein over the previous year. This annual report shall include the General Counsel's assessment of whether, and to what extent, the procedure has provided an appropriate balance between the Commission's interest in providing respondents with relevant documents and information and the confidentiality provisions of the Act, consistent with the Commission's goal of maintaining open, fair and just investigations and enforcement proceedings, along with any recommendations from the General Counsel regarding how the Commission could better accomplish that goal.

IX. Conclusion

Failure to adhere to this procedure does not create a jurisdictional bar for the Commission to pursue all remedies to correct or prevent a violation of the Act.

This notice establishes an internal agency procedure for disclosing to respondents documents and information acquired by the agency during its investigations in the enforcement process. This procedure sets forth the Commission's intentions concerning the exercise of its discretion in its enforcement program. However, the Commission retains that discretion and will exercise it as appropriate with respect to the facts and circumstances of each enforcement matter it considers. Consequently, this procedure does not bind the Commission or any member of the general public, not does it create any rights for respondents or third parties. As such, this notice does not constitute an agency regulation requiring notice of proposed rulemaking, opportunities for public participation, prior publication, and delay effective under 5 U.S.C. 553 of the Administrative Procedure Act (APA). The provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), which apply when notice and comment are required by the APA or another statute, are not applicable.

On behalf of the Commission.

Dated: June 2, 2011.

Caroline C. Hunter,

Vice Chair, Federal Election Commission.

[FR Doc. 2011–14096 Filed 6–14–11; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 012093–001.

Title: CSAV/K-Line Space Charter and Sailing Agreement.

Parties: Compania Sud Americana de Vapores and Kawasaki Kisen Kaisha, Ltd.

Filing Parties: Walter H. Lion, Esq.; McLaughlin & Stern, LLP; 260 Madison Avenue; New York, NY 10016.

Synopsis: The amendment adds Greece to the geographic scope of the Agreement and changes the Agreement's name.

Agreement No.: 201211.

Title: Marine Terminal Lease and Operating Agreement between Broward County and H.T. Shipping, Inc., and Hybur Ltd.

Parties: Broward County; H.T. Shipping, Inc.; and Hybur Ltd.

Filing Party: Candace J. Running; Broward County Board of County Commissioners; Office of the County Attorney; 1850 Eller Drive, Suite 502; Fort Lauderdale, FL 33316.

Synopsis: The agreement provides for the lease and operation of terminal facilities at Port Everglades, Florida.

By Order of the Federal Maritime Commission.

Dated: June 10, 2011.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2011–14836 Filed 6–14–11; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. chapter 409 and 46 CFR 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by e-mail at *OTI@fmc.gov*.

Allround Forwarding Co., Inc. (NVO & OFF), 134 West 26th Street, New

York, NY 10001, Officers: Hatto Dachgruber, President (Qualifying Individual), John Wellock, Vice President, Application Type: Name Change

Aplus Worldwide Logistics, Corp. (OFF), 2129 NW. 79th Avenue, Doral, FL 33122, Officer: Alexis E. Parejo, President/Secretary/Treasurer (Qualifying Individual), Application Type: New OFF License

Away International USA, LLC (NVO & OFF), 1211 NW. 93rd Court, Miami, FL 33172, Officers: Alesandro Mestichelli, Secretary (Qualifying Individual), Fabiana Confetti, Vice President, Application Type: New NVO & OFF License

Cargo Mundo International, LLC (NVO & OFF), 1763 NW. 79th Avenue, Doral, FL 33126, Officers: Henry Herrera, Manager (Qualifying Individual), Ruth Navarro, Manager, Application Type: License Transfer

Capital Freight Management Inc. dba Agilent Forwarding Services dba KIC Group(NVO & OFF), 24 Clear Creek, Irvine, CA 92620, Officer: Derek Choi, President/Secretary/Treasurer (Qualifying Individual), Application Type: New NVO & OFF License

DIA Ventures Inc. (NVO & OFF), 6918 Beaconlight Road, Riverdale, MD 20737, Officers: Henry I. Osazuwa, President (Qualifying Individual), Jane Osazuwa, Secretary/Treasurer, Application Type: New NVO & OFF License

Echo Trans World, Inc. (NVO), 462 7th Avenue, 14th Floor, New York, NY 10018, Officer: Moshe Greenwald, President/Secretary (Qualifying Individual), Application Type: QI Change

Esko, Inc. (NVO), 19008 Herb Court, Rowland Heights, CA 91748, Officers: Lin L. Chen, Vice President (Qualifying Individual), Han W. Chang, President/Secretary/Treasurer, Application Type: New NVO License

Express Forwarding, LLC (OFF), 922 East E Street, #B, Wilmington, CA 90744, Officer: Teresa Huang, Chief Executive Manager/Member (Qualifying Individual), Application Type: New OFF License

Freeway Moving & Transportation, LLC dba Freeway Moving (OFF), 28 East Runyon Street, Newark, NJ 07114, Officers: Raquel Berger, Vice President (Qualifying Individual), Eber Palmeira, Operational Manager, Application Type: New OFF License

FreightMate NY Inc. (OFF), 146 Spencer Street, #4005, Brooklyn, NY 11205, Officer: Milka Deutsch, President/Secretary/Treasurer (Qualifying Individual), Application Type: New OFF License

Norgistics North America, Inc. (NVO & OFF), 99 Wood Avenue South, Iselin, NJ 08830, Officers: Estenio Pinzas, President (Qualifying Individual), Edward Keane, Secretary/Treasurer, Application Type: New NVO & OFF License

OGL USA, Inc. dba One Global Logistics (NVO & OFF), 755 Port America Place, #385, Grapevine, TX 76051, Officers: Seung (Jay) H. Lee, President/Secretary (Qualifying Individual), Young A. Song, Vice President/Treasurer, Application Type: New NVO & OFF License

Ramin Razi dba Acorn International (NVO & OFF), 20501 Ventura Blvd., #388, Woodland Hills, CA 91364, Officer: Ramin Razi, Sole Proprietor (Qualifying Individual), Application Type: New NVO & OFF License

Samsung SDS America, Inc. (NVO & OFF), 250 Moonachie Road, Moonachie, NJ 07047, Officers: Jong H. Kim, Secretary (Qualifying Individual), Hakmyung Rho, CEO, Application Type: New NVO & OFF License

S.O. Express Moving International, Inc. (NVO & OFF), 6 Victoria Street, Suite 101, Everett, MA 02149, Officer: Sergio S. De Oliveira, Pres/Treas/Sec/CEO/Director (Qualifying Individual), Application Type: New NVO & OFF License

Specialized Overseas Shipping, Incorporated (NVO & OFF), 6425 Tireman Street, Detroit, MI 48204, Officers: Ali Kain, President/Secretary/Treasurer (Qualifying Individual), Meriam Beydoun, Vice President, Application Type: QI Change

Dated: June 10, 2011.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2011–14837 Filed 6–14–11; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
003628F	South American Freight International, Inc., 9000 W. Flagler Street, Unit 5, Miami, FL 33174	May 7, 2011.
020513N	Oriental Camden Inc. dba Embarque Camden, 2011 River Avenue, Camden, NJ 08105	April 14, 2011.
022074N	Stream Links Express, Inc. dba E-Freight Solutions, 16328 Avalon Road, Gardena, GA 90248	May 6, 2011.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2011–14813 Filed 6–14–11; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocation

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 003672F.

Name: Astral Freight Services, Inc.

Address: 1418 NW. 82nd Avenue, Doral, FL 33126.

Date Revoked: May 13, 2011.

Reason: Failed to maintain a valid bond.

License Number: 004441N.

Name: Econoquality Freight Forwarders, Inc. dba EQ Line.

Address: 3201 NW. 116th Street, Suite B, Miami, FL 33167.

Date Revoked: May 4, 2011.

Reason: Failed to maintain a valid bond.

License Number: 17318NF.

Name: South Florida Auto Terminal Incorporated.

Address: 901 Old Griffin Road, Dania Beach, FL 33004.

Date Revoked: May 4, 2011.

Reason: Failed to maintain valid bonds.

License Number: 18229N.
Name: C.R.C. Universal, Inc.
Address: 7975 NW. 67th Street, Miami, FL 33166.
Date Revoked: May 13, 2011.
Reason: Failed to maintain a valid bond.

License Number: 019706N.
Name: Safe Movers, Inc. dba Isaac's Relocation Service.
Address: 181 Campanelli Parkway, Stoughton, MA 02072.
Date Revoked: May 4, 2011.
Reason: Failed to maintain a valid bond.

License Number: 021094N.
Name: Amid Logistics, LLC.
Address: 10 Florida Park Drive N., Suite D–1A, Palm Coast, FL 32137.
Date Revoked: May 23, 2011.
Reason: Surrendered license voluntarily.

License Number: 021130F.
Name: Bison Global Logistics Inc.
Address: 15508 Bratton Lane, Austin, TX 78728.
Date Revoked: May 14, 2011.
Reason: Failed to maintain a valid bond.

License Number: 021990N.
Name: America Global Logistics, LLC.
Address: 1335 NW. 98th Court, Suite 1, Miami, FL 33172.
Date Revoked: March 26, 2011.
Reason: Failed to maintain a valid bond.

License Number: 022019NF.
Name: International Logistic Services, Inc.
Address: 155–11 146th Avenue, Jamaica, NY 11434.
Date Revoked: May 11, 2011.
Reason: Failed to maintain valid bonds.

License Number: 022063N.
Name: Sar Transport Systems, Inc.
Address: 38 W. 32nd Street, Suite 1309B, New York, NY 10001.
Date Revoked: May 25, 2011.
Reason: Surrendered license voluntarily.

License Number: 022148NF.
Name: R+L Freight Services, L.L.C.
Address: 600 Gilliam Road, Wilmington, OH 45177.
Date Revoked: May 3, 2011.
Reason: Surrendered license voluntarily.

License Number: 022453F.
Name: Joker Logistics USA, Inc.
Address: 11301 Metro Airport Center Drive, Suite 170, Romulus, MI 48174.
Date Revoked: May 16, 2011.
Reason: Surrendered license voluntarily.

License Number: 022705NF.
Name: Post Oak Management Group, L.P. dba Momentum Global Logistics.
Address: 12335 Kingsride, Suite 217, Houston, TX 77024.
Date Revoked: May 18, 2011.
Reason: Failed to maintain valid bonds.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. 2011–14814 Filed 6–14–11; 8:45 am]
BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Vaccine To Protect Children From Anthrax—Public Engagement Workshop

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The National Biodefense Science Board's (NBSB) Anthrax Vaccine (AV) Working Group (WG) will hold a public engagement workshop on July 7, 2011, to discuss vaccine to protect children from anthrax. This meeting is open to the public and prior registration is required. The public may attend in-person or by teleconference.

DATES: The NBSB's AV WG will hold a public engagement workshop on July 7, 2011, to discuss vaccine to protect children from anthrax. The meeting will be from 9 a.m. to 4 p.m. ET.

ADDRESSES: Washington Plaza Hotel, 10 Thomas Circle Northwest, Washington, DC. The call-in details will be posted as they become available on the Workshop's July meeting Web page at *http://www.phe.gov/PREPAREDNESS/LEGAL/BOARDS/NBSB/Pages/default.aspx.*

FOR FURTHER INFORMATION CONTACT: E-mail: *nbsb@hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act (42 U.S.C. 247d–7f) and section 222 of the Public Health Service Act (42 U.S.C. 217a), the Department of Health and Human Services established the NBSB. The Board shall provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The Board may also provide advice and guidance to the Secretary and/or the Assistant Secretary for Preparedness and Response on other matters related to public health emergency preparedness and response.

Background: In a letter dated 27 April 2011, the Assistant Secretary for Preparedness and Response (ASPR), Dr. Nicole Lurie asked the NBSB to consider issues related to the use of anthrax vaccine adsorbed (AVA), BioThrax®, for children. AVA is currently in the Strategic National Stockpile and licensed for use only by healthy persons 18 to 65 years of age for traditional pre-exposure vaccination. It may be used in a declared emergency under an Emergency Use Authorization (EUA) for this same population as post-exposure prophylaxis in combination with licensed antibiotics for prevention of anthrax disease. However, the pediatric population is not covered by the EUA due to lack of safety and immunological data related to the vaccine. If there was known exposure of a population of individuals to anthrax there would be subsequent decisions about, for example, deployment of medical countermeasures (MCMs), evacuation versus sheltering-in-place, and the airborne spread of anthrax outside the city.

Questions about the need for a vaccine program for populations that may continue to live in impacted areas may be raised. Because studies have been done to show safety and effectiveness of anthrax vaccine only for adults, if such an anthrax attack were to occur in the near future, the only way to use the existing vaccine to protect children would be to use an investigational new drug (IND) clinical protocol. These factors complicate operational response and public messaging.

The NBSB has previously identified the need to look at other MCMs for pediatric populations. This Public Engagement Workshop provides an opportunity to include the public in the discussion about vaccines to protect children from anthrax or treat children exposed to anthrax. The forum includes discussion of the types of data and types of studies that may be needed to show whether existing FDA-approved vaccines, could also be used for children. No decisions or recommendations will be made at the Workshop.

Availability of Materials: The meeting agenda and materials will be posted prior to the meeting on the Workshop's July meeting Web page at *http://www.phe.gov/PREPAREDNESS/LEGAL/BOARDS/NBSB/Pages/default.aspx.*

Procedures for Providing Public Input: Any member of the public planning to attend in-person must register in advance by e-mailing *nbsb@hhs.gov*

with ''Vaccine to Protect Children from Anthrax—Public Engagement Workshop'' as the subject line and provide name, address, and affiliation. If you need special assistance, such as sign language interpretation or other reasonable accommodations, please include that in your registration e-mail. A ''listen-only'' teleconference number will be provided on the Web site. Written comments and/or questions may be submitted in advance or during the Workshop and will be provided to the Workshop hosts. There will be two scheduled public comment periods during the Workshop. Public comments will be limited to 2 minutes per person.

Dated: June 8, 2011.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2011–14722 Filed 6–14–11; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day-11–11HJ]

Proposed Data Collections Submitted for Public Comment and Recommendations

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 Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Daniel Holcomb, CDC Reports Clearance Officer, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

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. Written comments should be received within 60 days of this notice.

Proposed Project

Comparing the Effectiveness of Traditional Evidence-Based Tobacco Cessation Interventions to Newer and Innovative Interventions Used by Comprehensive Cancer Control Programs—New—Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Tobacco use remains the leading preventable cause of death in the United States, causing over 443,000 deaths each year and resulting in an annual cost of more than $96 billion in direct medical expenses. The only proven strategy for reducing the risk of tobacco-related morbidity and mortality is to never smoke, or to quit if tobacco use has been initiated. In 1999, CDC's Office on Smoking and Health established the National Tobacco Control Program (NTCP) to encourage coordinated, national efforts to reduce tobacco-related morbidity and mortality. The NTCP provides funding and technical support to Tobacco Control Programs (TCPs) in all 50 states, the District of Columbia, eight Tribal support centers, eight U.S. territories or jurisdictions, and six national networks. TCPs offer evidence-based cessation interventions to increase successful quit attempts.

Tobacco control is also a top priority for Federally-funded Comprehensive Cancer Control (CCC) programs. Currently, 65 organizations are funded through CDC's National Comprehensive Cancer Control Program (NCCCP): All 50 states, the District of Columbia, seven Tribes/Tribal organizations, and seven U.S. territories/Pacific Island Jurisdictions. CCCs work to establish coalitions, assess the burden of cancer, and implement state cancer plans that address interventions from primary prevention to treatment and survivorship. The NCCCP is managed by CDC's Division of Cancer Prevention and Control (DCPC).

Evidence-based tobacco cessation interventions include counseling offered through telephone quitlines (QLs) as well as Web-based counseling services. Although all states currently provide a telephone QL, only 0.05% to 7.25% of adult smokers receive tobacco cessation services via a state QL each year. Mass media (*e.g.,* television, radio, print) has been shown to be the most important and consistent driver of call volume to QLs in some localities, but is resource intensive. Two recent studies comparing the relative effectiveness of telephone versus Web-based interventions have begun to clarify the impact of each intervention but are limited in their generalizability to current TCP activities. To date there are no comprehensive studies that have examined TCP promotional strategies, the populations affected by these strategies, and their effect on QL and Web-based cessation program usage.

To address this gap in knowledge, CDC proposes to conduct a new study of state-based TCPs and their client populations. The study will consist of two components: (1) Quitline promotional activities, and (2) cessation intervention.

Quitline Promotional Activities. The overall goal of this study component is to characterize state-based TCP promotional activities in terms of type and level of advertising; impact in relation to QL call volume; and client characteristics. This study component is based on existing sources of information and entails minimal burden to respondents. Up to 50 state-based TCPs will be asked to participate over a 15-month period. Responding states will provide media purchasing information related to cessation promotional activities and permission to extract de-identified QL call volume data from the National Quitline Data Warehouse (NQDW, OMB No. 0920–0856, exp. 7/31/2012). CDC's data collection contractor will also attempt to obtain Web traffic data using publicly available tools.

Cessation Intervention. The overall goal of this study component is to describe relationships among mode of cessation service delivery (telephone vs. Web); client demographics; and quit success in the last 30 days. A total of 8,000 respondents aged 18 years (4,000 clients who use QL services and 4,000 clients who use Web-based services) will be recruited to participate in the study on a voluntary basis. Regular access to cessation services will be provided to individuals who choose not to participate in this study. Respondents will be recruited from up to four states over a period of up to 12 months. The four participating states must be current NCCCP grantees, have existing relationships with their state TCP, have both telephone and Web-based tobacco cessation programs, and have a state-wide QL registry that conforms to the North American Quitline Consortium's Minimal Data Set (MDS), which provides the framework for the NQDW data collection.

Information collection for the cessation study component will consist of an intake data using MDS-compliant

questions and a follow-up survey seven months after intake. There is minimal burden associated with transmission of intake information to CDC, since this information is already collected by states that are eligible to participate in the study. The seven-month follow-up survey for the cessation study component is a modified version of the follow-up survey administered for the NQDW data collection, and will replace or supplement the NQDW follow-up process. The follow-up survey for the cessation study component will be administered online or by telephone.

The results of this study will provide TCPs, policymakers, CDC, and others with additional evidence for decisionmaking regarding the impact of promotional activities and the comparative effectiveness of traditional versus new and innovative cessation services. The proposed study will complement and extend the usefulness of a companion study of partnerships between CCC programs and tobacco control programs. Both studies are made possible by funding through the American Reinvestment and Recovery Act (ARRA).

OMB approval is requested for two and one-half years. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total burden (in hr)
Tobacco Control Programs.	Quitline Promotion Activities Data	25	4	1	100
	Intake Data for QL Clients	2	4	15/60	2
	Follow-up Survey for QL Clients	2	1,000	15/60	500
	Intake Data for Web Services Clients	2	4	15/60	2
	Follow-up Survey for Web Services Clients	2	1,000	15/60	500
Total					1,104

Dated: June 8, 2011.

Daniel Holcomb,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–14792 Filed 6–14–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–11–11HI]

Proposed Data Collections Submitted for Public Comment and Recommendations

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 Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send written comments to Daniel Holcomb, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

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. Written comments should be received within 60 days of this notice.

Proposed Project

Frame Development for the Long-Term Care Component of the National Health Care Surveys—NEW—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, ''shall collect statistics on health resources * * * [and] utilization of health care, including extended care facilities, and other institutions.''

NCHS seeks approval to collect data needed to develop an up-to-date sampling frame of residential care facilities. The sampling frame will be used to draw a nationally representative sample for a planned new survey, the National Survey of Long-Term Care Providers (NSLTCP). The frame-related data will be collected from officials in state regulatory agencies in the 50 states and the District of Columbia primarily via telephone calls, e-mails, and in a few cases, via formal written requests. The data to be collected from these state officials include (1) confirming the appropriate licensure categories of residential care facilities within each state that meet the NSLTCP definition and (2) for each relevant licensure category, requesting an electronic file of the licensed residential care facilities for which the agency is responsible. The NSLTCP study definition of a residential care facility is one that is licensed, registered, listed, certified, or otherwise regulated by the state; provides room and board with at least two meals a day; provides around-the-clock on-site supervision; helps with activities of daily living (*e.g.,* bathing, eating, or dressing) or medication supervision; serves primarily an adult population; and has at least four beds. Nursing homes, skilled nursing facilities, and facilities licensed to serve the mentally ill or the mentally retarded/developmentally disabled populations exclusively are excluded.

The electronic files we seek to obtain from the states should include the name and address of the residential care facility, name of facility director, licensure category, chain affiliation, and ownership.

NCHS also seeks approval to collect data on state licensing requirements regarding infection control practices during the frame development process. During the conversations with state officials to collect frame-related data,

state officials will be asked to provide limited information on state licensing requirements regarding infection control practices in licensed residential care facilities.

Expected users of aggregate-level summary estimates from this data collection effort include, but are not limited to CDC; other Department of Health and Human Services (DHHS) agencies, such as the Office of the Assistant Secretary for Planning and Evaluation and the Agency for Healthcare Research and Quality; associations, such as LeadingAge (formerly the American Association of Homes and Services for the Aging), National Center for Assisted Living, American Seniors Housing Association, and Assisted Living Federation of America; universities; foundations; and other private sector organizations.

We estimate telephone calls with state officials, including the production of the electronic files will take 90 minutes each. Two year clearance is requested. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Form name	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Response burden in hours
State Officials	Telephone script.	26	1	1.5	39
Total					39

Dated: June 8, 2011.

Daniel Holcomb,

Reports Clearance Officer, Office of the Chief Science Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–14791 Filed 6–14–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day-11-0621]

Proposed Data Collections Submitted for Public Comment and Recommendations

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 Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960, send comments to Daniel Holcomb, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

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. Written comments should be received within 60 days of this notice.

Proposed Project

National Youth Tobacco Surveys (NYTS) 2012–2014—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Tobacco use is a major preventable cause of morbidity and mortality in the U.S. A limited number of health risk behaviors, including tobacco use, account for the overwhelming majority of immediate and long-term sources of morbidity and mortality. Because many health risk behaviors are established during adolescence, there is a critical need for public health programs directed towards youth, and for information to support these programs.

Since 2004, the Centers for Disease Control and Prevention (CDC) has periodically collected information about tobacco use among adolescents (National Youth Tobacco Survey (NYTS) 2004, 2006, 2009, 2011, OMB no. 0920–0621, exp. 12/31/2011). This surveillance activity builds on previous surveys funded by the American Legacy Foundation in 1999, 2000, and 2002.

At present, the NYTS is the most comprehensive source of nationally representative tobacco data among students in grades 9–12, moreover, the NYTS is the only source of such data for students in grades 6–8. The NYTS has provided national estimates of tobacco use behaviors, information about exposure to pro- and anti-tobacco influences, and information about racial and ethnic disparities in tobacco-related topics. Information collected through the NYTS is used to identify trends over time, to inform the development of tobacco cessation programs for youth, and to evaluate the effectiveness of existing interventions and programs.

CDC plans to request OMB approval to conduct additional cycles of the NYTS in 2012, 2013, and 2014. The survey will be conducted among nationally representative samples of students attending public and private schools in grades 6–12, and will be administered to students as an optically scannable, eight-page booklet of multiple-choice questions. Information supporting the NYTS also will be collected from state-, district-, and school-level administrators and teachers. During the 2012–2014 timeframe, a number of changes will be incorporated that reflect CDC's ongoing collaboration with FDA and the need to measure progress toward meeting strategic goals established by the Family Smoking Prevention and Tobacco Control Act. Information collection will occur annually and will include a number of new questions, as well as increased representation of minority youth.

The survey will examine the following topics: use of cigarettes, smokeless tobacco, cigars, pipes, bidis, and kreteks, as well as newer tobacco products (such as snus, electronic cigarette, and dissolvable tobacco products); knowledge and attitudes; media and advertising; access to tobacco products and enforcement of restrictions on access; school curriculum;

environmental tobacco smoke exposure; and cessation.

Results of the NYTS will continue to be used for public health program planning and evaluation. Information collected through the NYTS is also expected to provide multiple measures and data for monitoring progress on six of the 20 tobacco-related objectives for Healthy People 2020.

OMB approval will be requested for three years. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hour)	Total burden (in hour)
State Administrators	State-level Recruitment Script for the NYTS.	35	1	30/60	18
District Administrators	District-level Recruitment Script for the NYTS.	150	1	30/60	75
School Administrators	School-level Recruitment Script for the NYTS.	244	1	30/60	122
Teachers	Data Collection Checklist	816	1	15/60	204
Students	National Youth Tobacco Survey	24,591	1	45/60	18,443
Total					18,862

Dated: June 9, 2011.

Daniel Holcomb,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–14788 Filed 6–14–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Evaluation of the Head Start Safe Families Safe Homes Training Curriculum.

OMB No.: New Collection.

Description: The purpose of this collection is to examine the implementation of the Head Start Safe Families Safe Homes (SFSH) domestic violence training curriculum. The Office of Head Start, within the Administration for Children and Families (ACF) of the Department of Health and Human Services (HHS), is partnering with the Division of Family Violence Prevention of the Family and Youth Services Bureau of the Administration on Children, Youth and Families (ACYF), also located within ACF, in an effort to expand the knowledge base of Head Start staff and build stronger partnerships with domestic violence service providers in local communities. Teams of trainers in each of five states are leading training sessions for 50 participants. The follow-up evaluation will examine implementation of the training curriculum in each of the states. All participants in the local trainings will be asked to complete a brief survey, which will be conducted online. Two members of each of the state leadership teams will be asked to complete a semi-structured phone interview.

Respondents: Head Start staff, state agency staff (*e.g.,* Head Start Collaboration Directors, Domestic Violence Coalition Directors).

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Head Start Safe Families—Safe Home Training Curriculum Survey	250	1	.25	63
Head Start Safe Families—Safe Home Training Curriculum Semi-structured Interview	10	1	.5	5

Estimated Total Annual Burden Hours: 68.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project. *Fax:* 202–395–6974. *Attn:* Desk Officer for the Administration for Children and Families.

Dated: June 7, 2011.

Steven M. Hanmer,

OPRE Reports Clearance Officer.

[FR Doc. 2011–14626 Filed 6–14–11; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Work Participation and TANF/WIA Coordination Project.

OMB No.: New collection.

Description: The Administration for Children and Families (ACF) is proposing an information collection activity as part of the Work Participation and TANF/WIA Coordination Project. The proposed information collection consists of semi-structured interviews with key state/and or local Temporary Assistance for Needy Families (TANF) and Work Investment Act (WIA) respondents on questions of engagement in additional work activities and expenditures of other benefits and services as well as questions concerning TANF/WIA Coordination. Through this information collection, ACF seeks to elucidate the data presented in reports submitted by states to the ACF Office of Family Assistance (OFA) as required by the Claims Resolution Act of 2010. This collection is separate from the state reports to OFA required by the Act. In addition, it will provide documentation of positive TANF/WIA coordination activities.

Respondents: State and/or local administrators responsible for the TANF and WIA Programs.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Discussion Guide for Use with State TANF officials	40	2	8	640

Estimated Total Annual Burden Hours: 640.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget Paperwork Reduction Project Fax: 202–395–6974 Attn: Desk Officer for the Administration for Children and Families.

Dated: June 7, 2011.

Steven M. Hanmer,

OPRE Reports Clearance Officer.

[FR Doc. 2011–14627 Filed 6–14–11; 8:45 am]

BILLING CODE 4184–09–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0378]

Draft Guidance for Industry and Food and Drug Administration Staff; Establishing the Performance Characteristics of In Vitro Diagnostic Devices for the Detection of Methicillin-Resistant Staphylococcus Aureus for Culture-Based Devices; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Establishing the Performance Characteristics of In Vitro Diagnostic Devices for the Detection of Methicillin-Resistant *Staphylococcus Aureus* for Culture-Based Devices.'' This draft guidance document provides industry and Agency staff with recommendations for studies for establishing the performance characteristics of in vitro diagnostic devices for the detection of methicillin-resistant *S. aureus* (MRSA), including those for the detection or detection and differentiation of MRSA versus *S. aureus* (SA) in either human specimens or bacterial growth detected by continuous monitoring blood culture systems. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by September 13, 2011.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Establishing the Performance Characteristics of In Vitro Diagnostic Devices for the Detection of Methicillin-Resistant *Staphylococcus Aureus* (MRSA) for Culture-Based Devices'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Alexandra Wong, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5502, Silver Spring, MD 20993–0002, 301–796–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is issuing this draft guidance to provide industry and Agency staff with recommendations for studies for establishing the performance

characteristics of in vitro diagnostic devices for the detection of MRSA, including those for the detection or detection and differentiation of MRSA versus SA in either human specimens or bacterial growth detected by continuous monitoring blood culture systems. These devices are used to aid in the prevention and control of MRSA/SA infections in health care settings. This document is limited to studies intended to establish the performance characteristics of devices that detect MRSA by growth in culture media or those devices that test for the protein, penicillin-binding protein 2a (PBP2a or PBP2′), expressed by the mecA gene. This includes culture-based devices that use selective or chromogenic media. It does not address the detection of serological response from the host to the MRSA antigens or establish the performance of non-MRSA components of multianalyte or multiplex nucleic acid based devices.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on establishing the performance characteristics of in vitro diagnostic devices for the detection of MRSA for culture-based devices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* To receive ''Establishing the Performance Characteristics of In Vitro Diagnostic Devices for the Detection of Methicillin-Resistant *Staphylococcus Aureus* (MRSA) for Culture-Based Devices,'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1729 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations and guidance documents. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 801 and 21 CFR 809.10 have been approved under OMB control number 0910–0485; and the collections of information in 42 CFR 493.15 have been approved under OMB control number 0910–0598.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 9, 2011.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2011–14789 Filed 6–14–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Resettlement

Award of an Urgent Single-Source Grant to Heartland Alliance, Chicago, IL

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Notice.

CFDA Number: 93.676.

Statutory Authority: Awards announced in this notice are authorized by Section 412 (c)(1)(A) of the Immigration and Nationality Act (INA) (8 U.S.C. 1522(c)(1)(A), as amended, and the Refugee Assistance Extension Act of 1986, Public Law 99–605, Nov 6, 1986, 100 Stat. 3449.

Project Period: June 1, 2011–May 31, 2012.

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR) announces the award of a single-source grant for training and technical assistance on incoming Lesbian, Gay, Bi-Sexual and Transgender (LGBT) refugee cases to Heartland Alliance, Chicago, IL, for a total of $250,000. The additional funding provided by the award will support services to refugees through May 31, 2012.

The current resettlement network has limited understanding of the issues and subgroups. Heartland Alliance will develop training and technical assistance resources, including capacity building and service delivery, specifically targeted at assisting newly arriving LGBT refugees.

Heartland Alliance will have the opportunity to receive a continuation award at the same amount in FY 2012, which will provide the grantee with a two-year project period.

FOR FURTHER INFORMATION CONTACT: Kenneth Tota, Deputy Director, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone (202) 401–4858.

Dated: June 10, 2011.

Eskinder Negash,

Director, Office of Refugee Resettlement.

[FR Doc. 2011–14841 Filed 6–14–11; 8:45 am]

BILLING CODE 4120–27–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities; Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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.

Proposed Project: Transformation Accountability Reporting System—(OMB No. 0930–0285)—Revision

This revised instrument will allow SAMHSA to collect information on two new strategic initiatives—*Trauma and Violence and Military Families.* The new items will be added to the Transformation Accountability (TRAC) Reporting System is a real-time, performance management system that captures information on mental health services delivered in the United States. A wide range of client and program information is captured through TRAC for approximately 400 grantees.

With the addition of new questions regarding military families, experiences with trauma, and experiences with violence GFA, there is a proposed new data collection instrument up for comment. Approval of this information collection will allow SAMHSA to continue to meet Government Performance and Results Act of 1993 (GPRA) reporting requirements that quantify the effects and accomplishments of its discretionary grant programs which are consistent with OMB guidance.

CMHS has increased the number of questions in the instrument to satisfy reporting needs. The following paragraphs present a description of the changes made to the information collection. These questions will be contained in new sections in the Services tool.

Violence and Trauma—CMHS proposes to add the following 6 items in a new section entitled ''Violence and Trauma''

1. Have you ever experienced violence or trauma in any setting (including community or school violence; domestic violence; physical, psychological, or sexual maltreatment/assault within or outside of the family; natural disaster; terrorism; neglect; or traumatic grief)? No, (skip to next section)

2. Did any of these experiences feel so frightening, horrible, or upsetting that in the past and/or the present that you:

2a. Have had nightmares about it or thought about it when you did not want to?

2b. Tried hard not to think about it or went out of your way to avoid situations that remind you of it?

2c. Were constantly on guard, watchful, or easily startled?

2d. Felt numb and detached from others, activities, or your surroundings?

3. In the past 30 days, how often have you been hit, kicked, slapped, or otherwise physically hurt?

• *Experiences with Violence and Trauma*—One of SAMHSA's 10 Strategic Initiatives is trauma and violence. In order to capture this information, CMHS is adding six new questions to be asked of respondents. This information will help in SAMHSA's overall goal of reducing the behavioral health impacts of violence and trauma by encouraging substance abuse treatment programs to focus on trauma-informed services.

Military Family and Deployment—CMHS proposes to add the following 6 new items in a new section entitled ''Military Family and Deployment''

1. Have you ever served in the Armed Forces, in the Reserves, or the National Guard [select all that apply]? No, (Skip to #2)

1b. Are you currently on active duty in the Armed Forces, in the Reserves, or the National Guard [select all that apply]?

1c. Have you ever been deployed to a combat zone?

2. Is anyone in your family or someone close to you on active duty in the Armed Forces, in the Reserves, or the National Guard, or separated or retired from Armed Forces, Reserves, or the National Guard? No, (Skip to next section)

3. What is the relationship of that person (Service Member) to you?

3b. Has the Service Member experienced any of the following (check all that apply):

- ○ Deployed in support of Combat Operations (e.g. Iraq or Afghanistan)
- ○ Was physically Injured during combat Operations
- ○ Developed combat stress symptoms/difficulties adjusting following deployment, including PTSD, Depression, or suicidal thoughts
- ○ Died or was killed

• *Veteran Family Status and Areas of Deployment*—SAMHSA is also interested in collecting data on active duty and veteran military members. Collection of these data will allow CMHS to identify the number of veterans served, deployment status and location, and family veteran status in conjunction with the types of services they may receive. Identifying a client's veteran status and deployment area allows CMHS and the grantees to monitor these clients and explore whether special services or programs are needed to treat them for substance abuse and other related issues. Identification of veteran status and other military family issues will also allow coordination between SAMHSA and other Federal agencies in order to provide a full range of services to veterans. CMHS will also be able to monitor their outcomes and activities per the NOMS. The total annual burden estimate is shown below:

ESTIMATES OF ANNUALIZED HOUR BURDEN—CMHS CLIENT OUTCOME MEASURES FOR DISCRETIONARY PROGRAMS

Type of response	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Hourly wage cost	Total hour cost
Client-level baseline interview	15,681	1	15,681	0.48	7,527	$15 [1]	$112,905
Client-level 6-month re-assessment interview	10,646	1	10,646	0.367	3,907	15	58,605
Client-level discharge interview [2]	4,508	1	4,508	0.367	1,655	15	24,825
Client-level baseline chart abstraction	2,352	1	2,352	0.1	235	15	3,525
Client-level reassessment chart abstraction [3]	9,017	1	9,017	0.1	902	15	13,530
Client-level Subtotal [4]	15,681		15,681		14,226	15	213,390

ESTIMATES OF ANNUALIZED HOUR BURDEN—CMHS CLIENT OUTCOME MEASURES FOR DISCRETIONARY PROGRAMS—Continued

Type of response	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Hourly wage cost	Total hour cost
Infrastructure development, prevention, and mental health promotion quarterly record abstraction	942	4	3,768	4	15,072	35 [5]	527,520
Total	16,623	.....	.....	.....	29,298	.....	740,910

[1] Based on minimum wage.
[2] Based on an estimate that it will be possible to conduct discharge interviews on 40 percent of those who leave the program.
[3] Chart abstraction will be conducted on 100 percent of those discharged.
[4] This is the maximum additional burden if all consumers complete the baseline and periodic reassessment interviews.
[5] To be completed by grantee Project Directors, hence the higher hourly wage.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 8–1099, 1 Choke Cherry Road, Rockville, MD 20857 *or* e-mail her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received within 60 days of this notice.

Dated: June 8, 2011.

Elaine Parry,

Director, Office of Management, Technology and Operations.

[FR Doc. 2011–14797 Filed 6–14–11; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities; Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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.

Proposed Project: National Outcome Measures (NOMs) for Substance Abuse Prevention—(OMB No. 0930–0230)—Revision

This revised instrument will allow SAMHSA to collect information on a new strategic initiative—*Military Families.* The new items will be added to the Center for Substance Abuse Prevention's (CSAP) National Outcome Measures for Substance Abuse Prevention (NOMs). Data are collected from SAMHSA/CSAP grants and contracts where community and participant outcomes are assessed. The analysis of these data helps determine whether progress is being made in achieving SAMHSA/CSAP's mission. The primary purpose of this system is to promote the use among SAMHSA/CSAP grantees and contractors of common National Outcome Measures recommended by SAMHSA/CSAP with significant input from panels of experts and state representatives.

With the addition of new questions regarding military families, there is a proposed new data collection instrument up for comment. Approval of this information collection will allow SAMHSA to continue to meet Government Performance and Results Act of 1993 (GPRA) reporting requirements that quantify the effects and accomplishments of its discretionary grant programs which are consistent with OMB guidance, and address goals and objectives outlined in the Office of National Drug Control Policy's Performance Measures of Effectiveness.

CSAP has increased the number of questions in the instrument to satisfy reporting needs. The following paragraphs present a description of the changes made to the information collection. These questions will be contained in new sections in the Services tool.

Military Family and Deployment—CSAP proposes to add the following 6 new items in the adult tool and 3 new items in the youth tool in a new section entitled ''Military Family and Deployment.''

Adult

1. Have you ever served in the Armed Forces, in the Reserves, or the National Guard [select all that apply]? No, (Skip to #2)
   1b. Are you currently on active duty in the Armed Forces, in the Reserves, or the National Guard [select all that apply]?
   1c. Have you ever been deployed to a combat zone?
2. Is anyone in your family or someone close to you on active duty in the Armed Forces, in the Reserves, or the National Guard, or separated or retired from the Armed Forces, Reserves, or the National Guard? No, (Skip to next section)
3. What is the relationship of that person (Service Member) to you?
   3b. Has the Service Member experienced any of the following (check all that apply):
   - ○ Deployed in support of Combat Operations (e.g. Iraq or Afghanistan)
   - ○ Was physically Injured during Combat Operations
   - ○ Developed combat stress symptoms/difficulties adjusting following deployment, including PTSD, Depression, or suicidal thoughts
   - ○ Died or was killed

Youth

1. Is anyone in your family or someone close to you on active duty in the Armed Forces, in the Reserves, or the National Guard, or separated or retired from Armed Forces, Reserves, or the National Guard? No, (Skip to next section)
2. What is the relationship of that person (Service Member) to you?

2b. Has the Service Member experienced any of the following (check all that apply):
- ○ Deployed in support of Combat Operations (e.g. Iraq or Afghanistan)
- ○ Was physically injured during combat operations
- ○ Developed combat stress symptoms/difficulties adjusting following deployment, including PTSD, Depression, or suicidal thoughts
- ○ Died or was killed

• *Veteran Family Status and Areas of Deployment*—SAMHSA is interested in collecting data on active duty and veteran military members. Collection of these data will allow CSAP to identify the number of veterans served, deployment status and location, and family veteran status in conjunction with the types of services they may receive. Identifying a participant's veteran status and deployment area allows CSAP and the grantees to monitor these participants and explore whether special services or programs are needed to treat them for substance abuse and other related issues. Identification of veteran status and other military family issues will also allow coordination between SAMHSA and other Federal agencies in order to provide a full range of services to veterans. CSAP will also be able to monitor their outcomes and activities per the NOMS. The total annual burden estimate is shown below:

SAMHSA/CSAP program	Number of grantees	Number of respondents	Responses per respondent	Hours/response	Total hours
FY 11					
Science/Services:					
Fetal Alcohol	23	4,800	3	0.4	5,760
Capacity:					
HIV/Targeted Capacity	122	31,964	3	0.83	79,590
SPF SIG	51	.....	0	.....	.....
SPF SIG/Community Level*	.....	765	1	0.83	635
SPF SIG/Program Level*	.....	19,125	3	0.4	22,950
PFS	5	.....	0	.....	.....
PFS/Community Level*	.....	75	1	0.83	62
PFS/Program Level*	.....	1,875	3	0.4	2,250
PPC	N/A	N/A	N/A	N/A	N/A
FY 12					
Science/Services:					
Fetal Alcohol	23	4,800	3	0.4	5,760
Capacity:					
HIV/Targeted Capacity	122	31,964	3	0.83	79,590
SPF SIG	51	.....	0	.....	.....
SPF SIG/Community Level*	.....	765	1	0.83	635
SPF SIG/Program Level*	.....	19,125	3	0.4	22,950
PFS	10	.....	0	.....	.....
PFS/Community Level*	.....	150	1	0.83	125
PFS/Program Level*	.....	3,750	3	0.4	4,500
PPC	50	25,000	1	0.83	20,750
FY 13					
Science/Services:					
Fetal Alcohol	23	4,800	3	0.4	5,760
Capacity:					
HIV/Targeted Capacity	122	31,964	3	0.83	79,590
SPF SIG	35	.....	0	.....	.....
SPF SIG/Community Level*	.....	525	1	0.83	436
SPF SIG/Program Level*	.....	13,125	3	0.4	15,750
PFS	15	.....	0	.....	.....
PFS/Community Level*	.....	225	1	0.83	187
PFS/Program Level*	.....	5,625	3	0.4	6,750
PPC	50	25,000	1	0.83	20,750
Annual Average	.....	11,271	.....	.....	18,739

*The Strategic Prevention Framework State Incentive Grant (SPF SIG) and Partnerships for Success (PFS) have a three level evaluation: The Grantee, Community and Program Level. The Grantee level data will be pre-populated by SAMHSA. The use of the Community Level instrument is optional as they relate to targeted interventions implemented during the reporting period. At the program level, items will be selected in line with direct services implemented.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 8–1099, 1 Choke Cherry Road, Rockville, MD 20857 *or* e-mail her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received within 60 days of this notice.

Dated: June 8, 2011.

Elaine Parry,

Director, Office of Management, Technology and Operations.

[FR Doc. 2011–14796 Filed 6–14–11; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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.

Proposed Project: Services Accountability Improvement System—(OMB No. 0930–0208)—Revision

This revised instrument will allow SAMHSA to collect information on two new strategic initiatives—*Trauma and Violence and Military Families.* The new items will be added to the Services Accountability Improvement System (SAIS), which is a real-time, performance management system that captures information on the substance abuse treatment and mental health services delivered in the United States. A wide range of client and program information is captured through SAIS for approximately 600 grantees. Substance abuse treatment facilities submit their data on a monthly and even a weekly basis to ensure that SAIS is an accurate, up-to-date reflection on the scope of services delivered and characteristics of the treatment population. Over 30 reports on grantee performance are readily available on the SAIS Web site. The reports inform staff on the grantees' ability to serve their target populations and meet their client and budget targets. SAIS data allow grantees information that can guide modifications to their service array.

With the addition of new questions regarding military families, experiences with trauma, and experiences with violence GFA, there is a proposed new data collection instrument up for comment. Approval of this information collection will allow SAMHSA to continue to meet Government Performance and Results Act of 1993 (GPRA) reporting requirements that quantify the effects and accomplishments of its discretionary grant programs which are consistent with OMB guidance.

CSAT has increased the number of questions in the instrument to satisfy reporting needs. The following paragraphs present a description of the changes made to the information collection. These questions will be contained in new sections in the GPRA tool.

Section H. Violence and Trauma—CSAT proposes to add the following 6 items in a new section entitled ''Violence and Trauma''.

1. Have you ever experienced violence or trauma in any setting (including community or school violence; domestic violence; physical, psychological, or sexual maltreatment/assault within or outside of the family; natural disaster; terrorism; neglect; or traumatic grief)? No, (skip to next section)

2. Did any of these experiences feel so frightening, horrible, or upsetting that in the past and/or the present that you:

2a. Have had nightmares about it or thought about it when you did not want to?

2b. Tried hard not to think about it or went out of your way to avoid situations that remind you of it?

2c. Were constantly on guard, watchful, or easily startled?

2d. Felt numb and detached from others, activities, or your surroundings?

3. In the past 30 days, how often have you been hit, kicked, slapped, or otherwise physically hurt?

• *Experiences with Violence and Trauma*—One of SAMHSA's 10 Strategic Initiatives is trauma and violence. In order to capture this information, CSAT is adding six new questions to be asked of respondents. This information will help in SAMHSA's overall goal of reducing the behavioral health impacts of violence and trauma by encouraging substance abuse treatment programs to focus on trauma-informed services.

Section L. Military Family and Deployment—CSAT proposes to add the following 6 new items in a new section entitled ''Military Family and Deployment''.

1. Have you ever served in the Armed Forces, in the Reserves, or the National Guard [select all that apply]? No, (Skip to #2)

1b. Are you currently on active duty in the Armed Forces, in the Reserves, or the National Guard [select all that apply]?

1c. Have you ever been deployed to a combat zone?

2. Is anyone in your family or someone close to you on active duty in the Armed Forces, in the Reserves, or the National Guard, or separated or retired from Armed Forces, Reserves, or the National Guard? No, (Skip to next section)

3. What is the relationship of that person (Service Member) to you?

3b. Has the Service Member experienced any of the following (check all that apply):

- ○ Deployed in support of Combat Operations (*e.g.* Iraq or Afghanistan)
- ○ Was physically Injured during combat Operations
- ○ Developed combat stress symptoms/difficulties adjusting following deployment, including PTSD, Depression, or suicidal thoughts
- ○ Died or was killed

• *Veteran Family Status and Areas of Deployment*—SAMHSA is also interested in collecting data on active duty and veteran military members. Collection of these data will allow CSAT to identify the number of veterans served, deployment status and location, and family veteran status in conjunction with the types of services they may receive. Identifying a client's veteran status and deployment area allows CSAT and the grantees to monitor these clients and explore whether special services or programs are needed to treat them for substance abuse and other related issues. Identification of veteran status and other military family issues will also allow coordination between SAMHSA and other Federal agencies in order to provide a full range of services to veterans. CSAT will also be able to monitor their outcomes and activities per the NOMS. The total annual burden estimate is shown below:

ESTIMATES OF ANNUALIZED HOUR BURDEN [1]—CSAT GPRA CLIENT OUTCOME MEASURES FOR DISCRETIONARY PROGRAMS

Center/form/respondent type	No. of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Added burden proportion [2]
Clients						
Adolescents	3,900	4	15,600	.5	7,800	.34
Adults:						
General (non ATR or SBIRT)	28,000	3	84,000	.5	42,000	.34
ATR	53,333	3	159,999	.5	80,000	.34
SBIRT [4] Screening Only	150,618	1	150,618	.13	19,580	0
SBIRT Brief Intervention	27,679	3	83,037	.20	16,607	0
SBIRT Brief Tx & Refer to Tx	9,200	3	27,600	.5	13,800	.34
Client Subtotal	272,730		520,854		179,787	
Data Extract [5] and Upload						
Adolescent Records	44 grants	44 × 4	176	.18	32	—
Adult Records:						
General (non ATR or SBIRT)	528 grants	70 × 3	210	.18	38	—
ATR Data Extract	53,333	3	160,000	.16	25,600	—
ATR Upload [6]	24 grants	3	160,000	1 hr. per 6,000 records	27	—
SBIRT Screening Only Data Extract	9 grants	21,517 × 1	21,517	.07	1,506	—
SBIRT Brief Intervention Data Extract	9 grants	3,954 × 3	11,862	.10	1,186	—
SBIRT Brief Tx & Refer to Tx Data Extract.	9 grants	1,314 × 3	3,942	.18	710	—
SBIRT Upload [7]	7 grants		171,639	1 hr. per 6,000 records	29	—
Data Extract and Upload Subtotal.	53,856		529,382		29,134	
Total	326,586		1,050,236		208,921	

Notes:

1. This table represents the maximum additional burden if adult respondents, for the discretionary services programs including ATR, provide three sets of responses/data and if CSAT adolescent respondents, provide four sets of responses/data.
2. Added burden proportion is an adjustment reflecting customary and usual business practices programs engage in (*e.g.,* they already collect the data items).
3. Estimate based on 2010 hourly wave of $19.97 for U.S. workforce eligible from the Bureau of Labor Statistics
4. Screening, Brief Intervention, Treatment and Referral (SBIRT) grant program:
   * 27,679 Brief Intervention (BI) respondents complete sections A & B of the GPRA instrument, all of these items are asked during a customary and usual intake process resulting in zero burden; and
   * 9,200 Brief Treatment (BT) & Referral to Treatment (RT) respondents complete all sections of the GPRA instrument.
5. Data Extract by Grants: Grant burden for capturing customary and usual data.
6. Upload: all 24 ATR grants upload data.
7. Upload: 7 of the 9 SBIRT grants upload data; the other 2 grants conduct direct data entry.

Based on current funding and planned fiscal year 2010 notice of funding announcements (NOFA), the CSAT programs that will use these measures in fiscal years 2010 through 2012 include: the Access to Recovery 2 (ATR2), ATR3, Addictions Treatment for Homeless; Adult Criminal Justice Treatment; Assertive Adolescent Family Treatment; HIV/AIDS Outreach; Office of Juvenile Justice and Delinquency Prevention—Brief Intervention and Referral to Treatment (OJJDP–BIRT); OJJDP–Juvenile Drug Court (OJJDP–JDC); Offender Re-entry Program; Pregnant and Postpartum Women; Recovery Community Services Program—Services; Recovery Oriented Systems of Care; Screening and Brief Intervention and Referral to Treatment (SBIRT), Targeted Capacity Expansion (TCE); TCE/HIV; Treatment Drug Court; and the Youth Offender Reentry Program. SAMHSA uses the performance measures to report on the performance of its discretionary services grant programs. The performance measures information is used by individuals at three different levels: the SAMHSA administrator and staff, the Center administrators and government project officers, and grantees

SAMHSA and its Centers will use the data for annual reporting required by GPRA and for NOMs comparing baseline with discharge and follow-up data. GPRA requires that SAMHSA's report for each fiscal year include actual results of performance monitoring for the three preceding fiscal years. The additional information collected through this process will allow SAMHSA to report on the results of these performance outcomes as well as be consistent with the specific performance domains that SAMHSA is implementing as the NOMs, to assess the accountability and performance of its discretionary and formula grant programs.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 8–1099, 1 Choke Cherry Road, Rockville, MD 20857 *or* e-mail her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received within 60 days of this notice.

Dated: June 8, 2011. _

Elaine Parry,

Director, Office of Management, Technology and Operations.

[FR Doc. 2011–14795 Filed 6–14–11; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0016]

Recovery Policy RP9523.4, Demolition of Private Structures

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) is accepting comments on Recovery Policy RP9523.4, *Demolition of Private Structures*.

DATES: Comments must be received by July 15, 2011.

ADDRESSES: Comments must be identified by docket ID FEMA–2011–0016 and may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Please note that this proposed policy is not a rulemaking and the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

Mail: Legislation, Regulations, & Policy Division, Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Amanda Brown, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, *Amanda.Brown@dhs.gov,* 202–646–3869.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Instructions: All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the ''Privacy Notice'' link in the footer of *http://www.regulations.gov*.

You may submit your comments and material by the methods specified in the **ADDRESSES** section. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

Docket: The proposed policy is available in docket ID FEMA–2011–0016. For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for the docket ID. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C Street, SW., Washington, DC 20472.

II. Background

This policy provides guidance in determining the eligibility of demolition of private structures under the provisions of the Public Assistance Program. FEMA proposes to include the removal of slabs and/or foundations that were part of a demolished structure as an eligible demolition activity. This work is not eligible under FEMA's current policy.

FEMA seeks comment on the proposed policy, which is available online at *http://www.regulations.gov* in docket ID FEMA–2011–0016. Based on the comments received, FEMA may make appropriate revisions to the proposed policy. Although FEMA will consider any comments received in the drafting of the final policy, FEMA will not provide a response to comments document. When or if FEMA issues a final policy, FEMA will publish a notice of availability in the **Federal Register** and make the final policy available at *http://www.regulations.gov*.

Authority: 42 U.S.C. 5121–5207; 44 CFR part 206.

David J. Kaufman,

Director, Office of Policy and Program Analysis, Federal Emergency Management Agency.

[FR Doc. 2011–14871 Filed 6–14–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2010–0048]

Recovery Policy RP9525.16, Research-Related Equipment and Furnishings

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability.

SUMMARY: This document provides notice of the availability of the final policy RP9525.16, *Research-related Equipment and Furnishings.* The Federal Emergency Management Agency (FEMA) published a notice of availability and request for comments on August 13, 2010.

DATES: This policy is effective May 3, 2011.

ADDRESSES: This final policy is available online at *http://www.regulations.gov* and on FEMA's Web site at *http://www.fema.gov.* The proposed and final policy, all related **Federal Register** notices, and all public comments received during the comment period are available at *http://www.regulations.gov* under docket ID FEMA–2010–0048. You may also view a hard copy of the final policy at the Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Deborah Atkinson, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, or via e-mail at *Deborah.Atkinson@dhs.gov.*

SUPPLEMENTARY INFORMATION:

The intent of this policy is to identify the expenses associated with disaster-damaged research-related equipment and furnishings of eligible private nonprofit or public facilities that are eligible for reimbursement under the Public Assistance (PA) Program. FEMA requested review and comment on the draft policy from August 13, 2010, through September 13, 2010 (75 FR 49506). FEMA received and adjudicated the comments. While the final policy does not make significant substantive changes to the previously effective policy (dated April 30, 2007), the updated policy does include clarifying language in several sections. These clarifications include: additional language on FEMA authorities in section V; the addition of section VI.D on the application of existing PA insurance requirements; a minor clarification in VIII.A indicating that an active research program must support an eligible function; an update to VIII.B.1 that allows an applicant input on decisions regarding the genetic likeness of lab animals; the deletion document retention language in VIII.B.3, given that existing PA documentation requirements apply to all PA projects, including involving research-related equipment and furnishings; and a minor clarification in section VIII.F by citing the specific relevant provision in the regulations.

Authority: 42 U.S.C. 5121–5207; 44 CFR part 206.

David J. Kaufman,

Director, Office of Policy and Program Analysis, Federal Emergency Management Agency.

[FR Doc. 2011–14867 Filed 6–14–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning the Country of Origin of Certain Office Chairs

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (''CBP'') has issued a final determination concerning the country of origin of certain office chairs. Based upon the facts presented, CBP has concluded in the final determination that the U.S. is the country of origin of the office chairs for purposes of U.S. government procurement.

DATES: The final determination was issued on June 9, 2011. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before July 15, 2011.

FOR FURTHER INFORMATION CONTACT: Elif Eroglu, Valuation and Special Programs Branch: (202) 325–0277.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 9, 2011, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of the SAYL task chair and the SAYL side chair which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, Headquarters Ruling Letter (''HQ'') H154135, was issued at the request of Herman Miller, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the assembly of the SAYL task chair and the SAYL side chair in the U.S., from parts made in China, Canada, and the U.S., constitutes a substantial transformation, such that the U.S. is the country of origin of the finished articles for purposes of U.S. government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: June 9, 2011.

Sandra L. Bell,

Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

HQ H154135

June 9, 2011

OT:RR:CTF:VS H154135 EE

CATEGORY: Marking

Lisa A. Crosby
Sidley Austin, LLP
1501 K Street, NW
Washington, D.C. 20005

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B, Part 177, CBP Regulations; Office Chairs

Dear Ms. Crosby:

This is in response to your correspondence of March 4, 2011, requesting a final determination on behalf of Herman Miller, Inc. (''Herman Miller''), pursuant to subpart B of part 177, U.S. Customs and Border Protection (''CBP'') Regulations (19 C.F.R. § 177.21 et seq.). Under the pertinent regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of the SAYL task chair and the SAYL side chair (collectively, the SAYL office chairs). We note that Herman Miller is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

Herman Miller is a U.S. supplier of furniture products and accessories for home, office, healthcare and learning environments. The merchandise at issue is the Herman Miller SAYL task chair and the SAYL side chair. You state that Herman Miller engineered and designed the office chairs wholly within the U.S. The assembly of the office chairs, from U.S. and imported components, occurs in the U.S.

The SAYL task chair is intended for the principal occupant in an office and it swivels and has casters. The SAYL side chair is intended to serve as a guest chair in an office; it does not swivel, although it can be equipped with casters. Both SAYL office chairs have a variety of ergonomic features. For example, the SAYL task chair provides pelvic stabilization and the height may be adjusted and tilted to allow the body to naturally pivot at the ankles, knees, and hips. The seat depth adjusts. Two back support options are available to improve posture and lower back comfort. Three arm choices are also available—fixed, height-adjustable and fully-adjustable (i.e., pivot, fore/aft slide, in/out slide).

The SAYL chairs are offered in several aesthetic configurations: 1) upholstered back, 2) single surface elastomeric thermo-plastic urethane (''TPU'') (i.e., mesh) back, and 3) an injection molded hard plastic back (not the subject of this final determination request). All configurations offer two leg options: a four-leg base and a cantilever base.

The SAYL task chair, depending on its specific configuration, comprises approximately 35 components (excluding fasteners). The SAYL side chair, depending on its specific configuration, comprises approximately 15 components (excluding fasteners). All of the components are of U.S., Chinese, or Canadian origin.

You submitted the costed bills of materials for the SAYL task chair and the SAYL side chair. Each bill of material represents a different aesthetic configuration. The two types of SAYL office chairs share many of the same components. The components from China of the SAYL chairs include: casters, tilt assembly, cylinder, arm supports, and plastic back (including the TPU mesh). The component from Canada is a five-star base subassembly. The components from the U.S. include: foam seat assembly, crossing, seat pan, spine, pelvis, mid-back foam assembly, leg base, glides, back frame, arms, and back assembly.

You state that the manufacture of both types of SAYL office chairs involves similar processes. The production in the U.S. involves approximately 35 individual steps to convert the components into a finished chair. From start to finish, including quality testing and packaging, it takes approximately 19 minutes to manufacture the TPU mesh configuration and 17 minutes to manufacture the upholstered configuration.

TPU Mesh Configuration

You state that the production of both types of SAYL chairs with the TPU mesh configuration begins with Herman Miller receiving a sheet of Chinese-origin TPU mesh from its supplier in the exact size and shape requested by Herman Miller. The TPU mesh is placed in a custom-made machine, which is designed to stretch the mesh into the required shape.

Two arrow hangers are then added to the two top points of the TPU mesh. Using a special fixture, the hangers are pressed into place and the TPU mesh is stretched into a secure position in each hanger. Next, two strips of plastic featuring a dozen tabs are placed at the bottom of the TPU mesh, with

one strip on each side of the mesh. Using a special hand tool, each tab is bent upward in order to attach each strip of plastic to the TPU mesh. The TPU mesh is then ready for assembly with the spine and back. The Y-shaped spine is placed on top of the TPU mesh. The pelvis is then inserted into the Y-shaped spine. Next, the TPU mesh is stretched horizontally using a special tool. Arm sleeves are affixed to the TPU mesh. Using the stretcher fixture, the TPU mesh is stretched over the Y-shaped spine so that the two hangers at the top of the mesh fit over the spine. The TPU mesh is stretched until it snaps into place.

The next step is to prepare the seat subassembly to which the TPU mesh-spine-pelvis subassembly is attached. Each seat consists of a foam base that is upholstered. The foam base is assembled with a plastic frame in advance. The seat upholstery is also cut and sewn into shape in advance. The upholstery is placed tightly over the foam base and is stapled into place. Then, the bottom frame and seat subassembly are secured into place by hand-driven screws.

Next, the legs are prepared for insertion into the bottom frame. The five-star base subassembly is fitted with a top. Two adjustment levers, which permit the chair to tilt, are inserted into the top of the five-star subassembly. A mechanical subassembly, which houses the tilting mechanism and other aspects of the chair's ergonomic features, is fitted onto the top. The mechanical subassembly, top and five-star base subassembly are then joined with the seat.

Next, the arm pads are inserted into the arms and secured with hand-driven screws. The arms are fitted into the arm sleeves. The components are pressed together until they snap into place.

Upholstered Configuration

The first step in the production of both types of SAYL chairs with the upholstered configuration is to sew the cover of the chair back from U.S.-origin fabric. Depending on the fabric chosen, a liner may be sewn into the back side of the cover. A button hole also is sewn into the back side of the cover.

Next, the foam base for the chair back is upholstered with the cover. A plug or control handle which controls the adjustability of the seat back is inserted into the buttonhole on the backside of the cover. A ''doghouse,'' or half circle, is then aligned inside the center back of the foam base. Using the doghouse as a guide, the fabric in the interior of the doghouse is cut, folded over and stapled in place.

Next, the joints for attaching the spine are affixed to the chair back. A Y-shaped spine is then prepared for attachment to the pivot joints by inserting tabs into the spine. The top of the spine is then forced down onto the pivot joints until they click into place. The bottom of the spine fits into the opening created by the doghouse operation previously described. Then, nut plates are installed on either side of the chair. Arm sleeves are affixed to the nut plates using hand-driven screws.

Next, the pelvis is assembled with the chair back. The pelvis and chair back then are joined with the seat. The seat is assembled in a manner similar to the chair back. Fabric is cut and sewn into a cover, which is fitted over a foam base. The cover is stretched tight over the foam base. Then, the seat handle is installed.

Next, the arm pads are inserted into the arms and secured with hand-driven screws. The arms are then fitted into the arm sleeves. The components are pressed together until they snap into place.

You provided a copy of the product brochure for the SAYL office chairs. Additionally, you submitted an example of Herman Miller's research in the field of ergonomics; sample job instructions which explain each step involved in the manufacturing process of the SAYL office chairs; and a DVD which depicts the assembly procedures for the SAYL office chairs. You also provided a list of patents applicable to the SAYL office chairs.

ISSUE:

What is the country of origin of the SAYL task chair and the SAYL side chair for the purpose of U.S. government procurement?

LAW AND ANALYSIS:

Pursuant to subpart B of part 177, 19 C.F.R. § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. government procurement, CBP applies the provisions of subpart B of part 177 consistent with the Federal Acquisition Regulations. See 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. See 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define ''U.S.-made end product'' as:

* * * an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

48 C.F.R. § 25.003.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-assembly inspection and testing procedures, and the degree of skill required during the actual manufacturing process may be relevant when determining whether a substantial transformation has occurred. No one factor is determinative.

In Carlson Furniture Industries v. United States, 65 Cust. Ct. 474 (1970), the U.S. Customs Court ruled that U.S. operations on imported chair parts constituted a substantial transformation, resulting in the creation of a new article of commerce. After importation, the importer assembled, fitted, and glued the wooden parts together, inserted steel pins into the key joints, cut the legs to length and leveled them, and in some instances, upholstered the chairs and fitted the legs with glides and casters. The court determined that the importer had to perform additional work on the imported chair parts and add materials to create a functional article of commerce. The court found that the operations were substantial in nature, and more than the mere assembly of the parts together.

In Headquarters Ruling Letter (''HQ'') W563456, dated July 31, 2006, CBP held that certain office chairs assembled in the U.S. were a product of the U.S. for purposes of U.S. government procurement. The office chairs were assembled from over 70 U.S. and foreign components. In finding that the imported parts were substantially transformed in the U.S., CBP stated that the assembly processing that occurred in the U.S. was complex and meaningful, required the assembly of a large number of components, and rendered a new and distinct article of commerce that possessed a new name, character, and use. CBP noted that the U.S.-origin seat and back frame assemblies, which were made with the importer's trademark fabric, together with the tilt assembly, were of U.S. origin and gave the chair its unique design profile and essential character.

In this case, the SAYL task chair comprises approximately 35 components and the SAYL side chair has approximately 15 components, which are assembled in the U.S. We note that some of the major components of the office chairs such as the spine, seat pan, and glides are of U.S. origin. You state that as in HQ W563456, the U.S.-origin fabric and the Chinese-origin TPU mesh, used in most aesthetic configurations of the SAYL office chairs, impart the essential identity of the chairs and that the backs were designed by Herman Miller in the U.S. and are trademarked. We note the Chinese-origin TPU mesh is extensively processed in the U.S. by stretching and fitting it into the

required shape using special tools. Other U.S.-sourced components of the SAYL chairs include the foam seat assembly, crossing, seat pan, spine, pelvis, mid-back foam assembly, leg base, glides, back frame, arms, and back assembly. It takes approximately 19 minutes to manufacture the TPU mesh configuration of the office chairs and 17 minutes to manufacture the upholstered configuration. Under the described assembly process, we find that the foreign components lose their individual identities and become an integral part of a new article, the SAYL task chair or the SAYL side chair, possessing a new name, character and use. Based upon the information before us, we find that the imported components that are used to manufacture the SAYL task chair and the SAYL side chair, when combined with the U.S. origin components, are substantially transformed as a result of the assembly operations performed in the U.S., and that the country of origin of the SAYL task chair and the SAYL side chair for government procurement purposes will be the U.S.

HOLDING:

The imported components that are used to manufacture the SAYL task chair and SAYL side chair are substantially transformed as a result of the assembly operations performed in the U.S. Therefore, we find that the country of origin of the SAYL task chair and SAYL side chair for government procurement purposes is the U.S.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days after publication of the Federal Register notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell

Executive Director
Regulations and Rulings
Office of International Trade

[FR Doc. 2011–14842 Filed 6–14–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Tribal Consultation on Implementation of Indian Land Consolidation Program Under Cobell Settlement

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Tribal consultation meeting.

SUMMARY: The Office of the Secretary is announcing that it will conduct a series of consultation meetings with Indian Tribes to obtain oral and written comments concerning the implementation of the Indian Land Consolidation Program (ILCP) under the terms of the *Cobell* Settlement. The first Regional consultation meeting will take place in July in Billings, Montana for the Rocky Mountain and Great Plains Regions. There will be five additional consultations in other Regions. See the **SUPPLEMENTARY INFORMATION** section of this notice for details.

DATES: The first Regional Tribal consultation meeting will take place on Friday, July 15, 2011, in Billings, Montana. Comments must be received by September 16, 2011.

ADDRESSES: Michele F. Singer, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104.

FOR FURTHER INFORMATION CONTACT: Michele F. Singer, telephone (505) 563–3805; fax (505) 563–3811.

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Indian Affairs' ILCP purchases fractionated interests of individually owned trust or restricted fee lands and transfers those consolidated interests into Tribal ownership pursuant to the Indian Land Consolidation Act, 25 U.S.C. 2201 *et seq*. The Indian Claims Resolution Act of 2010, Public Law 111–291, makes available $1.9 billion, the majority of which will be used by the Secretary to operate the ILCP with the purpose of addressing the problem of fractionation. The Act requires consultation with Indian Tribes to identify fractional interests within the respective jurisdictions of the Indian Tribes that the Department may want to consider purchasing.

Information and statistics regarding the issue of land fractionation will be distributed to the Federally-recognized Indian Tribes prior to the consultations. The information will also be made available to attendees on the day of each consultation. The Cobell Settlement must be approved by the Federal District Court, and a fairness hearing before the Court is scheduled for June 20, 2011, in Washington, DC.

II. Meeting Details

The Office of the Secretary will hold the first of a series of Tribal consultation meetings on the following schedule:

Date	Time	Location
Friday, July 15, 2011	9 a.m.–4 p.m.	Holiday Inn Grand Montana Hotel & Convention Center, 5500 Midland Road, Billings, Montana 59101, (406) 248–7701 *http://www.billingsholidayinn.com*.

We will announce additional Tribal consultation meetings by future publication in the **Federal Register**. Written comments will be accepted through September 16, 2011, and may be sent to the official listed in the **ADDRESSES** section above.

Dated: June 9, 2011.

David J. Hayes,

Deputy Secretary of the Interior.

[FR Doc. 2011–14923 Filed 6–13–11; 11:15 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

National Park Service

[5130–0400–NZM]

Draft Oil and Gas Management Plan/ Environmental Impact Statement for Big South Fork National River and Recreation Area and Obed Wild and Scenic River

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of a Draft Oil and Gas Management Plan/ Environmental Impact Statement for Big South Fork National River and Recreation Area and Obed Wild and Scenic River.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), and the Council on Environmental Quality regulations (40 CFR part 1500–1508), the National Park Service (NPS), Department of the Interior, announces the availability of the draft oil and gas management plan/ environmental impact statement (OGMP/DEIS) for the proposed Big South Fork National River and Recreation Area (BISO) and Obed Wild and Scenic River (OBRI). This OGMP/ DEIS will guide the various actions that could be implemented for current and

future management of oil and gas operations in BISO and OBRI. It analyzes alternative approaches, defines a strategy, and provides guidance for activities taken by owners and operators of private oil and gas rights to ensure these activities are conducted in a manner that protects park resources and values, visitor use and experience, and human health and safety.

DATES: In the summer of 2006, the NPS conducted public scoping meetings in Tennessee and Kentucky to determine the scope of issues to be addressed in the plan and EIS and to identify significant issues related to the management of oil and gas operations at BISO and OBRI. The NPS notice of intent to prepare an environmental impact statement for an oil and gas management plan for BISO and OBRI was published in the **Federal Register** on May 31, 2006 (71 FR 30955). The NPS will accept comments from the public on the draft OGMP/EIS for 60 days following the publishing of the notice of availability in the **Federal Register** by the U.S. Environmental Protection Agency. Public meetings will be held during the 60-day review period, with the specific dates and locations to be announced in local and regional media sources of record and on the Park's Web site, *http://parkplanning.nps.gov/BISO.* Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

ADDRESSES: Electronic copies of the draft OGMP/DEIS will be available online at *http://parkplanning.nps.gov/BISO.* To request a copy, contact Superintendent, BISO at 4564 Leatherwood Road, Oneida, Tennessee 37841 or by telephone at (423) 569–9778 or Unit Manager, Obed Wild and Scenic River, 208 North Maiden St., Wartburg, Tennessee 37887 or by telephone at (423) 346–6294. While supplies last, the document can also be picked up in person at the above addresses.

SUPPLEMENTARY INFORMATION: Three alternatives are identified and potential impacts are analyzed in the OGMP/DEIS which include the no-action alternative, alternative A, and two action alternatives, including the NPS preferred alternative. Alternative A reflects current management. Alternative B would comprehensively pursue enforcement of the 9B regulations and plans of operations from current operators, based on priorities set by certain site-specific conditions. The NPS preferred alternative, alternative C, would implement the same type of comprehensive management as described in alternative B, but there would be an additional designation of ''Special Management Areas'' to provide protection for areas where park resources and values are particularly susceptible to adverse impacts from oil and gas development.

Authority: The authority for publishing this notice is contained in 40 CFR 1506.6.

FOR FURTHER INFORMATION CONTACT: Michael Edwards, Project Manager, Environmental Quality Division, National Park Service, Academy Place, P.O. Box 25287, Denver, Colorado 80225, 303–969–2694.

The responsible official for this draft EIS is the Regional Director, Southeast Region, National Park Service, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: June 8, 2011.

Gordon Wissinger,

Acting Regional Director, Southeast Region.

[FR Doc. 2011–14752 Filed 6–14–11; 8:45 am]

BILLING CODE 4310–JD–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Colorado Historical Society (History Colorado), Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Colorado Historical Society has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes. Representatives of any Indian Tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects may contact the Colorado Historical Society. Repatriation of the human remains and associated funerary objects to the Indian Tribes stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian Tribe that believes it has a cultural affiliation with the human remains and associated funerary objects should contact the Colorado Historical Society at the address below by July 15, 2011.

ADDRESSES: Bridget Ambler, Curator of Material Culture, Colorado Historical Society, 1560 Broadway, Suite 400, Denver, CO 80202, telephone (303) 866–2303.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession/control of the Colorado Historical Society (History Colorado), Denver, CO. The human remains and associated funerary objects were removed from Costilla, La Plata, and Montezuma Counties, CO, and San Juan County, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Colorado Historical Society professional staff in consultation with representatives of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Ysleta Del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico. The Kewa Pueblo, New Mexico (formerly the Pueblo of Santo Domingo); Pueblo of Cochiti, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Taos, New Mexico; and the Pueblo of Zia, New Mexico, were invited to consult, but did not send representatives.

History and Description of the Remains

In July 1990, human remains representing a minimum of 10 individuals were removed from Pock's Garden Site (5MT.10851), in Montezuma County, CO. The site is located on private property. The landowner discovered the remains and later notified the Colorado State Archaeologist. Subsequently, under the direction of Dr. Calvin H. Jennings, the Colorado State University (CSU) Field School, investigated and transferred the individuals to CSU, Fort Collins, CO. In May 2006, Dr. Jason LaBelle of CSU transferred the individuals to the Colorado Historical Society (identified as Office of Archaeology and Historic Preservation (OAHP) Case Number 16). No known individuals were identified. No associated funerary objects are present.

Osteological analysis by CSU determined that the individuals are of Native American ancestry. Dr. Jennings documented two kiva depressions, diagnostic of Ancient Puebloan sites dating from A.D. 750 to A.D. 1300.

From 2004 to 2008, human remains representing a minimum of 15 individuals were removed from the Darkmold Site (5LP.4991), in La Plata County, CO, by Fort Lewis College, Durango, CO, pursuant to a state permit and under the direction of Mona Charles, Director of the Archaeological Field School. The site is located on private property. In 2009, Fort Lewis College delivered the final set of remains to the Colorado Historical Society (OAHP Case Number 156). No known individuals were identified. The four associated funerary objects are three stone beads and a notched animal bone.

Fort Lewis College conducted an archeological field school at the Darkmold Site from 1998 to 2008. There are 26 individuals and 111 associated funerary objects also removed from this site that were affiliated to the 21 present-day Pueblos and reported in a Notice of Inventory Completion previously published in the **Federal Register** (69 FR 68162–68169, November 23, 2004). Osteological analysis by the Fort Lewis College and Paul Sandberg, contract osteologist for the Colorado Historical Society, determined that the individuals are of Native American ancestry. Radiocarbon dates for the site returned a date range of 360 B.C. to A.D. 500, consistent with Basketmaker II chronology. Multiple Ancient Puebloan sites are present in the site vicinity. The associated funerary objects and burial context indicate Ancient Puebloan cultural practices.

In May 2000, human remains representing a minimum of two individuals were removed from private property (5LP.5748), in La Plata County, CO, by staff from the Fort Lewis College pursuant to state permit. They were eroding from a steep cut bank behind the landowner's garage. In July 2001, they were transferred to the Colorado Historical Society (OAHP Case Number 163). No known individuals were identified. One kernel of corn was recovered from the excavation near the individual, but is not considered an associated funerary object. No associated funerary objects are present.

Osteological analysis by Fort Lewis College determined that the individuals are of Native American ancestry. Radiocarbon dates for the site returned a date range of 170 B.C. to A.D. 230, consistent with Basketmaker II chronology. Multiple Ancient Puebloan sites are present in the site vicinity. Burial context is consistent with Ancient Puebloan cultural practices.

Between 1994 and 2004, human remains representing a minimum of 16 individuals were removed from Mitchell Springs (5MT.10991), in Montezuma County, CO, by staff from Glendale Community College and the landowner pursuant to a state permit. The site is located on private property. All 16 individuals were transferred to the Colorado Historical Society, with the final transfer occurring in 2008 (OAHP Case Number 222). No known individuals were identified. The 10 associated funerary objects are partial and complete Black-on-White ceramic vessels, including three with Piedra and Cortez designs, diagnostically associated with the Pueblo I and Pueblo II Ancient Puebloan culture periods.

Osteological analysis by Dr. Linda Smith, Glendale Community College, and Paul Sandberg, contract osteologist for the Colorado Historical Society, determined that the individuals are of Native American ancestry. Ceramic cross-dating indicates a date range from A.D. 750 to A.D. 1020, consistent with Ancient Puebloan occupations. Multiple Ancient Puebloan sites are present in the site vicinity. The associated funerary objects and burial context are consistent with Ancient Puebloan cultural practices.

In June 2005, human remains representing a minimum of two individuals were removed from private property (5LP.7853), in La Plata County, CO. They were discovered by workers during the construction of a subdivision. OAHP staff investigated the burials and the individuals were transferred to the Colorado Historical Society in November 2005 (OAHP Case Number 231). No known individuals were identified. The three associated funerary objects are one lot of ceramic sherds (representing two decorated Chapin bowls, possibly Rosa Gray) and a third unidentified vessel.

Osteological analysis by Beth Conour, contract osteologist for the Colorado Historical Society, determined that the individuals are of Native American ancestry. Ceramic cross-dating indicates a date range from A.D. 500–900, consistent with the Basketmaker III/Pueblo I periods. Multiple Ancient Puebloan sites are present in the site vicinity. Associated artifacts and burial context are consistent with Ancient Puebloan cultural practices.

In approximately 1958, human remains representing a minimum of one individual were removed from a location near the Trinchera Ranch, in Costilla County, CO, by a private citizen. The son of the citizen transferred them to the Colorado Historical Society in February 2006 (OAHP Case Number 236). No known individual was identified. The 14 associated funerary objects are 1 Mancos Black-on-White bowl, 1 Piedra Black-on-White pitcher, 1 Black-on-White miniature vessel, 8 pottery fragments, 1 biface, 1 polishing stone, and 1 sandstone fragment.

Osteological analysis by Paul Sandberg, contract osteologist for the Colorado Historical Society, determined that the individual is of Native American ancestry. The ceramics are diagnostically associated with the Pueblo I and Pueblo II Ancient Puebloan culture periods. Ceramic cross-dating suggest that the individual lived circa A.D. 750 to A.D. 1020. Ancient Puebloan sites have been documented in the site vicinity. Associated funerary objects are consistent with Ancient Puebloan material culture.

In November 2006, human remains representing a minimum of one individual were removed from private property (5MT.8119), in Montezuma County, CO. The discovery was reported by a tourist and investigated by OAHP staff. The individual was transferred to the Colorado Historical Society (OAHP Case Number 242). The site was previously recorded and excavated in 1983–1984. No known individual was identified. No associated funerary objects are present, although several artifacts and architectural features were noted on the surface of the site. They included flaked stone debitage, fire-cracked rock, metate fragments, grayware potsherds, Mancos Black-on-White potsherds, and masonry walls.

Ceramic cross-dating and dates reported from the 1983–1984 excavation

give a date range of A.D. 1050–1125, consistent with Ancient Puebloan occupations during the Pueblo II period. Multiple Ancient Puebloan sites are present in the site vicinity. Surface artifacts and architectural features are consistent with Ancient Puebloan culture.

In October 2006, human remains representing a minimum of seven individuals were removed from private property (5MR.11739), in Montezuma County, CO. Fragments of the human remains were discovered eroding from an arroyo wall on the property of Kelly Place, a privately owned inn and archeological preserve. OAHP staff investigated the discovery (OAHP Case Number 243). The remains were transferred to the Colorado Historical Society in February 2007. No known individuals were identified. No associated funerary objects are present.

Osteological analysis by Dr. Christie Turner determined that the individuals are of Native American ancestry. Multiple Ancient Puebloan sites are present in the site vicinity. Surface artifacts and architectural features are consistent with Ancient Puebloan culture from Pueblo II–III occupations (A.D. 950–1300).

From approximately 1980 to 1985, human remains representing a minimum of one individual were removed from private property, in La Plata County, CO. In 2009, the individual was anonymously left at Anasazi Heritage Center with a note stating that the husband of the ''donor'' had collected the remains while working during the construction of a subdivision north of Bayfield, CO. The individual was transferred to the Colorado Historical Society in May 2010 (OAHP Case Number 272). No known individual was identified. The six associated funerary objects are one partial Chapin Black-on-White pitcher, two partial Chapin Black-on-White bowls, one lot of Chapin grayware sherds, one scraper, and one river cobble.

Osteological analysis by Cynthia Bradley determined that the individual is of Native American ancestry. Multiple Ancient Puebloan sites are present in the site vicinity. Associated funerary objects are consistent with Ancient Puebloan material culture. Ceramic cross-dating indicates that the individual may have lived the during Basketmaker III/Pueblo I periods (A.D. 500–900).

In 1944, human remains representing a minimum of four individuals were bequeathed to the Colorado Historical Society by James Mellinger of Longmont, CO. They are reported to have been removed from the Grand Gulch area of San Juan County, UT (catalog numbers UHR.131/173, UHR.190, UHR.191, and UHR.192). The individual identified as UHR. 131/173 was recovered ''on the open plain'' while the other three were recovered from ''a burial mound.'' No known individuals were identified. One side-notched projectile point is embedded in one individual's hip, but is not considered to be an associated funerary object. The two associated funerary objects are turkey feather blanket fragments (two of the four individuals are accompanied by these fragments).

Osteological analysis by Paul Sandberg, contract osteologist for the Colorado Historical Society, determined that the individuals are of Native American ancestry. Numerous Basketmaker and Ancient Puebloan sites dating from 1200 B.C. to A.D.1200/1300 have been documented in the Grand Gulch area. Turkey feather blankets are consistent with Basketmaker and Ancient Puebloan populations starting from the Basketmaker II period. The embedded projectile point is diagnostic of Basketmaker II occupations in the Grand Gulch area.

Available information indicates there is a traditional association between the Navajo Nation and the geographical area from where the individuals reported in this Notice of Inventory Completion were recovered. However, the preponderance of evidence, including site architecture, material culture, and continuity of key cultural traits through time, is associated with Ancient Puebloan occupations of the southwestern United States from the Basketmaker II period through the Pueblo III period (from approximately 1000 B.C. to A.D. 1300), and, thus predates the majority of extant evidence in the area for ancestors of the present-day Navajo Nation.

Evidence was gathered from Tribal consultations, physical examination, survey of acquisition history, review of current available archeological, ethnographic, historical, anthropological and linguistic literature, and artifact analysis. Therefore, based on geographical, kinship, biological, archeological, anthropological, linguistic, oral tradition, folklore, historical and expert opinion, the cultural affiliation of these human remains and associated funerary objects is to the Hopi Tribe of Arizona; Kewa Pueblo, New Mexico; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta Del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico (hereinafter referred to as ''The Tribes'').

Determinations Made by the Colorado Historical Society

Officials of the Colorado Historical Society have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of 59 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 39 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Representatives of any other Indian Tribe that believes itself to be culturally affiliated with the human remains and/or associated funerary objects should contact Bridget Ambler, Curator of Material Culture, Colorado Historical Society, 1560 Broadway, Suite 400, Denver, CO 80202, telephone (303) 866–2303, before July 15, 2011. Repatriation of the human remains and associated funerary objects to The Tribes may proceed after that date if no additional claimants come forward.

The Colorado Historical Society is responsible for notifying The Tribes and the Navajo Nation, Arizona, New Mexico & Utah, that this notice has been published.

Dated: June 9, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–14764 Filed 6–14–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–655]

Notice of Inventory Completion; U.S. Department of the Interior, National Park Service, Fort Vancouver National Historic Site, Vancouver, WA; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession and control of the U.S. Department of the Interior, National Park Service, Fort Vancouver National Historic Site, Vancouver, WA. The human remains were removed from Clark County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the Superintendent, Fort Vancouver National Historic Site.

This notice corrects the minimum number of individuals for a Notice of Inventory Completion (NIC) previously published in the **Federal Register** (74 FR 24874–24875, May 26, 2009). A reassessment of the human remains by a physical anthropologist prior to disposition and reburial resulted in an increase in the number of individuals from 9 to 14 for one of the two sites described in the notice. There are no changes to the minimum number of two individuals for the other site listed in the previous NIC. Therefore, the total number of individuals in the previous NIC will be changed from 11 to 16.

Paragraph Number 4 in the NIC is Corrected by Substituting the Following Paragraph

In the 1950s, human remains representing a minimum of 14 individuals were removed from the I–5 corridor in Clark County, WA. The human remains were displaced by I–5 construction and donated to Fort Vancouver National Historic Site. No known individuals were identified. No associated funerary objects are present.

Paragraph Number 7 in the NIC is Corrected by Substituting the Following Paragraph

Officials of Fort Vancouver National Historic Site have determined, pursuant to 25 U.S.C. 3001(9), that the human remains described above represent the physical remains of 16 individuals of Native American ancestry. Officials of Fort Vancouver National Historic Site also have determined, pursuant to 25 U.S.C. 3001(2), that a relationship of shared group identity cannot reasonably be traced between the Native American human remains and any present-day Indian Tribe.

The Second Sentence of Paragraph Number 8 in the NIC is Corrected by Substituting the Following Sentence by Deleting the Reference to the Number of Individuals

In August 2008, Fort Vancouver National Historic Site requested that the Review Committee recommend disposition of the culturally unidentifiable human remains to the Vancouver Inter-Tribal Consortium on behalf of the following signatories: Clatsop-Nehalem Confederated Tribes; Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Chehalis Reservation, Washington; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Siletz Reservation, Oregon; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Cowlitz Indian Tribe, Washington; Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Snoqualmie Tribe, Washington; Snoqualmoo Tribe; Spokane Tribe of the Spokane Reservation, Washington; Stillaguamish Tribe of Washington; and Wanapum Band.

Disposition of the human remains to the Vancouver Inter-Tribal Consortium on behalf of the Clatsop-Nehalem Confederated Tribes; Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Chehalis Reservation, Washington; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Siletz Reservation, Oregon; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Cowlitz Indian Tribe, Washington; Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Snoqualmie Tribe, Washington; Snoqualmoo Tribe; Spokane Tribe of the Spokane Reservation, Washington; Stillaguamish Tribe of Washington; and Wanapum Band, occurred after the 30 day comment period expired for the original May 26, 2009, Notice of Inventory Completion.

Fort Vancouver National Historic Site is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Chehalis Reservation, Washington; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Siletz Reservation, Oregon; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Cowlitz Indian Tribe, Washington; Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Snoqualmie Tribe, Washington; Spokane Tribe of the Spokane Reservation, Washington; Stillaguamish Tribe of Washington; and three non-Federally recognized Indian groups—Clatsop-Nehalem Confederated Tribes, Snoqualmoo Tribe, and Wanapum Band, that this notice has been published.

Dated: June 9, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–14772 Filed 6–14–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

Minor Boundary Revision of Boston National Historical Park

AGENCY: National Park Service, Interior.

ACTION: Notification of Boundary Revision.

SUMMARY: Notice is hereby given that, pursuant to 16 U.S.C. 460*l*–9(c)(1), the boundary of Boston National Historical Park is modified to include 0.50 acre of adjacent land identified as Tract 101–13. This tract is unimproved, submerged land owned by the Commonwealth of Massachusetts. The Commonwealth ceded it to the United States of America without cost by enactment of Chapter 37 of the Laws of 2009, on July 23, 2009, subject to the satisfaction of certain conditions in the act. Tract 101–13 is depicted as the ''Proposed Area'' on Map Number 457/80,800 prepared by the National Park Service in March 2008.

FOR FURTHER INFORMATION CONTACT: Superintendent, Boston National Historical Park, Charlestown Navy Yard, Boston, Massachusetts 02129. The map depicting this modification is available for inspection at National Park Service,

Northeast Region, Land Resources Division, New England Office, 115 John Street, Fifth Floor, Lowell, Massachusetts 01852, and at National Park Service, Department of the Interior, Washington, DC 20240.

DATES: The effective date of this boundary revision is June 15, 2011.

SUPPLEMENTARY INFORMATION: 16 U.S.C. 460*l*–9(c)(1) provides that, after notifying the House Committee on Natural Resources and the Senate Committee on Energy and Resources, the Secretary of the Interior is authorized to make this boundary revision. The Committees have been so notified. This boundary revision will contribute to, and is necessary for, the proper management of a docking facility in the Charlestown Navy Yard.

Dated: June 1, 2011.

Dennis R. Reidenbach,

Regional Director, Northeast Region.

[FR Doc. 2011–14761 Filed 6–14–11; 8:45 am]

BILLING CODE 4310–3B–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–739]

Certain Ground Fault Circuit Interrupters and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting Complainant's Motion To Amend the Third Amended Complaint and Notice of Investigation To Add Coleman Cable, Inc. as a Respondent

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. 47) issued by the presiding administrative law judge (''ALJ'') granting complainant's motion to amend the Third Amended Complaint and Notice of Investigation to add Coleman Cable, Inc. as a respondent in the above-referenced investigation.

FOR FURTHER INFORMATION CONTACT: Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–4737. 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 Commission instituted this investigation on October 8, 2010, based on a complaint filed by Leviton Manufacturing Co. (''Leviton'') of Melville, New York. 75 FR 62420 (Oct. 8, 2010). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 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 ground fault circuit interrupters and products containing the same by reason of infringement of various claims of United States Patent Nos. 7,463,124; 7,737,809; and 7,764,151. The Commission's notice of investigation named numerous respondents, including respondent The Designers Edge, Inc. of Bellevue, Washington (''Designers Edge'').

On April 28, 2011, Leviton moved to amend the Third Amended Complaint and Notice of Investigation to add Coleman Cable, Inc. (''Coleman Cable'') as a respondent, asserting that good cause exists to add Coleman Cable because a press release on April 4, 2011, indicated that Coleman Cable had acquired the assets of respondent Designers Edge and is thus in a position to control the accused importation and sales activities of Designers Edge. Leviton argued that the inclusion of Coleman Cable will assist in developing a complete record, obtaining discovery, and affording effective relief, and that no undue prejudice to the public or to the existing respondents will result from the inclusion. No responses to Leviton's motion were filed. On May 19, 2011, the ALJ issued the subject ID (Order No. 47). None of the parties petitioned for review of the ID.

The Commission has determined not to review the subject ID.

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: June 9, 2011.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011–14701 Filed 6–14–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of 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 Integrated Circuits, Chipsets, and Products Containing Same Including Televisions,* DN 2815; 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 Freescale Semiconductor, Inc. on June 8, 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 integrated circuits, chipsets, and products containing same including televisions. The complaint names as respondents Funai Electric Co., Ltd. of Osaka, Japan;

Funai Corporation, Inc. of Rutherford, NJ; MediaTek Inc. of Hsinchu City, Taiwan and Zoran Corporation of Sunnyvale, CA.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number (''Docket No. 2815'') in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR §§ 201.10, 210.50(a)(4)).

By order of the Commission.
Issued: June 9, 2011.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011–14700 Filed 6–14–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–776]

Certain Lighting Control Devices Including Dimmer Switches and Parts Thereof (IV); Notice of Institution of Investigation; Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 16, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Lutron Electronics Co., Inc. of Coopersburg, Pennsylvania. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain lighting control devices including dimmer switches and parts thereof by reason of infringement of certain claims of U.S. Patent No. 5,637,930 (''the '930 patent'') and U.S. Patent No. 5,248,919 (''the '919 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on June 9, 2011, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain lighting control devices including dimmer switches and parts thereof that infringe one or more of claims 36, 38–41, 47, 53, 54, 56, 58, 60, 65, 67–70, 76, 82, 83, 85, 87, 89, 94, 96–99, 105, 111, 112, 114, 116, 118, 178, 180, 189, 193, and 197 of the '930 patent and claims 1, 2, 5–8, 11–13, 15–20, 23, 25–32, 35, 36, and 38 of the '919 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Lutron Electronics Co., Inc., 7200 Suter Road, Coopersburg, PA 18036.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Pass & Seymour, Inc., 50 Boyd Avenue, Syracuse, NY 13209.

AH Lighting, 2442 Hunter Street, Los Angeles, CA 90021.

American Top Electric Corp., 1202 E. Walnut Avenue, Suite H, Santa Ana, CA 92701.

Big Deal Electric Corp., 1202 E. Walnut Avenue, Suite H, Santa Ana, CA 92701.

Diode LED, 1195 Park Avenue, Suite 211, Emeryville, CA 94608.

Elemental LED, LLC, 1195 Park Avenue, Suite 211, Emeryville, CA 94608.

Wenzhou Huir Electric Science & Technology Co. Ltd., Bridge East Wan-Ao, Qiatou Village, Yueqing, Zhejiang 325600, China.

Westgate Mfg., Inc., 4500 S. Boyle Avenue, Vernon, CA 90058.

Zhejiang Lux Electric Co. Ltd., Weiqi Road, Yueqing Economic Development Zone, Yueqing, Zhejiang 325600, China.

Zhejiang Yuelong Mechanical & Electrical Co. Ltd., Yaao Road & Nanxi Road, Jiaxing, Zhejiang 31400, China.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 9, 2011.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011–14778 Filed 6–14–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0058]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Investigator Integrity Questionnaire

ACTION: 30-Day Notice and request for comments.

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 69, page 20009–20010, on April 11, 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 July 15, 2011. 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 e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call Renee Reid at 202–648–9620 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 Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Investigator Integrity Questionnaire.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 8620.7. 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:* Individuals or households. *Other:* none.

Need for Collection

ATF utilizes the services of contract investigators to conduct security/suitability investigations on prospective or current employees, as well as those contractors and consultants doing business with ATF. Persons interviewed by contract investigators will be randomly selected to voluntarily complete a questionnaire regarding the investigator's degree of professionalism.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 2,500 respondents, who will complete the form within approximately 5 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 250 total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, *http://www.DOJ.PRA@usdoj.gov,* Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, 2 Constitution Square, Room 2E–808, 145 N Street, NE., Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–14726 Filed 6–14–11; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States et al. v. United Regional Health Care System; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the comment received on the proposed Final Judgment in *United States and State of Texas* v. *United Regional Health Care System,* Civil Action No. 7:11–cv–00030–0, which was filed in the United States District Court for the Northern District of Texas, Wichita Falls Division, on June 6, 2011, together with the response of the United States to the comment.

Copies of the comment and the response are available for inspection at the U.S. Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (*telephone:* 202–514–2481); on the Department of Justice's Web site at *http://www.usdoj.gov/atr;* and at the Office of the Clerk of the United States District Court for the Northern District of Texas, Wichita Falls Division. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Patricia A. Brink,

Director of Civil Enforcement.

In The United States District Court for the Northern District of Texas, Wichita Falls Division

United States Of America And State Of Texas, (RCO) Plaintiffs, V. United Regional Health Care System, Defendant.

Case No.: 7:11–cv–00030

Response Of Plaintiff United States To Public Comment On The Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) (''APPA7 or ''Tunney Act''), the United States hereby responds to the public comment received regarding the proposed Final Judgment in this case. The single comment received agrees that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint. The United States will move the Court for entry of the proposed Final Judgment after the public comment and this response have been published in the Federal Register, pursuant to 15 U.S.C. § 16(d).

On February 25, 2011, the United States and the State of Texas filed a civil antitrust lawsuit against Defendant United Regional Health Care System (''United Regional'') challenging United Regional's contracts with commercial health insurers that effectively prevented insurers from contracting with United Regional's competitors (''exclusionary contracts''). The Complaint alleged that United Regional had unlawfully used those contracts to maintain its monopoly for hospital services, in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2. By effectively preventing most commercial health insurers from including in their networks other inpatient and outpatient facilities, the Complaint alleged that United Regional (1) delayed and prevented the expansion and entry of its competitors, likely leading to higher health-care costs and higher health insurance premiums; (2) limited price competition for price-sensitive patients, likely leading to higher health-care costs for those patients; and (3) reduced quality competition between United Regional and its competitors. The Complaint sought to enjoin United Regional from entering exclusionary contracts with insurers.

Simultaneously with the filing of the Complaint, the United States and the State of Texas filed a proposed Final Judgment and Stipulation signed by the plaintiffs and United Regional consenting to entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act, 15 U.S.C. § 16. Pursuant to those requirements, the United States also filed its Competitive Impact Statement (''CIS'') with the Court on February 25, 2011; published the proposed Final Judgment and CIS in the Federal Register on March 10, 2011, see 76 Fed. Reg. 13209; and had summaries of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, published in The Washington Post and Times Record News for seven days beginning on March 9, 2011, and ending on March 15, 2011. The sixty-day period for public comment ended on May 14, 2011. One comment was received, as described below and attached hereto.

I. THE INVESTIGATION AND PROPOSED RESOLUTION

The proposed Final Judgment is the culmination of an investigation by the Antitrust Division of the United States Department of Justice (''Department'') of United Regional's contracting practices with commercial insurers. As part of its investigation, the Department issued more than fifteen Civil Investigative Demands for documents. The Department reviewed the documents and other materials received, conducted more than 80 interviews, and took oral testimony of United Regional personnel. The Department carefully analyzed the information obtained and thoroughly considered all of the issues presented.

The Department found that beginning in 1998, United Regional responded to the competitive threat posed by the entry of a competing hospital, Kell West; and other outpatient-surgery facilities by systematically entering into exclusionary contracts with commercial health insurers. The precise terms of these contracts varied, but all shared the same anticompetitive feature: a significant pricing penalty if an insurer contracts with competing facilities within a region that is no larger than Wichita County. In general, the contracts offered a substantially larger discount off billed charges (e.g., 25%) if United Regional was the only local hospital or outpatient surgical provider in the insurer's network; and the contracts provided for a much smaller discount (e.g., 5% off billed charges) if the insurer contracted with one of United Regional's rivals.

Within three months after Kell West opened in January 1999, United Regional had entered into exclusionary contracts with five commercial health insurers, and by 2010, it had exclusionary contracts with eight insurers. In each instance, United Regional-not the insurer-required the exclusionary provisions in the contract. The only major insurer that did not sign an exclusionary contract with United Regional was Blue Cross Blue Shield of Texas (''Blue Cross''), by far the largest insurer in Wichita Falls and Texas.

Because United Regional is a ''must have'' hospital for any insurer that wants to sell health insurance in the Wichita Falls area, and because the penalty for contracting with United Regional's rivals was so significant, most insurers entered into exclusionary contracts with United Regional.

Consequently, United Regional's rivals could not obtain contracts with most insurers, except Blue Cross, which substantially hindered their ability to compete and helped United Regional maintain its monopoly in the relevant markets, to the detriment of consumers.

After reviewing the investigative materials, the Department determined that United Regional's conduct violated Section 2 of the Sherman Act, 15 U.S.C. § 2, as alleged in the Complaint. The proposed Final Judgment is designed to restore competition between health-care providers in the Wichita Falls MSA. Section IV of the proposed Final Judgment prohibits United Regional from using exclusivity terms in its contracts with commercial health insurers. In particular, United Regional is prohibited from (1) conditioning the prices or discounts that it offers to commercial health insurers on whether those insurers contract with other health-care providers, such as Kell West; and (2) preventing insurers from entering into agreements with United Regional's rivals. United Regional is also prohibited from taking any retaliatory actions against an insurer that enters (or seeks to enter) into an agreement with a rival health-care provider.

In addition, the proposed Final Judgment prohibits United Regional from offering other types of ''conditional volume discounts'' that could have the same anticompetitive effects as the challenged conduct. ''Conditional volume discounts'' are prices, discounts, or rebates offered to a commercial health insurer on condition that the volume of that insurer's purchases from United Regional meets or exceeds a specified threshold. Similarly, United Regional may not offer market-share discounts, e.g., discounts conditioned on an insurer's purchases at United Regional meeting a specified percentage of that insurer's total purchases, whether they apply retroactively or not, because such discounts can also be a form of anticompetitive pricing. Finally, United Regional may not use provisions in its insurance contracts that discourage insurers from offering products that encourage members to use other in-network providers (besides United Regional).

The proposed Final Judgment does, however, allow price discounts that are likely to be procompetitive. Section V of the proposed Final Judgment permits United Regional to offer above-cost incremental volume discounts. By permitting such discounts, the proposed Final Judgment ensures that United Regional can engage in procompetitiye efforts to compete for additional patient volume, while preventing United Regional from offering 'discounts that have the potential to exclude an equally efficient competitor.

II. STANDARD OF JUDICIAL REVIEW

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' United States v. Microsoft Corp., 56 F.3d 1448, 1461 (D.C. Cir. 1995); see also United States v. SBC Commc'ns, Inc., 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public-interest standard under the Tunney Act); United States v. InBev N.V./S.A., No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable.'').

As the United States Court of Appeals for the District of Columbia Circuit has held, a court considers under the APPA, among other things, the relationship between the remedy secured and the specific allegations set forth in the United States' complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See Microsoft, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' United States v. BNS Inc., 858 F.2d 456, 462 (9th Cir. 1988) (citing United States v. Bechtel Corp., 648 F.2d 660, 666 (9th Cir. 1981)); see also Microsoft, 56 F.3d at 1460–62; InBev, 2009 U.S. Dist. LEXIS 84787, at *3; United States v. Alcoa, Inc., 152 F. Supp. 2d 37, 40 (D.D.C. 2001). Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[1] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' SBC Commc'ns, 489 F. Supp. 2d at 17; see also Microsoft, 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); United States v. Archer-Daniels-Midland Co., 272 F. Supp. 2d I, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' ''prediction as to the effect of proposed remedies, its perception of the

[1] Cf BNS, 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); United States v. Gillette Co., 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''); see generally Microsoft, 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

market structure, and its views of the nature of the case'').

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" United States v. Am. Tel. & Tel. Co., 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting United States v. Gillette Co., 406 F. Supp. 713, 716 (D. Mass. 1975)), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983); see also United States v. Akan Aluminum Ltd., 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' SBC Commc'ns, 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' Microsoft, 56 F.3d at 1459; see also InBev, 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. Microsoft, 56 F.3d at 1459–60. As the United States District Court for the District of Columbia confirmed in SBC Communications, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' SBC Commc'ns, 489 F. Supp. 2d at 15.

In its 2004 amendments to the Tunney Act,[2] Congress made clear its intent to preserve the practical benefits of using consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2). This language effectuates what Congress intended when it enacted the Tunney Act in 1974. As Senator Tunney explained: ''Mlle court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public-interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' SBC Commc'ns, 489 F. Supp. 2d at 11.[3]

III. SUMMARY OF PUBLIC COMMENT AND THE UNITED STATES' RESPONSE

During the sixty-day comment period, the United States received only one comment, submitted by the American Medical Association (''AMA''), which is attached to this Response. In its comment, the AMA expressed its support for the United States' and the State of Texas's analysis as well as the remedy articulated in the proposed Final Judgment, stating that the action, against United Regional ''represents an important step towards [reining] in hospitals that use their monopoly power to force exclusive dealing arrangements onto health insurers.'' AMA Comment at 1. The United States has carefully reviewed the comment and has determined that the proposed Final Judgment remains in the public interest.

The AMA is the largest association of physicians and medical students in the United States. The AMA's comment states that it concurs with several central points made in the Complaint and CIS. First, the AMA agreed with the Department's conclusion that the relevant product markets should be limited to inpatient hospital and outpatient surgical services sold to commercial health insurers. Although hospitals serve patients covered by both commercial health insurers and the government plans (Medicare, Medicaid, and TRICARE), the AMA agreed that a market limited to hospital services sold to commercial health insurers is well defined because ''[i]ndividuals who have commercial health insurance cannot switch over to Medicare or Medicaid because of price increases or output reductions in the commercial market.'' AMA Comment at 3. Thus, health-care providers can target a price increase to commercial health insurers because the insurers cannot shift to government rates.

Second, the AMA agreed that while the relevant product markets are limited to hospital services sold to commercial health insurers, the competitive-effects analysis should account for the ability of health-care providers to serve patients covered by other sources of payments—including the government plans. The AMA agreed that Medicare and Medicaid pay providers substantially less than commercial health insurers in the Wichita Falls MSA. Thus, as the Complaint and CIS make clear, the appropriate method to assess the contracts' effect on competition is to assess the degree to which the contracts have foreclosed access to payments for commercially insured patients and account for the foreclosed percentage of profits from all payers.

Third, the AMA agreed with the method used by the Department to determine whether United Regional's discounts tied to exclusivity were procompetitive or anticompetitive. According to the AMA, in this case ''the Antitrust Division correctly looked at United Regional's costs, as opposed to its rivals' costs.'' AMA Comment at 5. In this case, the Department applied the total discount United Regional offered to health insurers to the patient volume that United Regional would actually be at risk of losing if an insurer were to choose non-exclusivity (the ''contestable volume''). In applying this ''price-cost'' test, which was similar to the ''discount-attribution'' test adopted in Cascade Health Solutions v. PeaceHealth, 515

[2] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for courts to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. Compare 15 U.S.C. § 16(e) (2004), with 15 U.S.C. § 16(e)(1) (2006); see also SBC Commc'ns, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[3] See United States v. Enova Corp., 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); United States v. Mid-Am. Dairymen, Inc., 1977–1 Trade Cas. (CCH)11 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298 at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

F.3d 883, 906–909 (9th Cir. 2008), the Department determined that the prices charged by United Regional in exchange for exclusivity were below any plausible measure of United Regional's incremental costs.

Finally, the AMA endorsed the proposed Final Judgment, noting that it strikes the right balance between preventing United Regional from engaging in anticompetitive conduct while assuring that United Regional's rivals must still provide their services in an efficient manner in order to compete.

IV. CONCLUSION

After reviewing the AMA's public comment, the United States continues to believe that the proposed Final Judgment, as drafted, provides an effective and appropriate remedy for the antitrust violations alleged in the Complaint, and is therefore in the public interest. The United States will move this Court to enter the proposed Final Judgment after the AMA's comment and this response are published in the **Federal Register.**

Dated: June 6, 2011.

Respectfully submitted,

s/Scott I. Fitzgerald

Scott I. Fitzgerald (WA Bar #39716)

Amy R. Fitzpatrick (DC Bar #458680)

Attorneys for the United States, U.S. Department of Justice, Antitrust Division, Litigation I, 450 Fifth Street, NW., Suite 4100, Washington, DC 20530, (202) 353–3863, Scott.Fitzgerald@usdoj.gov

CERTIFICATE OF SERVICE

On June 6, 2011, I, Scott I. Fitzgerald, electronically submitted a copy of the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system for the court. I hereby certify that I caused a copy of the foregoing document to be served upon Defendant United Regional Health Care System electronically or by another means authorized by the Court or the Federal Rules of Civil Procedure.

s/Scott I. Fitzgerald

Scott I. Fitzgerald (WA Bar #39716)

Attorney for the United States, U.S. Department of Justice, Antitrust Division, Litigation I, 450 Fifth Street, NW., Suite 4100, Washington, DC 20530

April 20, 2011.

BY E-MAIL

Mr. Joshua H. Soven, Chief of the Litigation I Section, Antitrust Division, United States Department of Justice, 450 5th Street, N.W., Suite 4700, Washington, D.C. 20001.

Re: Comments to Proposed Consent Judgment in U.S. v. United Regional Health Care System

Dear Mr. Soven:

The action by the Antitrust Division of the Department of Justice (''Antitrust Division'') against United Regional Health Care System (''United Regional'') represents an important step towards reigning in hospitals that use their monopoly power to force exclusive dealing arrangements onto health insurers in order to prevent entry by firms that would compete against the monopoly hospital.[1] In *United States, et al.,* v. *United Regional Health Care System,* 7:11-cv-00030 the Antitrust Division alleged that United Regional offered discriminatory bundled price discounts to health insurers in order to obtain exclusive dealing arrangements that prevented or delayed entry into the market. Specifically, health insurers agreeing to an exclusive arrangement with United Regional would received a large discount on all of the services purchased from United Regional. Health insurers that did not agree to an exclusive arrangement would receive a significantly smaller discount from United Regional. Not surprisingly, every commercial health insurer operating in United Regional's market (except for Blue Cross Blue Shield of Texas (''Blue Cross'') chose an exclusive dealing arrangement with United Regional. The Antitrust Division alleged that these exclusive dealing arrangements played an important role in maintaining United Regional's monopoly power.

On February 25, 2011 the Antitrust Division filed a Proposed Final Judgment that is designed to end United Regional's use of discriminatory bundled price discounts. The American Medical Association (''AMA'') supports the Proposed Final Judgment and the Antitrust Division's efforts to prevent hospitals with monopoly power from foreclosing entry through the use of the discriminatory bundled price discounts.

The United Regional matter highlights how hospitals with monopoly power can use certain types of price discounts to make it impossible for physicians to compete on a level playing field. The Antitrust Division's action against United Regional shows how this lack of competition ultimately hurts consumers by locking in place high prices and lower quality.

A. The Structure of Competition In Health Care Markets

Throughout the country, physicians play a crucial role in facilitating the entry of new facilities that compete against hospitals with entrenched monopoly power. In order to compete against an entrenched monopolist, however, physicians need access to commercial health insurers that control access to patients.

Providers of medical services compete for contracts with health insurers. Because patients either cannot or will not use out-of-network providers, competition between providers for patients is significantly affected by the outcome of competition between providers for health insurance contracts. Health care markets cannot function in a competitive manner if either form of competition is monopolized or distorted by anticompetitive agreements.

Competition for health insurance contracts is particularly susceptible to anticompetitive conduct because commercial health insurance markets and hospital markets have experienced significant consolidation over the last 20 years. The consolidation by hospital and health insurance markets has given each side opportunities to limit the competition they face. Throughout the country, there are bilateral monopolies in which hospitals and health insurers jointly agree not to contract with each other's rivals in order to prevent entry into either the hospital or the health insurer market. Such arrangements are becoming more common and have the effect of mutually reinforcing the market power wielded by hospitals and health insurers.

The exclusive dealing arrangements challenged in United Regional were one-sided, in that they protected the hospital from entry, but were not designed to also prevent entry into the health insurance market. The anticompetitive effects created by United Regional's actions were still significant, and the Antitrust Division's enforcement action represents a definite step in the right direction.

B. Provider Access to Medicare and Medicaid Is Not a Substitute for Access to Commercial Health Insurance

An important issue raised by the Antitrust Division's action against United Regional is the relevance of Medicare and Medicaid in the antitrust analysis of health care markets. The Antitrust Division correctly concluded

[1] The American Medical Association understands that no hearing or trial has occurred in United Regional, and that United Regional has not admitted the truth of the allegations contained in the Antitrust Divisions' Complaint or Competitive Impact Statement. Indeed, the AMA understands that United Regional denies many of the facts alleged by the Antitrust Division. The AMA is not taking a position, one way or the other, concerning the truth of the allegations made by the Antitrust Division against United Regional. The AMA's comments are based on and limited to the allegations made by the Antitrust Division.

that the existence of Medicare and Medicaid did not prevent United Regional from possessing monopoly power. Further, access to those government programs by providers did not prevent United Regional's exclusive dealing arrangements from barring entry, and, thus, from limiting the provider choices available to consumers.

The Antitrust Division defined the relevant product markets affected by United Regional's anticompetitive practices as (a) ''general acute-care inpatient services * * * sold to commercial health insurers,'' and (b) ''the market for outpatient surgical services sold to commercial health insurers.'' The Antitrust Division correctly concluded that the existence of Medicare and Medicaid do not prevent the exercise of monopoly power by a hospital against commercial health insurers or patients.

Individuals who have commercial health insurance cannot switch over to Medicare or Medicaid because of price increases or output reductions in the commercial market. Thus, if a health insurer excludes various providers from its provider panel, patients cannot defeat those limitations by switching to Medicare or Medicaid. Access to the Medicare and Medicaid programs is defined by federal law, and does not turn on the quality, price or comprehensiveness of commercial health insurance products.

Defining a relevant product market, however, is only part of the analysis. While Medicare and Medicaid will not prevent a hospital from imposing onerous terms on health insurers that adversely affect patient choice, the Antitrust Division was correct in asking the next question as to whether this conduct actually could prevent rival hospital and outpatient centers from entering the market. One could argue that programs such as Medicare and Medicaid provide a large source of patients upon which a new potential rival hospital or outpatient center could base a business plan. Such an argument, however, is fallacious because Medicare and Medicaid cannot fund new entry given the way those programs are currently structured.

Medicare and Medicaid pay providers substantially less than commercial health insurers, and in many instances, pay providers less than the actual cost of providing a medical service. It is commonly recognized that hospitals and outpatient centers have to cross-subsidize their Medicare and Medicaid services with the profits earned from patients covered by commercial health insurance. Medicare and Medicaid, therefore, cannot function as facilitators of new entry into the market.

The Antitrust Division was correct in concluding that ''foreclosure analysis properly focuses on the profitability of the various payment sources available to health-care providers.'' Without access to the profitable sources of business in the health care market, potential or actual competitors cannot expand into new markets or grow to a level where they can seriously challenge the incumbent monopolist. The Antitrust Division was equally correctly when it concluded that access to Medicare and Medicaid by United Regional's actual or potential rivals was not an adequate substitute to the private commercial health insurers that United Regional locked up with exclusive contracts.

The Antitrust Division stated, for example, that the insurers with whom United Regional had exclusive contracts ''account for approximately 30% to 35% of the profits that United Regional earns from all payer-including the government payers-even though they account for only about 8% of United Regional's total patient volume.'' Without access to the most profitable segment of the health care market, United Regional's primary rival, Kell West, could not hope to develop into an effective competitor: * * * without the exclusionary contracts, Kell West likely would have used the profits that it obtained from contracts with the excluded commercial health insurers to expand sooner, and would also likely have added more beds and additional services, such as additional intensive-care capabilities, cardiology services, and obstetric services. Kell West has considered expansion into additional services on numerous occasions, but has been limited in its ability to expand due to its lack of access to commercially insured patients.

C. United Regional's Bundled Discounts Were Anticompetitive

The Antitrust Division alleged that United Regional used its market power to make it ''one of the most expensive hospitals in Texas.'' United Regional understood that its monopoly pricing would attract new entry, and it took steps to maintain its monopoly position by creating barriers to entry by using discriminatory bundled price discounts to obtain exclusive dealing arrangements from commercial health insurers.

According to the Antitrust Division, United Regional established a dual track pricing structure for health insurers. If a health insurer agreed to exclusivity, the health insurer received a premium discount on all of the services provided by United Regional. If a health insurer did not agree to exclusivity, the health insurer would receive a significantly smaller discount on all of the services it paid for on behalf of its policyholders. United Regional's bundled discount arrangement led to exclusive dealing arrangements with health insurers because United Regional's rivals did not and could not offer the full line of services that United Regional provided. United Regional's rivals could not match the total value of the discount United Regional offered. While the health insurer would get a comparable price discount on the services on which United Regional and its rival competed, the health insurer would lose the United Regional discount on all of United Regional's services if the health insurer abandoned exclusivity. As a result, a rival would have to offer a health insurer a discount substantially higher than the discount offered by United Regional. Only in this manner could a rival compete against the total value of the discount offered by United Regional. None of United Regional's actual or potential rivals could offer health insurers a discount large enough to make the health insurer abandon its exclusive dealing arrangement with United Regional. In fact, the total value of the discount United Regional offered was so large that its rivals would have to offer health insurers prices that would almost certainly be substantially below cost, and therefore would be unsustainable.

The Antitrust Division claims that United Regional's exclusive dealing-dependent pricing structure largely succeeded in foreclosing competition. All of the commercial health insurers in the area entered into exclusive arrangements, except for Blue Cross. Blue Cross was apparently large enough that it could off-set United Regional's market power and negotiated discounts without having to agree to an exclusive arrangement. The ability of United Regional's rivals to contract with Blue Cross apparently allowed them to survive in the market, but did not give them the ability to effectively compete against United Regional.

There is nothing inherently wrong with offering attractive price discounts to customers, and in many cases price discounts are procompetitive. Courts and economists, however, have recognized that price discounts are sometimes anticompetitive. The Antitrust Division correctly distinguished United Regional's anticompetitive bundled price discounts from procompetitive price discounts. To do this, the Antitrust Division correctly looked at United Regional's costs, as

opposed to its rivals' costs. Specifically, the Antitrust Division determined the patient volume for which United Regional and its rivals actually competed, and then applied the total discount United Regional offered to health insurers to that ''contestable volume.'' If the total discount, when applied to the contestable volume, results in the contestable volume being sold at a loss, a portion of the discount is then equivalent to a market control premium. The Antitrust Division was correct in concluding that United Regional was offering health insurance companies a market control premium in order to maintain its monopoly.

Finally, the AMA supports the narrowly tailored limitations the Antitrust Division set forth in the Proposed Final Judgment. Overall, the Proposed Final Judgment will prevent United Regional from ceding back to commercial health insurers a portion of its monopoly profits in order to maintain its monopoly power. The Proposed Final Judgment, however, does not prevent United Regional from offering incremental price discounts that allow it to offer discounted prices that are in line with its cost structure. Thus, potential rivals to United Regional will have to provide their services in an efficient manner in order to compete against United Regional on price when trying to strike deals with commercial health insurers. United Regional will also have to compete on the basis of the efficiencies it can offer, rather than on the raw use of its market power.

Overall, the Proposed Final Judgment will not have the effect of propping up inefficient firms that can only survive in the market because United Regional is unable to freely reduce its prices. Instead, the pricing restraints placed on United Regional should prevent it from using bundled discounts in order to limit the competition it faces from truly efficient firms.

Sincerely,

Henry S. Allen, Jr.

Senior Attorney, Advocacy

[FR Doc. 2011–14628 Filed 6–14–11; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–NEW]

Agency Information Collection Activities; Proposed Collection, Comments Requested; Applicant Information Form (1–783)

ACTION: 60-day Notice of Information Collection for Review.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division will be submitting the following information collection renewal to the Office of Management and Budget (OMB) for review in accordance with established review procedures of the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 15, 2011. This process is conducted in accordance with 5 CFR 1320.10.

All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Rachel K. Hurst, Management Program Analyst, FBI, CJIS Division, Biometric Services Section (BSS), Support Services Unit (SSU), Module E–1, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306; or by facsimile to (304) 625–5392.

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 e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8-digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call Rachel Hurst at 1–304–625–2000 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. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Approval of existing collection in use without an OMB control number.

(2) *The title of the form/collection:* Applicant Information Form.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* 1–783; CJIS Division, FBI, DOJ.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals. This collection is necessary for an individual to request a copy of their personal identification record to review it or to obtain a change, correction, or an update to the record.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Annually, the FBI receives 225,000 identification requests, therefore there are 225,000 respondents. The form requires three minutes to complete.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 11,250 burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Justice Management Division, United States Department of Justice, Policy and Planning Staff, 145 N Street, NE., Room 2E–808, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 2011–14727 Filed 6–9–11; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0197]

Agency Information Collection Activities: Proposed Collection; Comments Requested; Extension of a Currently Approved Collection With Changes; State Criminal Alien Assistance Program

ACTION: 30-day notice of information collection under review.

The Department of Justice, Office of Justice Programs (Bureau of Justice Assistance) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by September 2003. The proposed information collection is published to obtain comments from the public and affected areas. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503.

All comments, and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to M.A. Berry at (202) 353–8643, Bureau of Justice Assistance, Office of Justice Programs, 810 Seventh Street, Room 4223, Washington, DC 20531 or by e-mail at *M.A.Berry@ojp.usdoj.gov.*

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 e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call Maria Berry at 202–353–8643 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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected, and mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Extension of currently approved collection expire.

(2) *The title of the form/collection: State Criminal Alien Assistance Program.*

(3) The agency form number, if any, and the applicable component of the department sponsoring the collection. Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal, State, and local public safety agencies. States and local units of general government including the 50 state governments, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, and the more than 3,000 counties and cities with correctional facilities.

Abstract: In response to the Violent Crime Control and Law Enforcement Act of 1994 Section 130002(b) as amended in 1996, BJA administers the State Criminal Alien Assistance Program (SCAAP) with the Bureau of Immigration and Customs Enforcement (ICE), and the Department of Homeland Security (DHS). SCAAP provides Federal payments to States and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law, and who are incarcerated for at least 4 consecutive days during the designated reporting period and for the following correctional purposes;

Salaries for corrections officers;

Overtime costs;

Performance based bonuses;

Corrections work force recruitment and retention;

Construction of corrections facilities;

Training/education for offenders;

Training for corrections officers related to offender population management;

Consultants involved with offender population;

Medical and mental health services;

Vehicle rental/purchase for transport of offenders;

Prison Industries;

Pre-release/reentry programs;

Technology involving offender management/inter agency information sharing;

Disaster preparedness continuity of operations for corrections facilities.

Other: None.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply. It is estimated that no more than 865 respondents will apply. Each application takes approximately 90 minutes to complete and is submitted once per year (annually).

If additional information is required, contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, 145 N Street, NE., Room 2E–808, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–14725 Filed 6–14–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP, NIJ Docket No. 1556]

National Institute of Justice Protective Helmet Standards Workshop

AGENCY: National Institute of Justice.

ACTION: Notice of Meeting of the NIJ Protective Helmet Standards Workshop.

SUMMARY: The National Institute of Justice (NIJ) and the National Institute of Standards and Technology (NIST) are jointly hosting a workshop focused on NIJ protective helmet standards. It is anticipated that the discussion at the workshop will be directed primarily toward manufacturers, certification bodies, and test laboratories.

NIJ and NIST are hosting this workshop specifically to discuss with interested parties two existing protective helmet standards: *NIJ Standard for Ballistic Helmets and NIJ Standard for Riot Helmets and Face Shields.* NIJ and NIST are seeking to receive input, comments, and recommendations for developing a revised standard for criminal justice protective helmets. Participants are strongly encouraged to come prepared to ask questions and to voice suggestions and concerns.

Space is limited at this workshop, and as a result, only 50 participants will be

allowed to register. We request that each organization limit their representatives to no more than two per organization. Exceptions to this limit may occur, should space allow. Participants planning to attend are responsible for their own travel arrangements. Registration information may be found at *http://www.justnet.org/Pages/2011_NIJ_Helmet_Workshop.aspx.* Registration will close on July 8, 2011.

DATES: The workshop will be held on Friday, July 15, 2011 from 9 a.m. to 3:30 p.m.

ADDRESSES: The workshop will take place at NIST, 100 Bureau Drive Gaithersburg, MD, Building 101, Lecture Room B.

FOR FURTHER INFORMATION CONTACT: Debra Stoe, by telephone at 202–616–7036 [*Note:* this is not a toll-free telephone number], or by e-mail at *Debra.Stoe@usdoj.gov.*

Kristina Rose,

Deputy Director, National Institute of Justice.

[FR Doc. 2011–14798 Filed 6–14–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1557]

National Institute of Justice Stab-Resistant Body Armor Standard Workshop

AGENCY: National Institute of Justice, DOJ.

ACTION: Notice of Meeting of the Stab-Resistant Body Armor Standard Workshop.

SUMMARY: The National Institute of Justice (NIJ) and the National Institute of Standards and Technology (NIST) are jointly hosting workshop focused on the *NIJ Stab-Resistant Body Armor Standard.* It is anticipated that the discussion at the workshop will be directed primarily toward manufacturers, certification bodies, and test laboratories.

NIJ and NIST are hosting this workshop specifically to discuss with interested parties the development of the revised *NIJ Stab-Resistant Body Armor Standard* and to receive input, comments, and recommendations. Participants are strongly encouraged to come prepared to ask questions and to voice suggestions and concerns.

Space is limited at this workshop, and as a result, only 50 participants will be allowed to register. We request that each organization limit their representatives to no more than two per organization. Exceptions to this limit may occur, should space allow. Participants planning to attend are responsible for their own travel arrangements.

Registration information may be found at *http://www.justnet.org/Pages/2011_NIJ_Stab-resistant_BA_Workshop.aspx.* Registration will close on July 8, 2011.

DATES: The workshop will be held on Thursday, July 14, 2011 from 9 a.m. to 3:30 p.m.

ADDRESSES: The workshop will take place at NIST, 100 Bureau Drive, Gaithersburg, MD, Building 101, Lecture Room B.

FOR FURTHER INFORMATION CONTACT: Debra Stoe, by telephone at 202–616–7036 [*Note:* this is not a toll-free telephone number], or by e-mail at *Debra.Stoe@usdoj.gov.*

Kristina Rose,

Deputy Director, National Institute of Justice.

[FR Doc. 2011–14799 Filed 6–14–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,232]

The Travelers Indemnity Company, a Wholly-Owned Subsidiary of The Travelers Companies, Inc., Personal Insurance Division, Customer Sales and Service Business Unit, Account Processing Unit, Including Teleworkers Located Throughout the United States, Reporting to Knoxville, TN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 25, 2011, applicable to workers of The Travelers Indemnity Company, a wholly-owned subsidiary of The Travelers Companies, Inc., Personal Insurance Division, Customer Sales and Service Business Unit, Account Processing Unit, Knoxville, Tennessee (subject firm). The workers provide account processing services. The notice was published in the **Federal Register** on April 11, 2011 (76 FR 20047).

At the request of the State of Tennessee workforce agency, the Department reviewed the certification for workers of the subject firm.

New information shows that worker separations have occurred involving employees under the control of the subject firm who telework from off-site locations throughout the United States. These employees provided various activities related to the supply of account processing services.

Based on these findings, the Department is amending this certification to include employees of the subject firm who telework and report to the Knoxville, Tennessee facility.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in account processing services to India.

The amended notice applicable to TA–W–75,232 is hereby issued as follows:

All workers of The Travelers Indemnity Company, a wholly-owned subsidiary of The Travelers Companies, Inc., Personal Insurance Division, Customer Sales and Service Business Unit, Account Processing Unit, including teleworkers located throughout the United States reporting to, Knoxville, Tennessee, who became totally or partially separated from employment on or after February 10, 2010 through March 25, 2013, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 6th day of June, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–14815 Filed 6–14–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,292; TA–W–74,292A]

Precision Dynamics Corporation San Fernando, CA; Precision Dynamics Corporation, Also Known as the St. John Companies, Valencia, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 28, 2011, applicable to workers of Precision Dynamics Corporation, San Fernando, California. The workers are engaged in activities related to production of identification wristbands and labels.

The notice was published in the **Federal Register** on August 23, 2010 (75 FR 51848).

At the request of the company, the Department reviewed the certification for workers of the subject firm.

The Valencia, California location of Precision Dynamics Corporation, also known as The St. John Companies, operated in conjunction with the San Fernando, California location of Precision Dynamics Corporation. Both locations produce identification wristbands and labels and worker separations at both locations are attributable to a shift in production to Mexico by the workers' firm.

Accordingly, the Department is amending this certification to include workers of the Valencia, California location of Precision Dynamics Corporation.

The amended notice applicable to TA–W–74,292 is hereby issued as follows:

All workers of Precision Dynamics Corporation, San Fernando, California (TA–W–74,292), and Precision Dynamics Corporation, also known as The St. John Companies, Valencia, California (TA–W–74,292A), who became totally or partially separated from employment on or after June 14, 2009, through August 2, 2012, and all workers in the group threatened with total or partial separation from employment on the date of certification through August 2, 2012, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 26th day of May, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–14820 Filed 6–14–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,017]

Nokia, Inc.; a Subsidiary of Nokia Group; Including On-Site Leased Workers From ATC Logistics and Electronics and Adecco Fort Worth, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 15, 2011, applicable to workers of Nokia, Inc., a subsidiary of Nokia Group, including on-site leased workers from ATC Logistics and Electronics, Fort Worth, Texas. The workers supplied planning and materials management for distribution of cell phone equipment. The notice was published in the **Federal Register** on March 10, 2011 (76 FR 13229).

At the request of a State agency, the Department reviewed the certification for workers of the subject firm. The company reports that workers leased from Adecco were employed on-site at the Fort Worth, Texas location of Nokia, Inc., a subsidiary of Nokia Group. The Department has determined that these workers were sufficiently under the control of Nokia, Inc., a subsidiary of Nokia Group to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Adecco working on-site at the Fort Worth, Texas location of Nokia, Inc., a subsidiary of Nokia Group.

The amended notice applicable to TA–W–75,017 is hereby issued as follows:

All workers of Nokia, Inc., a subsidiary of Nokia Group, including on-site leased workers from ATC Logistics and Electronics, and Adecco, Fort Worth, Texas, who became totally or partially separated from employment on or after December 17, 2009, through February 15, 2013, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 26th day of May 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–14821 Filed 6–14–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,260; TA–W–74,260A]

Xpedx, a Division of International Paper Company Including On-Site Leased Workers From Manpower, Livonia, MI; Xpedx, a Division of International Paper Company Including On-Site Leased Workers From Manpower, Grand Rapids, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 28, 2011, applicable to workers and former workers of Xpedx, a Division of International Paper Company, including on-site leased workers from Manpower, Livonia, Michigan (subject firm). The workers are engaged in activities related to the supply of sales, distribution and warehousing services. The Notice of certification was published in the **Federal Register** on February 10, 2011 (76 FR 7587).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm.

The Grand Rapids, Michigan location operated in conjunction with the Livonia, Michigan location; both locations are part of the overall servicing operation, serve the same customer base, and meet the criteria for secondary worker certification.

Accordingly, the Department is amending this certification to include workers of Xpedx, a Division of International Paper Company, Grand Rapids, Michigan.

The amended notice applicable to TA–W–74,260 is hereby issued as follows:

All workers of Xpedx, a Division of International Paper Company, including on-site leased workers from Manpower, Livonia, Michigan (TA–W–74,260), and Grand Rapids, Michigan (TA–W–74,260A), who became totally or partially separated from employment on or after May 26, 2009, through January 28, 2013, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 6th day of June, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–14819 Filed 6–14–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,124; TA–W–70,124A]

Hutchinson Technology, Inc., Including On-Site Workers Leased From Doherty, Including Workers Whose Unemployment Insurance (UI) Wages Are Paid Through Aramark Business Facilities, LLC, Hutchinson, MN; Hutchinson Technology, Inc., Including On-Site Workers Leased From Doherty, Including Workers Whose Unemployment Insurance (UI) Wages Are Paid Through Aramark Business Facilities, LLC, Plymouth, MN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 18, 2009, applicable to workers of Hutchinson Technology, Inc., including on-site leased workers from Doherty, Hutchinson, Minnesota and Hutchinson Technology, Inc., including on-site leased workers of Doherty, Plymouth, Minnesota. The notice was published in the **Federal Register** on November 5, 2009 (74 FR 57337).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. Workers at the Hutchinson, Minnesota location of the subject firm (TA–W–70,124) produce suspension assemblies for computer disk drives. Workers at the Plymouth, Minnesota location of the subject firm produce stampings of components incorporated into finished suspension assemblies produced by workers at the Hutchinson, Minnesota facility.

Information shows that on-site workers from Aramark Business Facilities, LLC became employees of Hutchinson Technology, Inc., in February 2011. Some workers separated from employment at the Hutchinson and Plymouth, Minnesota locations of the subject firm had their wages reported under a separate unemployment insurance (UI) tax account under the name Aramark Business Facilities, LLC.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Hutchinson Technologies who were adversely affected by increased imports of suspension assemblies for computer disk drives and the components used in the finished suspension assemblies.

The amended notice applicable to TA–W–70,124 and TA–W–70,124A are hereby issued as follows:

All workers of Hutchinson Technology, Incorporated, including on-site leased workers from Doherty, including workers whose unemployment insurance (UI) wages are paid through Aramark Business Facilities, LLC, Hutchinson, Minnesota (TA–W–70,124), and Hutchinson Technology, Incorporated, including on-site leased workers from Doherty, including workers whose unemployment insurance (UI) wages are paid through Aramark Business Facilities, Plymouth, Minnesota (TA–W–70,124A), who became totally or partially separated from employment on or after May 18, 2008 through September 18, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 6th day of June 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–14816 Filed 6–14–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

TA–W–72,673

Weather Shield Manufacturing, Inc. Corporate Office, Medford, WI; Notice of Amended Negative Determination

On May 3, 2011, the United States Court of International Trade (USCIT) granted the Department of Labor's request for voluntary remand to complete the administrative record and to file a determination that provides a detailed explanation of its reliance upon the five types of documents inadvertently omitted from the previously filed administrative record in *Former Employees of Weather Shield Manufacturing, Inc.* v. *United States Secretary of Labor* (Court No. 10–00299).

On July 16, 2009, the Department of Labor (Department) issued a Negative Determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Weather Shield Manufacturing, Inc., Corporate Office, Medford, Wisconsin (subject facility) covered by TA–W–72,673. Amended Administrative Record (AAR) 64. Workers at the subject facility (subject worker group) supply administrative support services related to the production of doors and windows at various domestic locations of Weather Shield Manufacturing, Inc. AAR 67. The Department's Notice of determination was published in the **Federal Register** on August 2, 2009 (75 FR 45163). AAR 77.

The authority for these issuances is the Trade Act of 1974, as amended by the Trade and Globalization Adjustment Assistance Act of 2009 (Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, Pub. L. 111–5), hereafter referred to as TGAAA.

As explained in the determination, workers of a firm who filed a petition for TAA under TGAAA may be eligible for worker adjustment assistance, under the statutory criteria in effect at the time this petition was filed, if they satisfy the criteria of subsection (a), (c) or (f) of Section 222 of the Act, 19 U.S.C. 2272(a), (c), (f) (2009).

For the Department to issue a certification for workers under Section 222(a) of the Act, 19 U.S.C. 2272(a) (2009), the following three criteria must be met:

I. The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2282(a)(1)) requires that a significant number or proportion of the workers in the workers' firm must have become totally or partially separated or be threatened with total or partial separation.

II. The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be met in one of two ways:

(A) Increased Imports Path:

(i) Sales or production, or both, at the workers' firm must have decreased absolutely, AND

(ii) (I) Imports of articles or services like or directly competitive with articles or services produced or supplied by the workers' firm have increased, OR

(II)(aa) Imports of articles like or directly competitive with articles into which the component part produced by the workers' firm was directly incorporated have increased; OR

(II)(bb) Imports of articles like or directly competitive with articles which are produced directly using the services supplied by the workers' firm have increased; OR

(III) Imports of articles directly incorporating component parts not produced in the U.S. that are like or directly competitive with the article into

which the component part produced by the workers' firm was directly incorporated have increased.

(B) Shift in Production or Supply Path:

(i)(I) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm; OR

(i)(II) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm.

III. The third criterion requires that the increase in imports or shift/acquisition must have contributed importantly to the workers' separation or threat of separation. *See* Sections 222(a)(2)(A)(iii) and 222(a)(2)(B)(ii) of the Act, 19 U.S.C. 2272(a)(2)(A)(iii), 2272(a)(2)(B)(ii).

29 CFR 90.2 states that ''Increased imports means that imports have increased either absolutely or relative to domestic production compared to a representative base period. The representative base period shall be one year consisting of the four quarters immediately preceding the date which is the twelve months prior to the date of the petition.''

Section 222(d) of the Act, 19 U.S.C. 2272(d) (2009), defines the terms ''Supplier'' and ''Downstream Producer.'' For the Department to issue a secondary worker certification under Section 222(c) of the Act, 19 U.S.C. 2272(c) (2009), to workers of a Supplier or a Downstream Producer, the following criteria must be met:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a), and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Workers of a firm may also be considered eligible to apply for TAA under TGAAA if they are publicly identified by name by the International Trade Commission (ITC) as a member of a domestic industry in an investigation resulting in a category of determination that is listed in Section 222(f) of the Act, 19 U.S.C. 2272(f)(2009).

The group eligibility requirements for workers of a firm under Section 222(f) of the Act, 19 U.S.C. 2272(f)(2009), can be satisfied if the following criteria are met:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Summary of Investigation of TA–W–72,673

This petition, covering workers and former workers of Weather Shield Manufacturing, Inc., Corporate Office, Medford, Wisconsin, TA–W–72,673 (hereafter referred to as ''WEATHER SHIELD II''), is dated October 23, 2009. AAR 3. Therefore, the period of investigation included the twelve month period prior to October 2009 (hereafter referred to as ''the relevant period''), which is October 2008 through September 2009, and the representative base period for the investigation, which is October 2007 through September 2008.

The initial negative determination in Weather Shield II was based on the findings that Weather Shield Manufacturing, Inc. (subject firm) did not, during the period under investigation, shift to/acquire from a foreign country the supply of services like or directly competitive with the administrative support services supplied by the subject worker group; that the subject worker group's separation, or threat of separation, was not related to any increase in imports of like or directly competitive services; that the subject worker group did not supply a service that was directly used in the production of an article, or the supply of service, by a firm that employed a worker group that is eligible to apply for TAA based on the aforementioned article or service; and that the subject firm was not identified by name in affirmative finding of injury by the ITC. AAR 67–68.

During the investigation of WEATHER SHIELD II, the Department surveyed the subject firm's major declining customers regarding their purchases of doors and/or windows in the relevant period. AAR 29–48. The survey revealed that customer imports of articles like or directly competitive with those produced by the subject firm declined in the relevant period, both in absolute terms and relative to the purchases made from the subject firm. AAR 29–48, 53–56.

By application dated August 23, 2009, a petitioner requested administrative reconsideration on the Department's determination, stating that ''Case number TA–W–72,673 is the same company and division as petition TA–64,725—Weather Shield Employees [''WEATHER SHIELD I'']. '' AAR 78, 86, 93, 101, 108.

Because the petitioner did not supply facts not previously considered or provide additional documentation indicating that there was either: (1) A mistake in the determination of facts not previously considered, or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination, the Department issued a Notice of Negative Determination Regarding Application for Reconsideration for the subject worker group on September 10, 2009. AAR 115.

The negative determination on reconsideration stated, in part, that ''The petition date of TA–W–64,725 is December 17, 2008. The petition date of TA–W–72,673 is October 23, 2009. Because the investigation periods in the two cases are different, the findings in TA–W–64,725 cannot be used as the basis for a certification of TA–W–72,673.'' AAR 117. The Department's Notice of Negative Determination Regarding Application for Reconsideration in WEATHER SHIELD II was published in the **Federal Register** on September 21, 2009 (75 FR 57519). AAR 120.

In response to the Plaintiff's complaint filed with the USCIT, dated October 8, 2009, regarding WEATHER SHIELD II, the Department filed an administrative record that consisted of the materials upon which the

Department relied in making its determination with regards to the subject worker group's eligibility to apply for TAA. However, this record did not include documents that were considered in WEATHER SHIELD I, and which were also considered during the investigation of WEATHER SHIELD II as the basis for this determination.

In Plaintiffs' Motion to Supplement the Administrative Record, dated March 30, 2011, Plaintiffs indicated that the record did not include documentation in support of the negative determination (''the administrative record does not include any supporting questionnaire responses or source documents for Weather Shield's 2008 sales, nor does it provide any explanation for the 2009 data. The administrative record also does not include any customer list or any list of the customers to whom Labor issued questionnaires.'') The materials to which Plaintiffs refer were part of the investigation of WEATHER SHIELD I (the case also referenced in the request for reconsideration).

The Department's Motion for Voluntary Remand stated that the Department sought to complete the administrative record by adding material received during the investigation of WEATHER SHIELD I that was considered during the investigation of WEATHER SHIELD II and, therefore, should have been included in the administrative record: the customer surveys received during the remand investigation of WEATHER SHIELD I; the complete customer list obtained during the remand investigation of WEATHER SHIELD I; the Non-Production Questionnaire and Confidential Data Request forms received during the initial investigation of WEATHER SHIELD I; documents providing the sales figures obtained during the remand investigation of WEATHER SHIELD; and the investigative report from the initial investigation of WEATHER SHIELD. The Department also explained in the motion that a remand was necessary for the Department to prepare a thorough explanation of how it relied on the afore-mentioned documents from the investigation of WEATHER SHIELD I and a more detailed factual and/or legal analysis in support of the remand determination in WEATHER SHIELD II.

Consistent with the USCIT's Order, the Department is filing an amended administrative record, which includes the following documents:

1. Forms completed during Weather Shield I: three Confidential Data Request (CDR) forms (OMB No. 1205–0342) (AAR 127, 132, 137), and one Non-Production Questionnaire (OMB No. 1205–0447) (AAR 122);

2. E-mail correspondence (dated May 4, 2009) between the Department and a Weather Shield company official (AAR 143);

3. Investigative Report (IR) for Weather Shield I (AAR 145);

4. Customer list obtained during Weather Shield I* (AAR 209; and

5. Customer Surveys conducted during Weather Shield I (AAR 149, 152, 155, 158, 161, 164, 167, 170, 173, 176, 179, 182, 185, 188, 191, 194, 197, 199, 202).

*The list is very large, consisting of numerous customers who constitute less than one percent of subject firm sales, and has been submitted as part of the administrative record via compact disk.

Understanding the remand investigation of WEATHER SHIELD I places the investigation of WEATHER SHIELD II into perspective. Furthermore, a comparison of the conditions that existed during the relevant time periods of each case and the appropriate regulations sheds light on the misconception that the certification issued by the Department in WEATHER SHIELD I could be a basis for the Department to issue a certification in WEATHER SHIELD II.

While the subject worker group covered by WEATHER SHIELD I is the same as the subject worker group covered by WEATHER SHIELD II, the investigations of the subject worker group cover different time periods in WEATHER SHIELD I and WEATHER SHIELD II:

WEATHER SHIELD I—

- Petition date is December 18, 2008.
- The relevant period is calendar year 2008.
- The representative base period is calendar year 2007.

WEATHER SHIELD II—

- Petition date is October 23, 2009.
- The relevant period is October 2008 through September 2009.
- The representative base period is October 2007 through September 2008.

Significantly, the relevant period of WEATHER SHIELD I overlaps the representative base period in WEATHER SHIELD II by only a few months.

Summary of Remand Investigation of TA–W–64,725 (WEATHER SHIELD I)

On December 17, 2008, the WEATHER SHIELD I petition for TAA and Alternative Trade Adjustment Assistance (ATAA) was filed on behalf of workers and former workers of Weather Shield Manufacturing, Inc., Corporate Office, Medford, Wisconsin. AAR 79.

The Department determined in the initial and reconsideration investigations in WEATHER SHIELD I that imports of articles like or directly competitive with those produced by the subject firm did not contribute importantly to worker separations at the subject facility and that the subject firm did not shift production to a foreign country. AAR 79–81. A sample survey of the subject firm's major declining domestic customers revealed negligible imports of products like or directly competitive with those produced by workers at the subject firm. AAR 80–81.

During the remand investigation of WEATHER SHIELD I, the Department obtained an extensive customer list from the subject firm and conducted a larger sample customer survey to determine whether or not there were increased customer imports during the relevant period (calendar year 2008) of articles like or directly competitive with doors and/or windows, when compared to the representative base period (calendar year 2007). AAR 82–83. The expanded survey constituted 16% of the subject firm's declining customers. The expanded customer survey revealed increased imports during calendar year 2008 when compared to 2007 import levels. AAR 83.

On August 9, 2009, the Department issued a certification in WEATHER SHIELD I applicable to workers of Weather Shield Manufacturing, Inc., Corporate Office, Medford, Wisconsin, who became totally or partially separated from employment on or after December 17, 2007, through August 9, 2012. AAR 79.

Following the Department's practice, the WEATHER SHIELD I certification covered workers separated in the year preceding the date of the petition and continued for two years after the date of certification. AAR 84. Under the Department's practice, which is consistent with the remedial purposes of the TAA Program, certifications usually cover workers separated during at least a three-year period (beginning with the impact date, as defined in 29 CFR 90.2, and ending at the expiration of the two-year period following the determination) so that the broadest group of workers at a firm are eligible to apply for trade readjustment assistance under Section 233(a)(2) of the Trade Act, as amended.

In WEATHER SHIELD I, however, the certification covers a much longer period (more than four and a half years) because the certification was not issued on remand until August 9, 2009. Had the Department issued the certification on April 29, 2009, the certification period would have covered December 17, 2007 through April 29, 2011 (a period of three years and four months).

Investigation of TA–W–72,673 (WEATHER SHIELD II)

The petitioners in WEATHER SHIELD II stated no reason for the workers' separations other than ''the economy'' (AAR 3, 7) and stated in an attachment that the subject firm operated several domestic facilities. AAR 4, 8. According to the subject firm, the separations were due to the collapse of the domestic housing market and the corresponding decreased demand for windows and doors used in residential units. AAR 59. A pre-institution screening for duplicative petitions revealed that there was a related case: TA–W–64,725. AAR 9.

The record of the findings of an investigation is summarized in an Investigative Report (IR) that is unique to each case. While the WEATHER SHIELD I IR (AAR 145–148) did not play a meaningful role in the determination of WEATHER SHIELD II, the Department reviewed it in consideration of WEATHER SHIELD II because it is a related document. Specifically, the WEATHER SHIELD I IR discussed the operations of the subject facility in the context of the operations of the subject firm. AAR 145. It explained the services that the subject worker group supplied during the investigation period for WEATHER SHIELD I which were the same as for WEATHER SHIELD II (the investigation period of WEATHER SHIELD I and WEATHER SHIELD II overlapped by a few months). AAR 145. The WEATHER SHIELD I IR summarized the relationships between the subject facility and the three Weather Shield production facilities that were supported by the subject facility during the investigation period. AAR 146–147. The WEATHER SHIELD I IR also clarified the different articles produced at the three production facilities. AAR 146–147. The WEATHER SHIELD I IR also described the difference between the two Medford, Wisconsin facilities and the services supplied by the subject worker group at the subject facility. AAR 146–147.

The remand investigation of WEATHER SHIELD I and the initial investigation of WEATHER SHIELD II were conducted concurrently because the Complaint in WEATHER SHIELD I was filed with the USCIT on January 19, 2010 (two and half months after the petitioners filed WEATHER SHIELD II on October 26, 2009). Therefore, the Department reviewed material obtained during the investigations of WEATHER SHIELD I as well as material obtained during the investigation of WEATHER SHIELD II in determining whether the subject worker group in WEATHER SHIELD II met the eligibility criteria set forth in TGAAA.

The Department reviewed material obtained during the investigations of WEATHER SHIELD I during the investigation of WEATHER SHIELD II. Specifically, the Department reviewed the Non-Production Questionnaire (AAR 22, 122) and three Confidential Data Request (CDR) forms submitted during the initial investigation of WEATHER SHIELD I (AAR 127–142), an e-mail exchange (dated May 4, 2009) between the Department and a Weather Shield official (AAR 143–144); the investigative report for the initial investigation (AAR 145–148); the customer list obtained during the remand investigation of WEATHER SHIELD I (AAR 209); and the results of the expanded customer survey conducted during the remand investigation of WEATHER SHIELD I. AAR 149–208.

During the investigation of the WEATHER SHIELD II petition, the subject firm confirmed that a significant number or proportion of the workers at the subject facility had been totally or partially separated from employment, or threatened with such separation. AAR 59. As such, the Department determined that Section 222(a)(1) has been satisfied and continued its investigation to determine whether either Section 222(a)(2)(A) or Section 222(a)(2)(B) have been met.

The Department determined, based on information provided by the subject firm during WEATHER SHIELD II, that there was not shift to a foreign country or acquisition from a foreign country by the subject firm in the supply of services like or directly competitive with those supplied by the subject worker group. AAR 51, 59. Therefore, the Department determined that Section 222(a)(2)(B) has not been satisfied and continued its investigation to determine whether Section 222(a)(2)(A) was met.

Section 222(a)(2)(A) has two criteria: (i) That sales or production, or both, at the workers' firm must have decreased absolutely and (ii) that there have been increased imports.

The Department determined that sales and production at the subject firm declined during the relevant period of the WEATHER SHIELD II investigation based in its review of material from the WEATHER SHIELD I investigation, as follows.

The Department reviewed the Non-Production Questionnaire (NPQ) supplied in the initial investigation of WEATHER SHIELD I. AAR 22, 122. The NPQ confirmed information supplied during the investigation of WEATHER SHIELD II that workers at the subject facility supplied services related to administration, human resources, accounting, sales, and marketing to three Weather Shield production facilities and that workers at the subject facility did not produce an article. AAR 22, 122.

Having ascertained that the subject worker group did not produce an article, but supplied services in support of production at other subject firm facilities and there was no shift to a foreign country by the subject firm in the supply of like or directly competitive services, the Department investigated whether there had been decreased sales and/or production declines and, if so, whether there were increased imports (per 29 CFR 90.2) of windows and/or doors (or like or directly competitive articles) by reviewing the CDRs submitted by the subject firm during the WEATHER SHIELD I investigation. AAR 127–142. The relevant period for the WEATHER SHIELD II investigation is October 2008 through September 2009, and the representative base period is October 2007 through September 2008.

According to the NPQ submitted during WEATHER SHIELD I (AAR 22, 122), the subject facility supported three production facilities of the subject firm. AAR 24, 123. Therefore, the Department reviewed the three CDRs for those facilities (400 Legacy Lane, Park Falls, Wisconsin; 642 Whelan Avenue, Medford, Wisconsin; and 320 E. Worden Avenue, Ladysmith, Wisconsin) which were also submitted during WEATHER SHIELD I (AAR 127–142) to determine whether or not there were sales and/or production declines.

The afore-mentioned CDRs revealed that the Park Falls, Wisconsin facility produced doors (AAR 137), while both the Ladysmith, Wisconsin facility (AAR 127) and the Medford, Wisconsin facility (AAR 132) produced windows. The CDRs also revealed that all three facilities shut down in January 2009. AAR 127, 132, 137. As such, the Department determined that subject firm production had declined absolutely.

Information obtained from the subject firm during Weather Shield II consisted of only sales data for calendar 2009 (AAR 51, 52) (as noted above, production at the three subject firm facilities supported by the subject worker group had ceased in January 2009). AAR 127, 132, 137. In order to determine whether subject firm sales had declined, the Department reviewed existing material in WEATHER SHIELD I for sales figures for the representative base period for WEATHER SHIELD II: A

May 4, 2009 e-mail obtained during the investigation of WEATHER SHIELD I that contained subject firm sales figures for calendar year 2008. AAR 143. By comparing the sales data from WEATHER SHIELD I with the sales data from WEATHER SHIELD II, the Department was able to ascertain that subject firm sales declined during 2009 from 2008 levels.

Based on information obtained from the afore-mentioned WEATHER SHIELD I material (IR [AAR 145], NPQ [AAR 22, 122], CDRs [AAR 127–142], and the May 4, 2009 e-mail [AAR 143]), the Department determined that Section 222(a)(2)(A)(i) had been met and continued its investigation to determine whether Section 222(a)(2)(A)(ii) was met.

The Department determined that, for the relevant period of WEATHER SHIELD II, unlike the earlier relevant period for the WEATHER SHIELD I investigation, the requirements of Section 222(a)(2)(A)(ii) were not met, based on its review of material from the WEATHER SHIELD I investigation, as follows.

The Department considered the complete customer list obtained during WEATHER SHIELD I (AAR 209) and the results of the customer surveys conducted during the remand investigation of WEATHER SHIELD I. AAR 149–208.

The Department used the customer list provided during the WEATHER SHIELD I remand investigation (AAR 209) to conduct the customer survey in WEATHER SHIELD II. AAR 29–48. The Department surveyed only those customers with sales data for the year 2009, the relevant time period for the WEATHER SHIELD II investigation. AAR 29–48, 62–63. The WEATHER SHIELD II customers surveyed consisted of 16% of subject firm sales in 2008 and 13% of subject firm sales in 2009. AAR 53–56, 62–63.

The WEATHER SHIELD II investigation customer survey responses were combined with the responses of the same customers received during the WEATHER SHIELD I remand investigation for year 2008 to conduct a comparative analysis. AAR 53–56, 61–63. As noted above, the Department had conducted an expansive sample customer survey in WEATHER SHIELD I approximately three months before administering the customer survey for WEATHER SHIELD II. The analysis of overall subject firm sales, purchases made by the surveyed customers, and direct and indirect imports, did not reveal increased imports, per 29 CFR 90.2, by the surveyed customers. AAR 53–56, 61–63.

Further, as noted in the initial WEATHER SHIELD II determination, U.S. aggregate imports of metal/wood doors and windows (and like or directly competitive articles) declined from 2008 to 2009. AAR 57–58. As noted above, most of the customers on the customer list that was submitted in WEATHER SHIELD I (AAR 209) constituted a very small portion of the subject firm's sales; therefore, the results of an analysis of aggregate data of like or directly competitive articles is relevant because it is representative of the import activity of the subject firm's customer base during the relevant period of WEATHER SHIELD II.

The Department's determination is not inconsistent with the four affirmative TAA decisions attached to Plaintiffs' Motion to Supplement the Administrative Record before the USCIT in Court No. 10–00299. Workers of Springs Window Fashions, LLC (TA–W–73,575) and Simpson Door Company (TA–W–65,585) were certified as eligible to apply for TAA based in part on the investigative findings that Criterion 2 was met because their respective companies shifted production of window coverings and components, and solid wood stile and rail doors to Mexico and Canada, respectively, during the relevant periods of those investigations. Workers of Jeld-Wen Premium Doors (TA–W–71,644) and Woodgrain Millworks, Inc. (TA–W–65,461), were certified as eligible to apply for TAA based in part on the investigative findings that Criterion 2 was met because of increased imports or increased reliance on imported articles like or directly competitive with the articles produced by those companies. Those certifications involved different relevant periods.

Because increased imports is defined by 29 CFR 90.2, and the date of the petition determines the relevant period and the representative base period, facts that were the basis for certifications involving earlier-filed petitions cannot be the basis for a certification in WEATHER SHIELD II, just as the certification in WEATHER SHIELD I cannot be the basis for a certification in WEATHER SHIELD II.

Additionally, with respect to Section 222(c) of the Act, 19 U.S.C. 2272(c), the investigation revealed that the workers could not be certified as adversely affected secondary workers because the subject firm did not produce an article or supply a service that was used by a firm with TAA-certified workers in the production of an article or supply of a service that was the basis for TAA certification.

Finally, the group eligibility requirements under Section 222(f) of the Act, 19 U.S.C. 2272(f), have not been met because the subject firm has not been identified by name in an affirmative finding of injury by the International Trade Commission.

Based on the afore-mentioned findings, the Department determined that the subject worker group was not eligible to apply for TAA.

Conclusion

After careful review of material consisting of the complete administrative record, I determine that workers of Weather Shield Manufacturing, Inc., Corporate Office, Medford, Wisconsin, who supply corporate office support services for metal/wood windows and doors, are denied eligibility to apply for adjustment assistance under Section 223 of the Act, 19 U.S.C. 2273.

Signed in Washington, DC on this 3rd day of June, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–14818 Filed 6–14–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,572; TA–W–71,572A; TA–W–71,572B; TA–W–71,572C]

Amended Revised Determination on Reconsideration

TA–W–71,572
SEVERSTAL WHEELING, INC., A SUBSIDIARY OF SEVERSTAL NORTH AMERICA, INC., CURRENTLY KNOWN AS RG STEEL WHEELING, LLC, MARTINS FERRY, OHIO

TA–W–71,572A
SEVERSTAL WHEELING, INC., A SUBSIDIARY OF SEVERSTAL NORTH AMERICA, INC., CURRENTLY KNOWN AS RG STEEL WHEELING, LLC, YORKVILLE, OHIO

TA–W–71,572B
SEVERSTAL WHEELING, INC., A SUBSIDIARY OF SEVERSTAL NORTH AMERICA, INC., CURRENTLY KNOWN AS RG STEEL WHEELING, LLC, MINGO JUNCTION, OHIO

TA–W–71,572C
SEVERSTAL WHEELING, INC., A SUBSIDIARY OF SEVERSTAL NORTH AMERICA, INC., CURRENTLY KNOWN AS RG STEEL WHEELING, LLC, STEUBENVILLE, OHIO

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Notice of Revised

Determination on Reconsideration on May 6, 2011, applicable to workers of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Martins Ferry, Ohio; Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Yorkville, Ohio (TA–W–71,572A); Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Mingo Junction, Ohio (TA–W–71,572B); and Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., Steubenville, Ohio (TA–W–71,572C). The workers produce a variety of steel coils. The Revised Determination was published in the **Federal Register** on May 20, 2011 (76 FR 29276–29277).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that in March 2011, RG Steel, LLC, a subsidiary of The Renco Group purchased all of the stocks of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc. The Martins Ferry, Ohio, Yorkville, Ohio, Mingo Junction, Ohio and Steubenville, Ohio locations of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., is currently known as RG Steel Wheeling, LLC. Workers separated from employment at the above mentioned locations of the subject firm have their wages reported under a separate unemployment insurance (UI) tax account under the name RG Steel Wheeling, LLC.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's Revised Determination on Reconsideration is to include all workers of the subject firm who were adversely affected by increased imports of steel coils.

The amended notice applicable to TA–W–71,572, TA–W–71,572A, TA–W–71,572B, and TA–W–71,572C are hereby issued as follows:

All workers of Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, Martins Ferry, Ohio (TA–W–71,572); Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, Yorkville, Ohio (TA–W–71,572A); Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, Mingo Junction, Ohio (TA–W–71,572B); and Severstal Wheeling, Inc., a subsidiary of Severstal North America, Inc., currently known as RG Steel Wheeling, LLC, Steubenville, Ohio (TA–W–71,572C), who became totally or partially separated from employment on or after June 17, 2008, through May 6, 2013, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 6th day of June 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–14817 Filed 6–14–11; 8:45 am]

BILLING CODE 4510–FN–P

MILLENNIUM CHALLENGE CORPORATION

[MCC 11–05]

Notice of Quarterly Report (January 1, 2011–March 31, 2011)

AGENCY: Millennium Challenge Corporation.

SUMMARY: The Millennium Challenge Corporation (MCC) is reporting for the quarter January 1, 2011 through March 31, 2011, on assistance provided under section 605 of the Millennium Challenge Act of 2003 (22 U.S.C. 7701 *et seq.*), as amended (the Act), and on transfers or allocations of funds to other Federal agencies under section 619(b) of the Act. The following report will be made available to the public by publication in the **Federal Register** and on the Internet Web site of the MCC (*http://www.mcc.gov*) in accordance with section 612(b) of the Act.

ASSISTANCE PROVIDED UNDER SECTION 605

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Madagascar Year: 2011 Quarter 2 Total Obligation: $87,998,166				
Entity to which the assistance is provided: MCA Madagascar Total Quarterly Expenditures[1]: $0				
Land Tenure Project	$30,123,098	Increase Land Titling and Security.	$29,304,770	Area secured with land certificates or titles in the Zones. Legal and regulatory reforms adopted. Number of land documents inventoried in the Zones and Antananarivo. Number of land documents restored in the Zones and Antananarivo. Number of land documents digitized in the Zones and Antananarivo. Average time for Land Services Offices to issue a duplicate copy of a title. Average cost to a user to obtain a duplicate copy of a title from the Land Services Offices. Number of land certificates delivered in the Zones during the period. Number of new guichets fonciers operating in the Zones. The 256 Plan Local d'Occupation Foncier-Local Plan of Land Occupation (PLOFs) are completed.
Financial Sector Reform Project.	$25,705,099	Increase Competition in the Financial Sector.	$23,535,781	Volume of funds processed annually by the national payment system. Number of accountants and financial experts registered to become CPA. Number of Central Bank branches capable of accepting auction tenders.

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Agricultural Business Investment Project.	$13,687,978	Improve Agricultural Projection Technologies and Market Capacity in Rural Areas.	$13,582,534	Outstanding value of savings accounts from CEM in the Zones. Number of MFIs participating in the Refinancing and Guarantee funds. Maximum check clearing delay. Network equipment and integrator. Real time gross settlement system (RTGS). Telecommunication facilities. Retail payment clearing system. Number of CEM branches built in the Zones. Number of savings accounts from CEM in the Zones. Percent of Micro-Finance Institution (MFI) loans recorded in the Central Bank database. Number of farmers receiving technical assistance. Number of marketing contracts of ABC clients. Number of farmers employing technical assistance. Value of refinancing loans and guarantees issued to participating MFIs (as a measure of value of agricultural and rural loans). Number of Mnistère de l'Agriculture, de l'Elevage et de la Pêche- Ministry of Agriculture, Livestock, and Fishing (MAEP) agents trained in marketing and investment promotion. Number of people receiving information from Agricultural Business Center (ABCs) on business opportunities.
Program Administration [2] and Control, Monitoring and Evaluation.	$18,481,991	.....	$17,779,127	
Pending subsequent reports [3].	.....	.....	$1,392,568	

FY2010 Madagascar post-compact disbursement related to final payment of audit expenses.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Honduras Year: 2011 Quarter 2 Total Obligation: $205,000,000				
Entity to which the assistance is provided: MCA Honduras Total Quarterly Expenditures[1]: −$555,866				
Rural Development Project	$68,273,380	Increase the productivity and business skills of farmers who operate small and medium-size farms and their employees.	$68,264,072	Number of program farmers harvesting high-value horticulture crops. Number of hectares harvesting high-value horticulture crops. Number of business plans prepared by program farmers with assistance from the implementing entity. Total value of net sales. Total number of recruited farmers receiving technical assistance. Value of loans disbursed to farmers, agribusiness, and other producers and vendors in the horticulture industry, including Program Farmers, cumulative to date, Trust Fund Resources. Number of loans disbursed (disaggregated by trust fund, leveraged from trust fund, and institutions receiving technical assistance from ACDI–VOCA). Number of hectares under irrigation. Number of farmers connected to the community irrigation system.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Transportation Project	$120,591,240	Reduce transportation costs between targeted production centers and national, regional and global markets.	$120,575,874	Freight shipment cost from Tegucigalpa to Puerto Cortes. Average annual daily traffic volume-CA–5. International roughness index (IRI)—CA–5. Kilometers of road upgraded—CA–5. Percent of contracted road works disbursed—CA–5. Average annual daily traffic volume—secondary roads. International roughness index (IRI)—secondary roads. Kilometers of road upgraded—secondary roads. Average annual daily traffic volume—rural roads. Average speed –Cost per journey (rural roads). Kilometers of road upgraded—rural roads. Percent disbursed for contracted studies. Value of signed contracts for feasibility, design, supervision and program mgmt contracts. Kilometers (km) of roads under design. Number of Construction works and supervision contracts signed. Kilometers (km) of roads under works contracts.
Program Administration [2], and Control, Monitoring and Evaluation.	$16,135,380	.....	$15,087,900	
Pending subsequent reports [3].	.....	.....	$7,585	

The negative quarterly expenditure for Honduras is related to expense accruals. The accruals will be reversed in 2011 and applied to various projects and activities.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Cape Verde Year: 2011 Quarter 2 Total Obligation: $110,078,488				
Entity to which the assistance is provided: MCA Cape Verde Total Quarterly Expenditures[1]: $2,619,880				
Watershed and Agricultural Support Project.	$12,011,603	Increase agricultural production in three targeted watershed areas on three islands.	$11,264,926	Productivity: Horticulture, Paul watershed. Productivity: Horticulture, Faja watershed. Productivity: Horticulture, Mosteiros watershed. Number of farmers adopting drip irrigation: All intervention watersheds (Paul, Faja and Mosteiros). Hectares under improved or new irrigation (All Watersheds Paul, Faja, and Mosteiros). Irrigation Works: Percent contracted works disbursed. All intervention watersheds (Paul, Faja and Mosteiros). Number of reservoirs constructed in all intervention watersheds (Paul, Faja and Mosteiros) (incremental). Number of farmers trained.
Infrastructure Improvement Project.	$82,630,208	Increase integration of the internal market and reduce transportation costs.	$81,070,109	Travel time ratio: percentage of beneficiary population further than 30 minutes from nearest market. Kilometers of roads/bridges completed. Percent of contracted road works disbursed (cumulative). Port of Praia: percent of contracted port works disbursed (cumulative).
Private Sector Development Project.	$1,931,223	Spur private sector development on all islands through increased investment in the priority sectors and through financial sector reform.	$1,845,002	MFI portfolio at risk, adjusted (level).
Program Administration [2], and Control, Monitoring and Evaluation.	$13,505,454	.....	$12,439,747	
Pending subsequent reports [3].	.....	.....	$853,776	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Nicaragua Year: 2011 Quarter 2 Total Obligation: $113,490,000				
Entity to which the assistance is provided: MCA Nicaragua Total Quarterly Expenditures[1]: $3,181,756				
Property Regularization Project.	$7,180,454	Increase Investment by strengthening property rights.	$6,694,971	Automated database of registry and cadastre installed in the 10 municipalities of Leon. Value of land, urban. Value of land, rural. Time to conduct a land transaction. Number of additional parcels with a registered title, urban. Number of additional parcels with a registered title, rural. Area covered by cadastral mapping. Cost to conduct a land transaction.
Transportation Project	$58,000,000	Reduce transportation costs between Leon and Chinandega and national, regional and global markets.	$57,810,421	Annual Average daily traffic volume: N1 Section R1. Annual Average daily traffic volume: N1 Section R2. Annual Average daily traffic volume: Port Sandino (S13). Annual Average daily traffic volume: Villanueva—Guasaule Annual. Average daily traffic volume: Somotillo-Cinco Pinos (S1). Annual average daily traffic volume: León-Poneloya-Las Peñitas. International Roughness Index: N–I Section R1. International Roughness Index: N–I Section R2. International Roughness Index: Port Sandino (S13). International roughness index: Villanueva—Guasaule. International roughness index: Somotillo-Cinco Pinos. International roughness index: León-Poneloya-Las Peñitas. Kilometers of NI upgraded: R1 and R2 and S13. Kilometers of NI upgraded: Villanueva—Guasaule Kilometers of S1 road upgraded. Kilometers of S9 road upgraded.
Rural Development Project	$32,865,845	Increase the value added of farms and enterprises in the region.	$31,271,251	Number of beneficiaries with business plans. Numbers of *manzanas (1 Manzana = 1.7 hectares),* by sector, harvesting higher-value crops. Number of beneficiaries with business plans prepared with assistance of Rural Business Development Project. Number of beneficiaries implementing Forestry business plans under Improvement of Water Supplies Activity. Number of Manzanas reforested. Number of Manzanas with trees planted.
Program Administration[2], Due Diligence, Monitoring and Evaluation.	$15,443,701	.....	$14,338,382	
Pending subsequent reports[3].	.....	.....	$495,677	

Projects	Obligated	Objective	Cumulative expenditures	Measures
Country: Georgia Year: 2011 Quarter 2 Total Obligation: $395,300,000				
Entity to which the assistance is provided: MCA Georgia Total Quarterly Expenditures:[1] $33,928,267				
Regional Infrastructure Rehabilitation Project.	$314,240,000	Key Regional Infrastructure Rehabilitated.	$295,889,086	Household savings from Infrastructure Rehabilitation Activities. Savings in vehicle operating costs (VOC). International roughness index (IRI). Annual average daily traffic (AADT). Travel Time. Kilometers of road completed. Signed contracts for feasibility and/or design studies. Percent of contracted studies disbursed. Kilometers of roads under design. Signed contracts for road works. Kilometers of roads under works contracts. Sites rehabilitated (phases I, II, III)—pipeline. Construction works completed (phase II)—pipeline. Savings in household expenditures for all RID subprojects. Population Served by all RID subprojects. RID Subprojects completed. Value of Grant Agreements signed. Value of project works and goods contracts Signed. Subprojects with works initiated.
Regional Enterprise Development Project.	$52,040,800	Enterprises in Regions Developed.	$46,445,857	Jobs Created by Agribusiness Development Activity (ADA) and by Georgia Regional Development Fund (GRDF). Household net income—ADA and GRDF. Jobs created—ADA. Firm income ADA. Household net income—ADA. Beneficiaries (direct and indirect)—ADA. Grant agreements signed—ADA. Increase in gross revenues of portfolio companies (PC). Increase in portfolio company employees. Increase in wages paid to the portfolio company employees. Portfolio companies (PC). Funds disbursed to the portfolio companies.
Program Administration,[2] Due Diligence, Monitoring and Evaluation.	$29,019,200	.....	$29,768,560	
Pending subsequent reports[3].	.....	.....	$3,266,423	

November 2008, MCC and the Georgian government signed a Compact amendment making up to $100 million of additional funds available to the Millennium Challenge Georgia Fund. These funds will be used to complete works in the Roads, Regional Infrastructure Development, and Energy Rehabilitation Projects contemplated by the original Compact. The amendment was ratified by the Georgian parliament and entered into force on January 30, 2009.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Vanuatu Year: 2011 Quarter 2 Total Obligation: $65,690,000				
Entity to which the assistance is provided: MCA Vanuatu Total Quarterly Expenditures[1]: $827,002				
Transportation Infrastructure Project.	$60,089,915	Facilitate transportation to increase tourism and business development.	$60,021,670	Traffic volume (average annual daily traffic)—Efate: Ring Road. Traffic Volume (average annual daily traffic)—Santo: East Coast Road. Kilometers of road upgraded—Efate: Ring Road. Kilometers of roads upgraded—Santo: East Coast Road. Percent of MCC contribution disbursed to‘‘adjusted’’ signed contracts of roads works; including approved variations.
Program Administration,[2] Due Diligence, Monitoring and Evaluation.	$5,600,085	.....	$4,823,172	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Pending subsequent reports [3].	.....	.....	$19,948	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Armenia Year: 2011 Quarter 2 Total Obligation: $235,650,000				
Entity to which the assistance is provided: MCA Armenia Total Quarterly Expenditures[1]: $15,809,964				
Irrigated Agriculture Project (Agriculture and Water).	$152,709,208	Increase agricultural productivity Improve and Quality of Irrigation.	$109,502,764	Training/technical assistance provided for On-Farm Water Management. Training/technical assistance provided for Post-Harvest Processing. Loans Provided. Value of irrigation feasibility and/or detailed design contracts signed. Value of irrigation feasibility and/or detailed design contracts disbursed. Number of farmers using better on-farm water management. Number of enterprises using improved techniques. Value of irrigation feasibility and/or detailed design contracts signed. Additional Land irrigated under project. Value of irrigation feasibility and/or detailed design contracts signed. Value of irrigation feasibility and/or detailed design contracts disbursed.
Rural Road Rehabilitation Project.	$67,100,000	Better access to economic and social infrastructure.	$7,668,644	Average annual daily traffic on Pilot Roads. International roughness index for Pilot Roads. Road Sections Rehabilitated—Pilot Roads. Pilot Roads: Percent of Contracted Roads Works Disbursed of Works Completed.
Program Administration,[2] Due Diligence, Monitoring and Evaluation.	$15,840,792	.....	$11,621,709	
Pending subsequent reports [3].	.....	.....	$125,754	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Benin Year: 2011 Quarter 2 Total Obligation: $307,298,040				
Entity to which the assistance is provided: MCA Benin Total Quarterly Expenditures[1]: $43,685,463				
Access to Financial Services Project.	$16,950,000	Expand Access to Financial Services.	$7,821,138	Value of credits granted by MFI institutions (at the national level). Value of savings collected by MFI institutions (at the national level). Average portfolio at risk >90 days of microfinance institutions at the national level. Operational self-sufficiency of MFIs at the national level. Number of institutions receiving grants through the Facility. Number of MFIs *inspected by CSSFD*.
Access to Justice Project ..	$23,901,695	Improved Ability of Justice System to Enforce Contracts and Reconcile Claims.	$8,753,918	Average time to enforce a contract. Percent of firms reporting confidence in the judicial system. Passage of new legal codes. Average time required for Tribunaux de premiere instance-arbitration centers and courts of first instance (TPI) to reach a final decision on a case. Average time required for Court of Appeals to reach a final decision on a case. Percent of cases resolved in TPI per year. Percent of cases resolved in Court of Appeals per year. Number of Courthouses completed. Average time required to register a business (*société*).

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Access to Land Project	$34,435,827	Strengthen property rights and increase investment in rural and urban land.	$20,091,760	Average time required to register a business (sole proprietorship). Percentage of households investing in targeted urban land parcels. Percentage of households investing in targeted rural land parcels. Average cost required to convert occupancy permit to land title through systematic process. Share of respondents perceiving land security in the PH–TF or PFR areas. Number of preparatory studies completed. Number of Legal and Regulatory Reforms Adopted. Amount of Equipment Purchased. Number of new land titles obtained by transformation of occupancy permit. Number of land certificates issued within MCA-Benin implementation. Number of PFRs established with MCA Benin implementation. Number of permanent stations installed. Number of stakeholders Trained. Number of communes with new cadastres. Number of operational land market information systems.
Access to Markets Project	$185,400,726	Improve Access to Markets through Improvements to the Port of Cotonou.	$133,170,608	Volume of merchandise traffic through the Port Autonome de Cotonou. Bulk ship carriers waiting times at the port. Port design-build contract awarded. Annual number of thefts cases. Average time to clear customs. Port meets—international port security standards (ISPS).
Program Administration,[2] Due Diligence, Monitoring and Evaluation.	$46,609,792	.....	$31,305,827	
Pending subsequent reports [3].	.....	.....	$283,061	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Ghana Year: 2011 Quarter 1 Total Obligation: $547,009,000				
Entity to which the assistance is provided: MCA Ghana Total Quarterly Expenditures[1]: $43,024,326				
Agriculture Project	$212,597,378	Enhance Profitability of cultivation, services to agriculture and product handling in support of the expansion of commercial agriculture among groups of smallholder farms.	$135,282,806	Number of farmers trained in Commercial Agriculture. Number of agribusinesses assisted. Number of preparatory land studies completed. Legal and Regulatory land reforms adopted. Number of landholders reached by public outreach efforts. Number of hectares under production. Number of personnel trained. Number of buildings rehabilitated/constructed. Value of equipment purchased. Feeder Roads International Roughness Index. Feeder Roads Annualized Average Daily Traffic. Value of signed contracts for feasibility and/or design studies of Feeder Roads. Percent of contracted design/feasibility studies completed for Feeder Roads. Value of signed works contracts for Feeder Roads. Percent of contracted Feeder Road works disbursed Value of loans disbursed to clients from agriculture loan fund. Value of signed contracts for feasibility and/or design studies (irrigation). Percent of contracted (design/feasibility) studies complete (irrigation). Value of signed contracts for irrigation works (irrigation).

Projects	Obligated	Objectives	Cumulative expenditures	Measures
				Rural hectares mapped. Percent of contracted irrigation works disbursed. Percent of people aware of their land rights in Pilot Land Registration Areas. Total number of parcels surveyed in the Pilot Land Registration Areas (PLRAs). Volume of products passing through post-harvest treatment.
Rural Development Project	$73,390,556	Strengthen the rural institutions that provide services complementary to, and supportive of, agricultural and agriculture business development.	$53,005,831	Number of students enrolled in schools affected by Education Facilities Sub-Activity. Number of schools rehabilitated. Number of school blocks constructed. Distance to collect water. Time to collect water. Incidence of guinea worm. Number of people affected by Water and Sanitation Facilities Sub-Activity. Number of stand-alone boreholes/wells/nonconventional water systems constructed/rehabilitated. Number of small-town water systems designed and due diligence completed for construction. Number of pipe extension projects designed and due diligence completed for construction. Number of agricultural processing plants in target districts with electricity due to Rural Electrification Sub-Activity.
Transportation Project	$216,235,347	Reduce the transportation costs affecting agriculture commerce at sub-regional levels.	$111,516,419	Trunk Roads International roughness index. N1 International Roughness Index. N1 Annualized Average Daily Traffic. N1 Kilometers of road upgraded. Value of signed contracts for feasibility and/or design studies of the N1. Percent of contracted design/feasibility studies completed of the N1. Value of signed contracts for road works N1, Lot 1. Value of signed contracts for road works N1, Lot 2. Trunk Roads Annualized Average Daily Traffic. Trunk Roads Kilometers of roads completed. Percent of contracted design/feasibility studies completed of Trunk Roads. Percent of contracted Trunk Road works disbursed. Ferry Activity: annualized average daily traffic vehicles. Ferry Activity: annual average daily traffic (passengers). Landing stages rehabilitated. Ferry terminal upgraded. Rehabilitation of Akosombo Floating Dock completed. Rehabilitation of landing stages completed. Percent of contracted road works disbursed: N1, Lot 2. Percent of contracted road works disbursed: N1, Lot 2. Percent of contracted work disbursed: ferry and floating dock. Percent of contracted work disbursed: landings and terminals. Value of signed contracts for feasibility and/or design studies of Trunk Roads. Value of signed contracts for Trunk Roads.
Program Administration,[2] Due Diligence, Monitoring and Evaluation.	$44,785,719	.....	$31,508,056	
Pending subsequent reports[3].	.....	.....	$31,216	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: El Salvador Year: 2011 Quarter 2 Total Obligation: $460,940,000				
Entity to which the assistance is provided: MCA El Salvador Total Quarterly Expenditures: [1] $33,519,011				
Human Development Project.	$101,753,001	Increase human and physical capital of residents of the Northern Zone to take advantage of employment and business opportunities.	$45,052,179	Employment rate of graduates of middle technical schools. Graduation rates of middle technical schools. Middle technical schools remodeled and equipped. New Scholarships granted to students of middle technical education. Students of non-formal training. Cost of water. Time collecting water. Number of households with access to Improved Water Supply. Value of contracted water and sanitation works disbursed. Cost of electricity. Households benefiting with a connection to the electricity network. Household benefiting with the installation of isolated solar systems. Kilometers of new electrical lines with construction contracts signed. Population benefiting from strategic infrastructure.
Productive Development Project.	$71,824,000	Increase production and employment in the Northern Zone.	$26,483,228	Number of hectares under production with MCC support. Number of beneficiaries of technical assistance and training—Agriculture. Number of beneficiaries of technical assistance and training—Agribusiness. Value of Agricultural Loans to Farmers/Agribusiness.
Connectivity Project	$248,822,000	Reduce travel cost and time within the Northern Zone, with the rest of the country, and within the region.	$119,990,852	Average annual daily traffic. International roughness index. Kilometers of roads rehabilitated. Kilometers of roads with Construction Initiated.
Productive Development Project.	$71,824,000	.....	$43,238,409	
Program Administration [2] and Control, Monitoring and Evaluation.	$38,540,999	.....	$18,528,191	
Pending Subsequent Report [3].	.....	.....	$0	
Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Mali Year: 2011 Quarter 2 Total Obligation: $460,812,074				
Entity to which the assistance is provided: MCA Mali Total Quarterly Expenditures: [1] $42,027,020				
Bamako Senou Airport Improvement Project.	$181,253,028	.....	$39,645,639	Number of full time jobs at the ADM and firms supporting the airport. Average number of weekly flights(arrivals). Passenger traffic (annual average). Percent works complete. Time required for passenger processing at departures and arrivals. Percent works complete. Security and safety deficiencies corrected at the airport.
Alatona Irrigation Project ..	$234,884,675	Increase the agricultural production and productivity in the Alatona zone of the ON.	$150,194,707	Main season rice yields. International roughness index (IRI) on the Niono-Goma Coura Route. Traffic on the Niono-Diabaly road segment. Traffic on the Diabaly-Goma Coura road segment. Percentage works completed on Niono-Goma Coura road. Hectares under improved irrigation. Irrigation system efficiency on Alatona Canal.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
				Percentage of contracted irrigation construction works disbursed. Number market gardens allocated in Alatona zones to PAPs or New Settler women. Net primary school enrollment rate (in Alatona zone). Percent of Alatona population with improved access to drinking water. Number of schools available in Alatona. Number of health centers available in the Alatona. Number of affected people who have been compensate. Number of farmers that have applied improved techniques. Hectares under production (rainy season). Hectares under production (dry season). Number of farmers trained. Value of agricultural and rural loans. Number of active MFI clients. Loan recovery rate among Alatona farmers.
Industrial Park Project	$2,637,472	Terminated	$2,637,472	
Program Administration [2] and Control, Monitoring and Evaluation.	$42,036,899	.....	$25,040,750	
Pending Subsequent Report [3].	.....	.....	$92,979	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Mongolia Year: 2011 Quarter 2 Total Obligation: $284,911,363				
Entity to which the assistance is provided: MCA Mongolia Total Quarterly Expenditures: [1] $10,705,649				
Property Rights Project	$27,201,061	Increase security and capitalization of land assets held by lower-income Mongolians, and increased peri-urban herder productivity and incomes.	$5,792,001	Number of legal and regulatory framework or preparatory studies completed (Peri-Urban and Land Plots). Number of Legal and regulatory reforms adopted. Number of stakeholders (Peri-Urban and Land Plots). Stakeholders Trained (Peri-Urban and Land Plots). Number of Buildings Built/Rehabilitated. Equipment purchased. Rural hectares Mapped. Urban Parcels Mapped. Leaseholds Awarded.
Vocational Education Project.	$47,355,638	Increase employment and income among unemployed and underemployed Mongolians.	$5,076,450	Rate of employment. Vocational school graduates in MCC-supported educational facilities. Percent of active teachers receiving certification training. Technical and vocational education and training (TVET) legislation passed.
Health Project	$38,974,817	Increase the adoption of behaviors that reduce non-communicable diseases (NCDIs) among target populations and improved medical treatment and control of NCDIs.	$11,607,471	Treatment of diabetes. Treatment of hypertension. Early detection of cervical cancer. Recommendations on road safety interventions available.
Roads Project	$86,740,123	More efficient transport for trade and access to services.	$9,002,197	Kilometers of roads completed. Annual average daily traffic. Travel time. International Roughness Index. Kilometers of roads under design. Percent of contracted roads works disbursed.
Energy and Environmental Project.	$46,966,205	Increased wealth and productivity through greater fuel use efficiency and decreasing health costs from air.	$2,480,610	Household savings from decreased fuel costs. Product testing and subsidy setting process adopted. Health costs from air pollution in Ulaanbaatar. Reduced particulate matter concentration. Capacity of wind power generation.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Rail Project	$369,560	Terminated	$369,560	Terminated.
Program Administration [2] and Control, Monitoring and Evaluation.	$37,303,959		$14,704,577	
Pending subsequent reports [3].			$638,684	

In late 2009, the MCC's Board of Directors approved the allocation of a portion of the funds originally designated for the rail project to the expansion of the health, vocational education and property right projects from the rail project, and the remaining portion to the addition of a road project.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Mozambique Year: 2011 Quarter 2 Total Obligation: $506,924,053				
Entity to which the assistance is provided: MCA Mozambique Total Quarterly Expenditures: [1] $10,985,804				
Water Supply and Sanitation Project.	$203,585,393	Increase access to reliable and quality water and sanitation facilities.	$11,257,265	Percent of urban population with improved water sources. Time to get to non-private water source. Percent of urban population with improved sanitation facilities. Percent of rural population with access to improved water sources. Number of private household water connections in urban areas. Number of Rural water points constructed. Number of standpipes in urban areas. Five cities: Final detailed design submitted. Three cities: Final detailed design submitted.
Road Rehabilitation Project	$176,307,480	Increase access to productive resources and markets.	$4,928,649	Kilometers of road rehabilitated. Namialo—Rio Lúrio Road—Metoro: Percent of feasibility, design, and supervision contract disbursed. Rio Ligonha-Nampula: Percent of feasibility, design, and supervision contract disbursed. Chimuara-Nicoadala: Percent of feasibility, design, and supervision contract disbursed. Namialo—Rio Lúrio: Percent of road construction contract disbursed. Rio Lúrio—Metoro: Percent of road construction contract disbursed. Rio Ligonha—Nampula: Percent of road construction contract disbursed. Chimuara-Nicoadala: Percent of road construction contract disbursed. Namialo-Rio Lúrio Road: Average annual daily traffic volume. Rio Lúrio-Metoro Road: Average annual daily traffic volume. Rio-Ligonha-Nampula Road: Average annual daily traffic volume. Chimuara-Nicoadala Road: Average annual daily traffic volume. Namialo-Rio Lúrio Road: Change in International Roughness Index (IRI). Rio Lúrio-Metoro Road: Change in International Roughness Index (IRI). Rio-Ligonha-Nampula Road: Change in International Roughness Index (IRI). Chimuara-Nicoadala Road: Change in International Roughness Index (IRI).
Land Tenure Project	$39,068,307	Establish efficient, secure land access for households and investors.	$10,659,973	Time to get land usage rights (DUAT), urban. Time to get land usage rights (DUAT), rural. Number of buildings rehabilitated or built. Total value of procured equipment and materials. Number of people trained. Rural hectares mapped in Site Specific Activity. Urban parcels mapped. Rural hectares formalized through Site Specific Activity. Urban parcels formalized.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Farmer Income Support Project.	$18,400,117	Improve coconut productivity and diversification into cash crop.	$6,431,758	Number of communities delimited and formalized. Number of urban households having land formalized. Number of diseased or dead palm trees cleared. Survival rate of Coconut seedlings. Hectares under production. Number of farmers trained in pest and disease control. Number of farmers trained in crop diversification technologies. Income from coconuts and coconut products (estates). Income from coconuts and coconuts products (households).
Program Administration [2] and Control, Monitoring and Evaluation.	$69,562,756	.....	$17,209,808	
Pending Subsequent Report [3].	.....	.....	$224,467	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Lesotho Year: 2011 Quarter 2 Total Obligation: $362,551,000				
Entity to which the assistance is provided: MCA Lesotho Total Quarterly Expenditures: [1] $14,662,917				
Water Project	$164,027,999	Improve the water supply for industrial and domestic needs, and enhance rural livelihoods through improved watershed management.	$24,808,949	School days lost due to water borne diseases. Diarrhea notification at health centers. Households with access to improved water supply. Households with access to improved Latrines. Knowledge of good hygiene practices. Households with reliable water services. Enterprises with reliable water services. Households with reliable water services. Volume of treated water. Area re-vegetation.
Health Project	$122,398,000	Increase access to life-extending ART and essential health services by providing a sustainable delivery platform.	$25,344,678	People with HIV still alive 12 months after initiation of treatment. TB notification (per 100,000 pop.). PLWA receiving ARV treatment. Deliveries conducted in the health facilities. Immunization coverage rate.
Private Sector Development Project.	$36,470,318	Stimulate investment by improving access to credit, reducing transaction costs and increasing the participation of women in the economy.	$9,113,205	Time required to enforce a contract. Value of commercial cases. Cases referred to Alternative Dispute Resolution (ADR) that are successfully completed. Portfolio of loans. Loan application processing time. Performing loans. Electronic payments—salaries. Electronic payments—pensions. Debit/smart cards issued. Mortgage bonds registered. Value of registered mortgage bonds. Clearing time—Country. Clearing time—Maseru. Land transactions recorded. Land parcels regularized and registered. People trained on gender equality and economic rights. Eligible population with ID cards. Monetary cost to process a lease application.
Program Administration [2] and Control, Monitoring and Evaluation.	$39,654,682	.....	$18,398,950	
Pending Subsequent Report [3].	.....	.....	$1,582,517	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Morocco Year: 2011 Quarter 2 Total Obligation: $697,500,000				
Entity to which the assistance is provided: MCA Morocco Total Quarterly Expenditures: [1] $19,828,435				
Fruit Tree Productivity Project.	$300,896,445	Reduce volatility of agricultural production and increase volume of fruit agricultural production.	$68,680,885	Number of farmers trained. Number of agribusinesses assisted. Number of hectares under production. Value of agricultural production.
Small Scale Fisheries Project.	$116,168,028	Improve quality of fish moving through domestic channels and assure the sustainable use of fishing resources.	$6,551,415	Landing sites and ports rehabilitated. Mobile fish vendors using new equipments. Fishing boats using new landing sites. Average price of fish at auction markets. Average price of fish at wholesale. Average price of fish at ports.
Artisan and Fez Medina Project.	$111,873,858	Increase value added to tourism and artisan sectors.	$6,172,076	Average revenue of SME pottery workshops. Construction and rehabilitation of Fez Medina Sites. Tourist receipts in Fez. Training of potters.
Enterprise Support Project	$33,850,000	Improved survival rate of new SMEs and INDH-funded income generating activities; increased revenue for new SMEs and INDH-funded income generating activities.	$7,379,176	Value added per enterprise. Survival rate after two years.
Financial Services Project	$46,200,000	TBD	$19,452,818	Portfolio at risk at 30 days. Portfolio rate of return. Number of clients of AMCs reached through mobile branches.
Program Administration [2] and Control, Monitoring and Evaluation.	$88,511,670	.....	$26,663,371	
Pending Subsequent Report [3].	.....	.....	$0	
Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Tanzania Year: 2011 Quarter 2 Total Obligation: $698,136,011				
Entity to which the assistance is provided: MCA Tanzania Total Quarterly Expenditures: [1] $50,950,167				
Energy Sector Project	$206,042,428	Increase value added to businesses.	$48,285,687	Current Power Customers: Morogoro D1, Morogoro T1, Morogoro T2 & T3, Tanga D1, Tanga T1, Tanga T2 &T3, Mbeya D1, Mbeya T1, Mbeya T2 &T3, Iringa D1, Iringa T1, Iringa T2 & T3, Dodoma D1, Dodoma T1, Dodoma T2 & T3, Mwanza D1, Mwanza T1 and Mwanza T2 & T3. Transmission and distribution sub-station capacity: Morogoro, Tanga, Mbeya, Iringa, Dodoma and Mwanza. Collection Efficiency (Morogoro). Collection Efficiency (Tanga). Collection Efficiencey (Mbeya). Collection Efficiency (Iringa). Collection efficiency (Dodoma). Collection Efficiency (Mwanza). Technical and non technical losses (Morogoro). Technical and non technical losses (Tanga). Technical and non technical losses (Mbeya). Technical and non technical losses (Iringa). Technical and non technical losses (Dodoma). Technical and non technical losses (Mwanza).
Transport Sector Project ...	$368,847,429	Increase cash crop revenue and aggregate visitor spending.	$91,702,626	International roughness index: Tunduma Sumbawanga. International roughness index: Tanga Horohoro. International roughness index: Namtumbo Songea. International roughness index: Peramiho Mbinga. Annual average daily traffic: Tunduma Sumbawanga. Annual average daily traffic: Tanga Horohoro. Annual average daily traffic: Namtumbo Songea.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
				Annual average daily traffic: Peramiho Mbinga. Kilometers upgraded/completed: Tunduma Sumbawanga. Kilometers upgraded/completed: Tanga Horohoro. Kilometers upgraded/completed: Namtumbo Songea. Kilometers upgraded/completed: Peramiho Mbinga. Percent disbursed on construction works: Tunduma Sumbawanga. Percent disbursed on construction works: Tanga Horohoro. Percent disbursed on construction works: Namtumbo Songea. Percent disbursed on construction works: Peramiho Mbinga. Percent disbursed for feasibility and/or design studies: Tunduma Sumbawanga. Percent disbursed for feasibility and/or design studies: Tanga Horohoro. Percent disbursed for feasibility and/or design studies: Namtumbo Songea. Percent disbursed for feasibility and/or design studies: Peramiho Mbinga. International roughness index: Pemba. Average annual daily traffic: Pemba. Kilometers upgraded/completed: Pemba. Percent disbursed on construction works: Pemba. Signed contracts for construction works (Zanzibar Rural Roads). Percent disbursed on signed contracts for feasibility and/or design studies: Pemba. Passenger arrivals: Mafia Island. Percentage of upgrade complete: Mafia Island. Percent disbursed on construction works: Mafia Island.
Water Sector Project	$65,692,154	Increase investment in human and physical capital and to reduce the prevalence of water-related disease.	$21,283,901	Number of domestic customers (Dar es Salaam). Number of domestic customers (Morogoro). Number of Non-domestic (commercial and institutional) customers (Dar es Salaam). Number of Non-domestic (commercial and institutional) customers (Morogoro). Volume of water produced (Lower Ruvu). Volume of water produced (Morogoro). Percent disbursed on Feasibility Design Update contract Lower Ruvu Plant Expansion.
Program Administration [2] and Control, Monitoring and Evaluation.	$57,554,000	.....	$17,082,942	
Pending Subsequent Report [3].	.....	.....	$99,857	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Burkina Faso Year: 2011 Quarter 2 Total Obligation: $480,943,569				
Entity to which the assistance is provided: MCA Burkina Faso Total Quarterly Expenditures: [1] $8,591,276				
Roads Project	$194,130,681	Enhance access to markets through investments in the road network.	$3,399,514	Annual average daily traffic: Dedougou-Nouna. Annual average daily traffic: Nouna-Bomborukuy. Annual average daily traffic: Bomborukuy-Mali border. Kilometers of road under works contract. Kilometers of road under design/feasibility contract. Access time to the closest market via paved roads in the Sourou and Comoe (minutes). Kilometers of road under works contract. Kilometers of road under design/feasibility contract. Personnel trained in procurement, contract management and financial systems. Periodic road maintenance coverage rate (for all funds) (percentage).

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Rural Land Governance Project.	$59,934,615	Increase investment in land and rural productivity through improved land tenure security and land management.	$10,122,034	Trend in incidence of conflict over land rights reported in the 17 pilot communes (Annual percentage rate of change in the occurrence of conflicts over land rights). Number of legal and regulatory reforms adopted. Number of stakeholders reached by public outreach efforts. Personnel trained. Number of Services Fonciers Ruraux (rural land service offices) installed and functioning. Rural hectares formalized. Number of parcels registered in Ganzourou project area.
Agriculture Development Project.	$141,910,059	Expand the productive use of land in order to increase the volume and value of agricultural production in project zones.	$8,900,697	New irrigated perimeters developed in Di (Hectares). Technical water management core teams (noyaux techniques) installed and operational in the two basins (Sourou and Comoe). Number of farmers trained. Number of agro-sylvo-pastoral groups which receive technical assistance. Number of loans provided by the rural finance facility. Volume of loans intended for agro-sylvo-pastoral borrowers (million CFA).
Bright II Schools Project ...	$28,829,669	Increase primary school completion rates.	$17,638,181	Number of girls/boys graduating from BRIGHT II primary schools. Percent of girls regularly attending (90% attendance) BRIGHT schools. Number of girls enrolled in the MCC/USAID supported BRIGHT schools. Number of additional classrooms constructed. Number of teachers trained through 10 provincial workshops.
Program Administration [2] and Control, Monitoring and Evaluation.	$56,138,545	.....	$16,129,888	
Pending Subsequent Report [3].	.....	.....	$11,159,073	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Namibia Year: 2011 Quarter 2 Total Obligation: $304,477,816				
Entity to which the assistance is provided: MCA Namibia Total Quarterly Expenditures: [1] $12,728,027				
Education Project	$144,976,556	Improve the quality of the workforce in Namibia by enhancing the equity and effectiveness of basic.	$16,696,606	Percentage of students who are new entrants in Grade 5 for 47 Schools. Percent of contracted construction works disbursed for 47 schools. Percent disbursed against design/supervisory contracts for 47 schools. Percentage of schools with a learner-textbook ration of 1 to 1 in science, math, and English. Number of textbooks delivered. Number of teachers and managers trained in textbook management, utilization, and storage. Percent disbursed against works contracts for RSRCS. Percent disbursed against design/supervisory contracts for RSRCs. Number of vocational trainees enrolled through the MCA–N grant facility. Value of vocational training grants awarded through the MCA–N grant facility. Percent disbursed against construction, rehabilitation, and equipment contracts for COSDECS. Percent disbursed against design/supervisory contracts for COSDECS.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Tourism Project	$66,959,292	Grow the Namibian tourism industry with a focus on increasing income to households in communal.	$7,142,225	Percent of condition precedents and performance targets met for ENP activity. Number of game translocated with MCA–N support. Number of unique visits on NTB Web site. Number of North American tourism businesses (travel agencies and tour operators) that offer Namibian tours or tour packages. Value of grants issued by the conservancy grant fund (Namibian $). Amount of private sector investment secured by MCA–N assisted conservancies (Namibian $). Number of Annual General Meetings with financial reports submitted and benefit distribution plans discussed.
Agriculture Project	$47,550,008	Enhance the health and marketing efficiency of livestock in the NCAs of Namibia and to increase income.	$7,977,151	Number of participating households registered in the CBLRM sub-activity. Number of grazing area management implementation agreements established under CBRLM sub-activity. Number of community land board members and Traditional Authority members trained. Number of cattle tagged with RFID tags. Percent disbursed against works contracts for State Veterinary Offices. Percent disbursed against design/supervisory contracts for State Veterinary Offices. Value of grant agreements signed under Livestock Market Efficiency Fund. Number of INP producers selected and mobilized. Value of grant agreements signed under INP Innovation Fund.
Program Administration [2] and Control, Monitoring and Evaluation.	$44,991,959	.....	$9,669,551	
Pending Subsequent Report [3].	.....	.....	$1,337,446	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Moldova Year: 2011 Quarter 2 Total Obligation: $262,000,000				
Entity to which the assistance is provided: MCA Moldova Total Quarterly Expenditures: [1] $1,197,014				
Road Rehabilitation Project	$132,840,000	Enhance transportation conditions.	$34,588	Reduced cost for road users. Average Annual Daily Traffic. Road maintenance expenditure. Kilometers of roads completed. Percent of contracted roads works disbursed. Kilometers of roads under works contracts. RAP implemented. Final design. Kilometers of roads under design.
Transition to High Value Agriculture Project.	$101,773,402	Increase incomes in the agricultural sector; Create models for transition to HVA in CIS areas and an enabling environment (legal, financial and market) for replication.	$411,852	Hectares under improved or new irrigation. Centralized irrigation systems rehabilitated. Percent of contracted irrigation feasibility and/or design studies disbursed. Value of irrigation feasibility and/or detailed design contracts signed. WUA's achieving financial sustainability. WUA established under new law. Revised water management policy framework—with long-term water rights defined—established. Contracts of association signed. ISRA Contractor mobilized. Additionality factor of AAF investments. Value of agricultural and rural loans. Number of all loans. Number of all loans (female). HVA Post-Harvest Credit Facility launched. HVA Post-Harvest Credit Facility Policies and Procedures Manual (PPM) Finalized.

Projects	Obligated	Objectives	Cumulative expenditures	Measures
				Number of farmers that have applied improved techniques (GHS). Number of farmers that have applied improved techniques (GHS) (female). Number of farmers trained. Number of farmers trained (female). Number of enterprises assisted. Number of enterprises assisted (female). GHS activity launched.
Program Administration [2] and Monitoring and Evaluation.	$27,386,598	.....	$589,924	
Pending Subsequent Report [3].	.....	.....	$255,000	

Projects	Obligated	Objectives	Cumulative expenditures	Measures
Country: Senegal Year: 2011 Quarter 2 Total Obligation: $540,000,000				
Entity to which the assistance is provided: MCA Moldova Total Quarterly Expenditures: [1] $1,486,460				
Road Rehabilitation Project	$324,712,499	Expand Access to Markets and Services.	$318,797	Tons of irrigated rice production. Kilometers of roads rehabilitated on the RN#2. Annual Average Daily Traffic (AADT) Richard-Toll—Ndioum. Percentage change in travel time on the RN#2. International Roughness Index on the RN#2 (Lower number = smoother road). Kilometers (km) of roads covered by the contract for the studies, the supervision and management of the RN#2. Kilometers of roads rehabilitated on the RN#6. Annual Average Daily Traffic (AADT) Ziguinchor—Tanaff. Annual Average Daily Traffic (AADT) Tanaff—Kolda. Annual Average Daily Traffic (AADT) Kolda—Kounkané. Percentage change in travel time on the RN#6. International Roughness Index on the RN#6 (Lower number = smoother road). Kilometers (km) of roads covered by the contract for the studies, the supervision and management of the RN#6.
Irrigation and Water Resources Management Project.	$170,008,860	Improve productivity of the agricultural sector.	$0	Tons of irrigated rice production. Potentially irrigable lands area (Delta and Ngallenka). Hectares under production. Total value of feasibility, design and environmental study contracts signed for the Delta and the Ngallenka (including RAPs). Cropping intensity (hectares under production per year/cultivable hectares). Number of hectares mapped to clarify boundaries and land use types. Percent of new conflicts resolved. Number of people trained on land security tools.
Program Administration [2] and Monitoring and Evaluation.	$45,278,641	.....	$2,497,146	
Pending Subsequent Report [3].	.....	.....	$71,084	

[1] Expenditures are the sum of cash outlays and quarterly accruals for work completed but not yet paid or invoiced.
[2] Program administration funds are used to pay items such as salaries, rent, and the cost of office equipment.
[3] These amounts represent disbursements made that will be allocated to individual projects in the subsequent quarter(s) and reported as such in subsequent quarterly report(s).

619(b) Transfer or Allocation of Funds

U.S. Agency to which Funds were Transferred or Allocated	Amount	Description of program or project
USAID	$0	Threshold Program.

Dated: June 7, 2011.

T. Charles Cooper,

Vice President, Congressional and Public Affairs, Millennium Challenge Corporation.

[FR Doc. 2011–14603 Filed 6–14–11; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before July 15, 2011. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: request.schedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level, as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Grain Inspection, Packers, and Stockyards Administration (N1–545–11–1, 1 item, 1 temporary item). Master files of an electronic information system containing reports on grain inspection and weighing services performed by the agency.

2. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1–567–10–17, 2 items, 2 temporary items). Master files of an electronic information system used to track and manage requests on export license requirements and licenses issued.

3. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1–567–11–4, 4 items, 4 temporary items). Master files of an electronic information system containing information on significant events, activities, threats, and law enforcement intelligence, and requests for assistance from other law enforcement agencies.

4. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1–567–11–6, 2 items, 2 temporary items). Master files of an electronic information system containing applications for short-term entry of individuals not otherwise eligible, tracking information for admitted individuals, and related correspondence.

5. Department of Homeland Security, U.S. Immigration and Customs Enforcement (N1–567–11–9, 3 items, 3 temporary items). Master files of an electronic information system containing case management details for employee misconduct investigations and data extracts for reporting purposes.

6. Department of Justice, Federal Bureau of Investigation (N1–65–11–3, 3 items, 2 temporary items). Records relating to system queries of a repository of Internet data collected in support of investigations. Proposed for permanent retention is the master file repository.

7. Department of State, Bureau of Diplomatic Security (DAA–0059–2011–0005, 2 items, 2 temporary items). Records of the Research and Development Branch, including security product certification and non-certification files.

8. Department of State, Bureau of East Asian and Pacific Affairs (N1–59–10–14, 3 items, 3 temporary items). Records of the Office of Regional Security and Policy Affairs, including subject and program files, grants files, and regional forum files.

9. Department of Transportation, Federal Highway Administration (DAA–0406–2011–0001, 1 item, 1 temporary item). Records of the Office of Innovative Program Delivery, including major project files.

10. Department of Transportation, Federal Railroad Administration (N1–399–11–1, 4 items, 2 temporary item). Records of the Office of Chief Counsel, including unpublished regulations, standards, guidelines, and working papers. Proposed for permanent retention are public docket files.

11. Department of Transportation, Federal Transit Administration (N1–408–11–10, 3 items, 3 temporary items). Records of the Office of Civil Rights, including civil rights case files.

12. National Archives and Records Administration, Agency-wide (DAA–0064–2011–0003, 3 items, 3 temporary items). Master files of an electronic information system used to track security clearance investigations of agency employees.

13. National Archives and Records Administration, Office of Government Information Services (N1–64–11–1, 2 items, 2 temporary items). Electronic case files and workload reports related to mediation between Freedom of Information Act requestors and Federal agencies.

14. Social Security Administration, Office of Publications and Logistics Management (N1–47–09–5, 2 items, 2 temporary items). Master file of an electronic information system used to maintains a record of applicants for Supplemental Security Income payments and Special Veterans Benefits. Also included are working files used to manage internal workload.

Dated: June 9, 2011.

Sharon G. Thibodeau,

Deputy Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 2011–14932 Filed 6–14–11; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that eleven meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows (ending times are approximate). All meetings will be closed.

Visual Arts (application review): July 6–8, 2011 in Room 716—from 9 a.m. to 5:30 p.m. on July 6th, from 9 a.m. to 6 p.m. on July 7th, and from 9 a.m. to 3:30 p.m. on July 8th.

Musical Theater (application review): July 7–8, 2011 in Room 716—from 9 a.m. to 6 p.m. on July 7th and from 9 a.m. to 3 p.m. on July 8th.

Arts Education (application review): July 12–13, 2011 in Room 627—from 9 a.m. to 6 p.m. on July 12th and from 9 a.m. to 2:30 p.m. on July 13th.

Presenting (application review): July 12–13, 2011 in Room 730—from 9 a.m. to 5:30 p.m. on July 12th and from 9 a.m. to 12:45 p.m. on July 13th.

Presenting (application review): July 13–14, 2011 in Room 730—from 2 p.m. to 5 p.m. on July 13th and from 9 a.m. to 4 p.m. on July 14th.

Opera (application review): July 13–14, 2011 in Room 716—from 8:45 a.m. to 5:30 p.m. on July 13th and from 9 a.m. to 4:30 p.m. on July 14th.

Opera (application review): July 15, 2011 in Room 730—from 8:45 a.m. to 5:30 p.m.

Theater (application review): July 19–22, 2011 in Room 716—from 9 a.m. to 5:30 p.m. on July 19th, from 9 a.m. to 6 p.m. on July 20th and 21st, and from 9 a.m. to 3 p.m. on July 22nd.

Design (application review): July 26–27, 2011 in Room 730—from 9 a.m. to 5:30 p.m. on July 26th and from 9 a.m. to 3:30 p.m. on July 27th.

Music (application review): July 26–29, 2011 in Room 714—from 9 a.m. to 5:30 p.m. on July 26th–28th and from 9 a.m. to 4:30 p.m. on July 29th.

Arts Education (application review): July 27–28, 2011 in Room 716—from 9 a.m. to 6:30 p.m. on July 27th and from 9 a.m. to 5 p.m. on July 28th.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2011, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need any accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: *June 9, 2011.*

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2011–14707 Filed 6–14–11; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Federal Advisory Committee on International Exhibitions

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions (FACIE) will be held on July 20, 2011 in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (ending time is approximate). This meeting, from 8:30 a.m. to 1 p.m., is for application review and will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2011, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to these meetings can be obtained from Ms.

Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: June 9, 2011.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2011–14708 Filed 6–14–11; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board's Committee on Strategy and Budget's Subcommittee on Facilities, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

DATE AND TIME: Friday June 17th at 12 p.m.–1:30 p.m., EDT.

SUBJECT MATTER: Discussion of the May Annual Portfolio Review, discussion and input on the FY 2013 budget process, and review of the Mid-scale instrumentation report activities.

STATUS: Closed.

This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb/notices/*) for information or schedule updates, or contact: Blane Dahl, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Ann Ferrante,

Writer-Editor.

[FR Doc. 2011–15018 Filed 6–13–11; 4:15 pm]

BILLING CODE 7555–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: New System of Records

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice of a new system of records.

SUMMARY: OPM proposes to add OPM/Central-15, Health Claims Data Warehouse, to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency. 5 U.S.C. 552a(e)(4). OPM first published a system of records notice pertaining to the Health Claims Data Warehouse on October 5, 2010 with the comment period closing November 15, 2010. On November 15, 2010, OPM extended the comment period to December 15, 2010 and indicated its intent to modify certain aspects of the system of records notice. On December 15, 2010, OPM published a notice closing the comment period. Based on the comments received during the comment period, OPM issues this revised notice that, among other things: limits the scope of the system to information pertaining to the Federal Employees Health Benefits Program; significantly narrows the circumstances under which routine use disclosures will be made from the system; clarifies that only de-identified data will be released outside of OPM; provides greater detail regarding OPM authorities for maintaining the system; and further describes systems security measures that will be taken to protect the records.

DATES: This action will be effective without further notice on July 15, 2011 unless comments are received that would result in a contrary determination.

ADDRESSES: Send written comments to the Office of Personnel Management, ATTN: Gary A. Lukowski, PhD, Manager, Data Analysis, U.S. Office of Personnel Management, 1900 E Street, NW., Room 7439, Washington, DC 20415 or to *gary.lukowski@opm.gov*.

FOR FURTHER INFORMATION CONTACT: Gary A. Lukowski, PhD, Manager, Data Analysis, 202–606–1449.

SUPPLEMENTARY INFORMATION: The purpose of this system of records is to provide a central database from which OPM may analyze costs and utilization of services associated with the Federal Employees Health Benefits Program to ensure the best value for both enrollees and taxpayers. OPM will collect, manage, and analyze health services data that health insurers and administrators will provide through secure data transfer for the program. OPM's analyses of the data will include: The cost of care; utilization of services; and quality of care for specific population groups, geographic areas, health plans, health care providers, disease conditions, and other relevant categories. The information contained in the database will assist in improving the effectiveness and efficiency of care delivered by health care providers to the enrollees by facilitating robust contract negotiations, health plan accountability, performance management, and program evaluation. OPM will use identifiable data to create person-level longitudinal records, which are long-term health records that will allow us to examine individual health information over time. However, OPM analysts using the database for analysis purposes will only have access to de-identified data. Likewise, only de-identified data will be supplied to external analysts.

Information on enrollees in the Pre-Existing Condition Insurance Plan (PCIP) had been proposed to be included in this database. However, OPM and HHS have determined that it is unnecessary to include claims from the Federally-run PCIP in this System of Records. In its role administering the program as a whole, HHS intends to collect de-identified claims level data on the program. Because OPM manages the day-to-day operation of the Federally-run PCIP pursuant to an agreement with HHS under the Economy Act, 31 U.S.C. 1535, HHS intends to make these de-identified data available to OPM for monitoring and oversight activities. Additionally, the original notice proposed including in this database information on enrollees in the OPM-regulated Multi-State Plans (MSP) which will appear on state exchanges beginning January 1, 2014. OPM has determined that it is premature to establish a System of Records for a program that will not become operational until 2014.

U.S. Office of Personnel Management.

John Berry,

Director.

OPM CENTRAL–15

SYSTEM NAME:

Health Claims Data Warehouse (HCDW).

SYSTEM LOCATION:

Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system will contain records on the Federal Employees Health Benefits Program (FEHBP. The FEHBP includes Federal employees, Postal employees, uniformed service members, retirees, and their family members who voluntarily participate in the Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the system may contain the following types of information on participating enrollees and covered dependents:

a. Name, social security number, date of birth, gender.

b. Home address.

c. Covered dependent information (spouse, dependents)—name, social security number, date of birth, gender.

d. Enrollee's employing agency.

e. Name of health care provider.

f. Health care provider address.

g. Health care provider taxpayer identification number (TIN) or carrier identifier.

h. Health care coverage information regarding benefit coverage for the plan in which the person is enrolled.

i. Health care procedures performed on the individual in the form of ICD, CPT and other appropriate codes.

j. Health care diagnoses in the form of ICD codes, and treatments, including prescribed drugs, derived from clinical medical records.

k. Provider charges, amounts paid by the plan and amounts paid by the enrollee for the above coverage, procedures, and diagnoses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for requiring FEHBP carriers to allow OPM access to records and for requiring reports, as well as authority for OPM's maintenance of FEHBP health claims information, is provided by 5 U.S.C. 8901, *et seq.* Section 8910 of title 5 United States Code states, in relevant part: ''(a) The Office of Personnel Management shall make a continuing study of the operation and administration of this chapter, including surveys and reports on health benefit plans available to employees and on the experience of the plans. (b) Each contract entered into under section 8902 of this title shall contain provisions requiring carriers to—(1) furnish such reasonable reports as the Office determines to be necessary to enable it to carry out its functions under this chapter; and (2) permit the Office and representatives of the Government Accountability Office to examine records of the carriers as may be necessary to carry out the purposes of this chapter.'' As explained in greater detail in the ''Purpose'' section below, OPM plans to use the information collected in this system to assist in its administration of, and in carrying out its functions under 5 U.S.C. chapter 89.

PURPOSE:

The primary purpose of this system of records is to provide a central database from which OPM may analyze the FEHBP to support the management of the program to ensure the best value for the enrollees and taxpayers. OPM will collect, manage, and analyze health services data provided by health insurers and administrators through secure data transfer. OPM will analyze the data in order to evaluate: The cost of care; utilization of services; and quality of care for specific population groups, geographic areas, health plans, health care providers, disease conditions, and other relevant categories. Information contained in the database will assist in improving the effectiveness and efficiency of care delivered by health care providers to the enrollees by facilitating robust contract negotiations, health plan accountability, performance management, and program evaluation. OPM will use identifiable data to create person-level longitudinal records. However, OPM analysts using the database for analysis purposes will only have access to de-identified data. Only de-identified data will be released for all analysis purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To disclose FEHBP data to analysts inside and outside the Federal Government for the purpose of conducting analysis of health care and health insurance trends and topical health-related issues compatible with the purposes for which the records were collected and formulating health care program changes and enhancements to limit cost growth, improve outcomes, increase accountability, and improve efficiency in program administration. In all cases, analysts external to OPM will access a public use file that will be maintained for such purposes; will only contain de-identified data; and will be structured, where appropriate, to protect enrollee confidentiality where identities may be discerned because there are fewer records under certain demographic or other variables. In all disclosures to analysts under this routine use, only de-identified data will be disclosed.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records will be maintained in electronic systems.

RETRIEVABILITY:

These records are retrieved by a unique identifier that will be based on identifying information (primarily name and social security number) of the individual.

SAFEGUARDS:

OPM's Planning and Policy Analysis (PPA) Office will maintain HCDW within secured offices at OPM Headquarters. All employees and contractors are required to have an appropriate background investigation before they are allowed physical access to OPM and access to the HCDW system. The secured space is equipped with an electronic badge reader restricting access to authorized personnel only and has alarms to alert security personnel if unauthorized personnel are in the spaces. OPM employs armed physical security guards 365 days a year, 24 hours a day that patrol OPM Headquarters, to include every entry/exit point. Video cameras are strategically located on every floor and external to the facility. The HCDW will physically reside on the servers managed by OPM's Office of Inspector General (OIG), but PPA personnel will have sole control and responsibility for the operation, maintenance, access, and security of the HCDW. Computer firewalls are maintained in the HCDW to prevent access by unauthorized personnel. The HCDW employs National Institute of Standards and Technology (NIST) Security Controls identified in the most recent version of Special Publication SP 800–53. NIST 800–53 security controls are the management, operational, and technical safeguards or countermeasures employed within an organizational information system to protect the confidentiality, integrity, and availability of the system and its information. The HCDW will perform Authorization and Assessment following the NIST 800–53 standard in order to obtain an Authority to Operate (ATO). The HCDW will employ role based access controls to further restrict access to data contained within HCDW and its virtual servers based on the functions that users are authorized to perform. The data warehouse will be fully compliant with all applicable provisions of the Privacy Act, Health Insurance Portability and Accountability Act (HIPAA), Federal Information Security Management Act (FISMA), Records Act, Office of Management and Budget (OMB) guidance, and NIST guidance. As also explained below under ''Record Source Categories,'' the PPA receives the data from the OIG, which collects it from contract service providers (health plans) carrying out the program. The data is reviewed by the OIG for accuracy and adjusted to ensure a common format. Once data is adjusted into a common format it is then routed to the HCDW

where longitudinal records are produced and the data is stripped of identifiers for analytic purposes. The PPA has determined that first running the data through OPM OIG's data processing environment will result in significant cost and efficiency savings because the OPM OIG has already developed, tested, and established technical protocols which will ensure that the records are put into a common technical format and checked for accuracy. A database administrator employed by PPA will handle the FEHBP data at this processing phase. The OPM OIG systems that will process the data will also be fully compliant with all applicable provisions of the Privacy Act, Federal Information Security Management Act (FISMA), and NIST guidance.

RETENTION AND DISPOSAL:

The records in this system will be retained for 7 years. Computer records will be destroyed by electronic erasure. A records retention schedule is currently being established with NARA.

SYSTEM MANAGERS AND ADDRESSES:

The system manager is Gary A. Lukowski, PhD, Manager, Data Analysis, U. S. Office of Personnel Management, 1900 E Street, NW., Room 7439, Washington, DC 20415, 202–606–1449.

NOTIFICATION AND RECORD ACCESS PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to the U.S. Office of Personnel Management, FOIA/PA Requester Service Center, 1900 E Street, NW., Room 5415, Washington, DC 20415–7900 or by e-mailing *foia@opm.gov.*

Individuals must furnish the following information for their records to be located:

1. Full name.
2. Date and place of birth.
3. Social security number.
4. Signature.
5. Available information regarding the type of information requested.
6. The reason why the individual believes this system contains information about him/her.
7. The address to which the information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should write to the Office of Personnel Management, FOIA/PA Requester Service Center, 1900 E Street, NW., Room 5415, Washington, DC 20415–7900. ATTN: Planning and Policy Analysis.

Individuals must furnish the following information in writing for their records to be located:

1. Full name.
2. Date and place of birth.
3. Social Security Number.
4. City, state, and zip code of their Federal Agency.
5. Signature.
6. Precise identification of the information to be amended.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment to records (5 CFR 297).

RECORD SOURCE CATEGORIES:

OPM, which has the authority to obtain this information from health care insurers and administrators contracted by OPM to manage the FEHBP, will obtain the FEHBP records from health care insurers and administrators. The information will first be received by OPM's OIG, which will then process the data and provide it to PPA under an MOU between PPA and OIG. OPM's OIG will also maintain the FEHBP records in a separate system of records under its own authorities. OPM has determined that first running the records through technical protocols developed and established by the OIG will be more efficient, secure, and cost effective because the records will already have been checked for accuracy and adjusted to ensure a common format using a well tested process.

SYSTEM EXEMPTIONS:

None.

[FR Doc. 2011–14839 Filed 6–14–11; 8:45 am]

BILLING CODE 6325–46–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: New System of Records

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Office of Personnel Management (OPM), Office of the Inspector General (OIG) proposes to add OPM/Central–18: Federal Employees Health Benefits Program Claims Data Warehouse to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency. 5 U.S.C. 552a(e)(4).

DATES: This action will be effective without further notice on July 15, 2011 unless comments are received that would result in a contrary determination.

ADDRESSES: Send written comments to Timothy C. Watkins, Counsel to the Inspector General, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6400, Washington, DC 20415–1100.

FOR FURTHER INFORMATION CONTACT: Timothy C. Watkins, Counsel to the Inspector General, 202–606–1200, *Timothy.Watkins@opm.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this system of records is to provide a central database from which the OIG may use claims data from Federal Employees Health Benefits Program (FEHBP) carriers for audit and investigative purposes to meet its oversight obligations under the Inspector General Act of 1978, as amended, 5 U.S.C. App., to detect fraud, waste and abuse in OPM programs. The OIG has had access to such FEHBP claims data since the establishment of the OIG in 1989 and has operated claims data warehouses in various forms since then. This notice is being issued because the OIG will now provide a mirror image of the: Federal Employees Health Benefits Program Claims Data Warehouse to OPM under an Economy Act Agreement to the system of records OPM/Central—15, Health Claims Data Warehouse which allows OPM to perform statistical analysis on FEHBP health care data.

U.S. Office of Personnel Management.

John Berry,

Director.

OPM CENTRAL—18

SYSTEM NAME:

Federal Employees Health Benefits Program Claims Data Warehouse.

SYSTEM LOCATION:

Office of the Inspector General, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains claims records on the Federal Employees Health Benefits Program (FEHBP). Participation in these programs is voluntary.

Participants in the FEHBP include Federal employees, Postal employees, annuitants under the Civil Service Retirement System and the Federal Employees Retirement System, former spouses, and their family members. Health care providers that submit claims to the FEHBP plans will also be stored in the system as part of the claims records. The Office of the Inspector General (OIG) has oversight responsibility under the Inspector General Act over the FEHBP.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the system may contain the following types of information on participating enrollees and covered dependents:

a. Personally identifiable Information (PII) (Name, Social Security Number, Date of Birth, Gender, and FEHBP Member ID number).

b. Home Address.

c. Covered dependent information (Spouse, Dependents)—names and genders.

d. Enrollee's employing agency.

e. Names of health care providers including health care providers debarred under 5 U.S.C. 8902a.

f. Health care provider address.

g. Health Care Provider Taxpayer Identification Number (TIN) or identifier issued by a carrier.

h. Health care coverage information regarding benefit coverage for the plan in which the person is enrolled.

i. Health care procedure information regarding procedures performed on the individual.

j. Health care diagnoses in the form of ICD codes, and treatments, including prescribed drugs, derived from clinical medical records.

k. Provider charges, including amounts paid by the plan and amounts paid by the enrollee for the above coverage, procedures, and diagnoses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The OIG is authorized to maintain FEHBP health claims information under § 6(a) of the Inspector General Act of 1978, as amended, 5 U.S.C. app. § 6(a). Authority is provided to OPM for maintenance of FEHBP health claims information by 5 U.S.C. 8910; 45 CFR 164.501, 164.512(d), which allow OPM access to records held by FEHBP contractors and require these contractors to submit reports on services provided to enrollees.

PURPOSE:

The primary purpose of this system of records is to provide a central database from which the OIG may use claims data from carriers for audit and investigative purposes to meet its oversight obligations under the Inspector General Act of 1978, as amended, 5 U.S.C. App., to detect fraud, waste and abuse in OPM programs. The Office of the Inspector General will use the data to detect and pursue fraud in the FEHBP and to audit the contracts with the various FEHBP carriers.

The secondary purpose of this system of records is to provide a mirror image of the Federal Employees Health Benefits Program Claims Data Warehouse data feeds to OPM so it can establish a central database (OPM/Central-15) from which it may analyze FEHBP data and actively manage the FEHBP to ensure the best value for the enrollees and taxpayers. OPM will collect, manage, and analyze health services data provided by FEHBP carriers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Only routine uses 1, 7, and 11 of the Prefatory Statement at the beginning of OPM's current Systems of Record notice apply to the records maintained within this system.

1. For Law Enforcement Purposes—To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

7. For Litigation—To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components; is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

11. For Non-Federal Personnel—To disclose information to contractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal Government.

The routine uses listed below are specific to this system of records only:

1. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding.

2. To disclose information to the contractor that originally provided the data to audit health care claims or investigate fraud.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records will be maintained in electronic systems.

RETRIEVABILITY:

These records are retrieved by various means:

1. Name, address, and/or social security number of an individual enrollee or patient,

2. Name, address, and/or TIN or other identifier of health care providers,

3. Claim payment information, and

4. Diagnostic or other procedure codes.

SAFEGUARDS:

The system will be located within space controlled by the OIG in OPM Headquarters. All employees and contractors are required to have an appropriate background investigation before they are allowed physical access to OIG office spaces and access to the system. The system is in a secured space that is equipped with a two factor authorization device, restricting access to authorized personnel only and has alarms to alert security personnel if unauthorized access is attempted. OPM employs armed physical security guards 365 days a year, 24 hours a day that patrol OPM Headquarters, to include every entry/exit point. Closed Circuit Video cameras are strategically located on every floor and external to the facility. Multiple layers of computer firewalls are maintained to prevent access by unauthorized personnel. The system employs National Institute of Standards and Technology (NIST) technical, physical and environmental Security Controls identified in Special Publication (SP) 800–53 revision 3. The OIG will perform an Assessment and Authorization following the NIST 800–53 revision 3 standard in order to obtain an Authority to Operate (ATO). The OIG will operate the system in compliance

with the Privacy Act, Federal Information Security Management Act (FISMA) and NIST guidance. Transmission of the data feed from the carriers to this system is encrypted in compliance with NIST Federal Information Processing Standards Publication 197.

The OPM Health Claims Data Warehouse is hosted on the OIG IT systems, however the operation of, maintenance of, and security of the OPM Health Claims Data Warehouse is the responsibility of OPM not the OIG. Notice to the public of the OPM Health Claims Data Warehouse system of records is contained in a separate System of Records Notice.

RETENTION AND DISPOSAL:

Records in this system will be retained for at least 7 years but may be maintained for a longer period as required by litigation or open investigations or audits. Computer records are destroyed by electronic erasure. A records retention schedule is being established with the National Archives and Records Administration (NARA).

SYSTEM MANAGERS AND ADDRESSES:

The system manager is the Chief, Information Systems Audit Group, Office of the Inspector General, 1900 E Street, NW., Room 6400, Washington, DC 20415–1100.

NOTIFICATION AND RECORD ACCESS PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to the U.S. Office of Personnel Management, FOIA/PA Requester Service Center, 1900 E Street, NW., Room 5415, Washington, DC 20415–7900 or by e-mailing *foia@opm.gov.*

Individuals must furnish the following information for their records to be located:

1. Full name.
2. Date and place of birth.
3. Social Security Number.
4. Signature.
5. Available information regarding the type of information requested.
6. The reason why the individual believes this system contains information about him/her.
7. The address to which the information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should write to the Office of Personnel Management, FOIA/PA Requester Service Center, 1900 E Street, NW., Room 5415, Washington, DC 20415–7900. *Attn:* Office of Inspector General.

Individuals must furnish the following information in writing for their records to be located:

1. Full name.
2. Date and place of birth.
3. Social Security Number.
4. City, state, and zip code of their Federal Agency.
5. Signature.
6. Precise identification of the information to be amended.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment to records (5 CFR 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from health care insurers contracted by the U.S. Office of Personnel Management as FEHBP carriers.

SYSTEM EXEMPTIONS:

None.

[FR Doc. 2011–14840 Filed 6–14–11; 8:45 am]

BILLING CODE 6325–46–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Council of Advisors on Science and Technology; Notice of Partially Closed Meeting

ACTION: Public notice.

SUMMARY: This notice sets forth the schedule and summary agenda for a partially closed meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA), 5 U.S.C., App.

DATES: July 15, 2011.

ADDRESSES: The meeting will be held at the Marriott Metro Center, 775 12th Street, NW., Ballroom Salon A, Washington, DC.

Type of Meeting: Open and Closed.

Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to meet in open session on July 15, 2011 from 10 a.m. to 5 p.m.

Open Portion of Meeting: During this open meeting, PCAST is tentatively scheduled to hear presentations on the U.S. patent system, the activities of the U.S. Chief Information Officer, and the future of the U.S. science and technology research enterprise. PCAST members will also discuss a report they are developing on the role of biological carbon sequestration in climate change mitigation. Additional information and the agenda, including any changes that arise, will be posted at the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.*

Closed Portion of the Meeting: PCAST may hold a closed meeting of approximately 1 hour with the President on July 15, 2011, which must take place in the White House for the President's scheduling convenience and to maintain Secret Service protection. This meeting will be closed to the public because such portion of the meeting is likely to disclose matters that are to be kept secret in the interest of national defense or foreign policy under 5 U.S.C. 552b(c)(1).

Public Comments: It is the policy of the PCAST to accept written public comments of any length, and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on July 15, 2011 at a time specified in the meeting agenda posted on the PCAST Web site at *http://whitehouse.gov/ostp/pcast.* This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at *http://whitehouse.gov/ostp/pcast,* no later than 12 p.m. Eastern Time on July 7, 2011. Phone or e-mail reservations will not be accepted. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 30 minutes. If more speakers register than there is space available on the agenda, PCAST will randomly select speakers from among those who applied. Those not selected to present oral comments may always file written comments with the committee. Speakers are requested to bring at least 25 copies of their oral comments for distribution to the PCAST members.

Written Comments: Although written comments are accepted until the date of the meeting, written comments should be submitted to PCAST at least two weeks prior to each meeting date, no later than 12 p.m. Eastern Time on June 30, 2011, so that the comments may be

made available to the PCAST members prior to the meeting for their consideration. Information regarding how to submit comments and documents to PCAST is available at *http://whitehouse.gov/ostp/pcast* in the section entitled ''Connect with PCAST.''

Please note that because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST Web site.

FOR FURTHER INFORMATION CONTACT: Information regarding the meeting agenda, time, location, and how to register for the meeting is available on the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.* A live video webcast and an archive of the webcast after the event are expected to be available at *http://whitehouse.gov/ostp/pcast.* The archived video will be available within one week of the meeting. Questions about the meeting should be directed to Dr. Deborah D. Stine, PCAST Executive Director, at *dstine@ostp.eop.gov,* (202) 456–6006. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology (PCAST) is an advisory group of the nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from inside the White House and from cabinet departments and other Federal agencies. *See* the Executive Order at *http://www.whitehouse.gov/ostp/pcast.* PCAST is consulted about and provides analyses and recommendations concerning a wide range of issues where understandings from the domains of science, technology, and innovation may bear on the policy choices before the President. PCAST is administered by the Office of Science and Technology Policy (OSTP). PCAST is co-chaired by Dr. John P. Holdren, Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, Executive Office of the President, The White House; and Dr. Eric S. Lander, President, Broad Institute of MIT and Harvard.

Meeting Accomodations: Individuals requiring special accommodation to access this public meeting should contact Dr. Stine at least ten business days prior to the meeting so that appropriate arrangements can be made.

Ted Wackler,

Deputy Chief of Staff.

[FR Doc. 2011–14879 Filed 6–14–11; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17f–2(e); OMB Control No. 3235–0031; SEC File No. 270–37.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in the following rule: Rule 17f–2(e) (17 CFR 240.17f–2(e)) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17f–2(e) requires members of national securities exchanges, brokers, dealers, registered transfer agents, and registered clearing agencies claiming exemption from the fingerprinting requirements of Rule 17f–2 to prepare and maintain a statement supporting their claim exemption. There is no filing requirement. Instead, Rule 17f–2(e)(2) requires covered entities to make and keep current a copy of the notice required by Rule 17f–2(e) in an easily accessible place at the organization's principal office and at the office employing the persons for whom exemptions are claimed and shall be made available upon request for inspection by the Commission, appropriate regulatory agency (if not the Commission) or other designated examining authority. Notices prepared pursuant to Rule 17f–2(e) must be maintained for as long as the covered entity claims an exemption from the fingerprinting requirements of Rule 17f–2. The recordkeeping requirement under Rule 17f–2(e) assists the Commission and other regulatory agencies with ensuring compliance with Rule 17f–2.

We estimate that approximately 75 respondents will incur an average burden of 30 minutes per year to comply with this rule, which represents the time it takes for a staff person at a covered entity to properly document a claimed exemption from the fingerprinting requirements of Rule 17f–2, and properly retain that document according to the entities record retention policies and procedures. The total annual burden for all covered entities is approximately 38 hours (75 entities times .5 hours, rounded up).

Written comments are invited on: (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 estimates 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The Commission 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.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: June 9, 2011.

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–14782 Filed 6–14–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29692; 812–13818]

Precidian ETFs Trust, et al.; Notice of Application

June 9, 2011.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940

(''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Precidian ETFs Trust (fka NEXT ETFs Trust) (''Trust''), Precidian Funds, LLC (fka NEXT ETFs, LLC) (''Adviser'') and Foreside Fund Services, LLC. (''Foreside'').

SUMMARY: *Summary of Application:* Applicants request an order that permits: (a) Certain open-end management investment companies or series thereof to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

DATES: *Filing Dates:* The application was filed on September 1, 2010, and amended on February 17, 2011, and June 3, 2011.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. June 30, 2011 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, Trust and Adviser, c/o Mark Criscitello, 350 Main St., Suite 9, Bedminister, New Jersey 07921, Foreside, Three Canal Plaza, Suite 100, Portland, ME 04101.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 551–6868 or Janet M. Grossnickle, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is registered as an open-end management investment company under the Act and organized as a Delaware statutory trust. The Trust will initially offer one series, the Maxis Nikkei 225 Index Fund, (''Initial Fund'') whose performance will correspond generally to the performance of a specified securities index (''Underlying Index'').[1]

2. Applicants request that the order apply to the Initial Fund and any future series of the Trust and any other open-end management companies or series thereof that may track specified domestic and/or foreign securities indexes (''Future Funds'').[2] Any Future Fund will be (a) advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser, and (b) comply with the terms and conditions of the application. Each Underlying Index will be comprised solely of equity and/or fixed income securities. Future Funds may be based on Underlying Indexes comprised of domestic and/or non-domestic equity and/or fixed income securities that meet the standards for trading in U.S. markets (''Domestic Funds'') or non-domestic securities that do not meet the requirements for trading in the U.S. markets (''Foreign Funds'') or Underlying Indexes comprised of a combination of domestic and foreign securities (''Global Funds''). The Initial Fund and all Future Funds, together, are the ''Funds.'' [3]

3. The Adviser will be registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and will serve as investment adviser to the Funds. The Adviser may enter into sub-advisory agreements with one or more investment advisers as sub-advisers to act as sub-advisers to a particular Fund (each, a ''Sub-Adviser''). Each Sub-Adviser will be registered under the Advisers Act. The Trust will enter into a distribution agreement with one or more distributors that will be registered as a broker-dealer (''Broker'') under the Securities Exchange Act of 1934 (''Exchange Act'') and will serve as the principal underwriter and distributor (''Distributor'') for one or more Funds. The Distributor for the Initial Fund will be Foreside. A Distributor may be an affiliated person of, or an affiliated person of such affiliated person of, the Adviser and/or Sub-Advisers within the meaning of section 2(a)(3) of the Act.

4. Each Fund will consist of a portfolio of securities (''Portfolio Securities'') selected to correspond generally to the performance of an Underlying Index. No entity that creates, compiles, sponsors or maintains an Underlying Index (''Index Provider'') is or will be an affiliated person, as defined in section 2(a)(3) of the Act, (''Affiliated Person'') or an affiliated person of an affiliated person (''Second-Tier Affiliate'') of the Trust, any Fund, the Adviser, any Sub-Adviser, or promoter of a Fund, or of any Distributor.

5. The investment objective of each Fund will be to provide investment returns that correspond, before fees and expenses, generally to the performance of its Underlying Index.[4] Each Fund will sell and redeem Creation Units on a ''Business Day,'' which is defined to include any day that the Trust and a Fund is required to be open under section 22(e) of the Act. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities in its Underlying Index in the same approximate

[1] The Underlying Index for the Initial Fund is the Nikkei Stock Average.

[2] All entities that currently intend to rely on the order are named as applicants. Any other existing or future entity that relies on the order will comply with the terms and conditions of the application. An Investing Fund (as defined below) may rely on the order only to invest in the Funds and not in any other registered investment company.

[3] Each Fund will comply with the disclosure requirements adopted by the Commission in Investment Company Act Release No. 28584 (Jan. 13, 2009).

[4] Applicants represent that at least 80% of each Fund's total assets (excluding securities lending collateral) (''80% Basket'') will be invested in component securities that comprised its Underlying Index (''Component Securities'') or TBA Transactions (as defined below), or in the case of Foreign Funds and Global Funds, the 80% Basket requirement may also include Depositary Receipts (defined below) representing such securities. Each Fund may also invest up to 20% of its assets in a broad variety of other instruments and securities not included in its Underlying Index, which the Adviser and/or Sub-Adviser believes will help the Fund in tracking the performance of its Underlying Index.

proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index.[5] Applicants state that in using the representative sampling strategy, a Fund is not expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invests in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5 percent.

6. Creation Units will consist of specified large aggregations of Shares, *e.g.,* 25,000 or 100,000 Shares and it is expected that its initial price will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into an agreement with the Distributor (''Authorized Participant''). The Distributor will be responsible for transmitting the orders to the Funds. An Authorized Participant must be either: (a) A broker-dealer or other participant in the continuous net settlement system of the National Securities Clearing Corporation, a clearing agency registered with the Commission, or (b) a participant in the Depository Trust Company (''DTC,'' and such participant, ''DTC Participant''). Shares of each Fund generally will be purchased in Creation Units in exchange for an in-kind deposit by the purchaser of a portfolio of securities (the ''Deposit Securities''), designated by the Adviser, together with the deposit of a specified cash payment (''Balancing Amount'' and together with the Deposit Securities, the ''Portfolio Deposit''). The Balancing Amount will be an amount equal to the difference between: (a) The net asset value (''NAV'') per Creation Unit of the Fund; and (b) the total aggregate market value per Creation Unit of the Deposit Securities.[6] Applicants state that operating on an ''in-kind'' basis for one or more Funds may present operational problems for such Funds. Therefore, each Fund may permit, under certain circumstances, an in-kind purchaser to substitute cash in lieu of depositing some or all of the Deposit Securities if the Adviser and/or Sub-Adviser believed that it would reduce the Fund's transaction costs or enhance the Fund's operating efficiency. To preserve maximum efficiency and flexibility, a Fund reserves the right to accept and deliver Creation Units entirely for cash.

7. An investor purchasing or redeeming a Creation Unit from a Fund will be charged a fee (''Transaction Fee'') to prevent the dilution of the interests of shareholders resulting from costs in connection with the purchase or redemption of Creation Units.[7] All orders to purchase Creation Units will be placed with the Distributor by or through an Authorized Participant, and it will be the Distributor's responsibility to transmit such orders to the Funds. The Distributor also will be responsible for delivering the Fund's prospectus to those persons purchasing Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

8. Shares will be listed and traded at negotiated prices on one or more national securities exchanges as defined in section 2(a)(26) of the Act (each a ''Stock Exchange''). It is expected that one or more Stock Exchange liquidity providers or market makers (''Market Makers'') will be assigned to Shares and maintain a market for Shares trading on the Listing Exchange. Price of Shares trading on a Stock Exchange will be based on a current bid-offer market. Transactions involving the sale of Shares on a Stock Exchange will be subject to customary brokerage commissions and charges.

9. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers also may purchase or redeem Creation Units in connection with their market making activities. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[8] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help to ensure that Shares will not trade at a material discount or premium in relation to their NAV per Share.

10. Shares will not be individually redeemable and owners of Shares may acquire those Shares from a Fund or tender such shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant. Although applicants currently contemplate that Creation Units generally will be redeemed in-kind, together with any applicable Cash Redemption Payment (as defined below), the Trust reserves the right to make redemption payments in-kind, in cash only payments and/or cash-in-lieu payments or a combination of both.[9] At the discretion of the Fund, a beneficial owner might also receive a cash-in-lieu amount instead of a Redemption Securities because, for instance, it was restrained by regulation or policy from transacting in the securities. A redeeming investor may pay a Transaction Fee, imposed in the same manner as the Transaction Fee incurred in purchasing such Shares of Creation Units.

11. An investor redeeming a Creation Unit generally will receive (a) portfolio Securities designated to be delivered for redemptions (''Redemption Securities'') on the date that the request for redemption is submitted and (b) a ''Cash Redemption Payment,'' consisting of an amount calculated in the same manner as the Balancing Amount, although the actual amount of the Cash Redemption Payment may differ if the Redemption

[5] Securities are selected for inclusion in a Fund following a representative sampling strategy to have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of such Fund's Underlying Index taken in its entirety.

[6] On each Business Day prior to the opening of trading on each Fund's Listing Exchange (as defined below), a list of the names and the required number of shares of each Deposit Security, included in the current Portfolio Deposit (based on information at the end of the previous Business Day) for the relevant Fund, along with the Balancing Amount. Any national securities exchange (as defined in section 2(a)(26) of the Act) (''Listing Exchange'') on which Shares are listed will disseminate, every 15 seconds throughout the trading day through the facilities of the Consolidated Tape Association, an amount representing on a per Share basis, the sum of the current value of the Deposit Securities and the estimated Balancing Amount.

[7] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Securities, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Securities.

[8] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

[9] The relevant Funds also intend to substitute a cash-in-lieu amount to replace any Deposit Security or Redemption Security (as defined below) of a Fund that is a ''to-be-announced transaction'' or ''TBA Transaction.'' A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date. The amount of substituted cash in the case of TBA Transactions will be equivalent to the value of the TBA Transaction listed as a Deposit Security or Redemption Security.

Securities are not identical to the Deposit Securities on that day.

12. Applicants state that in accepting Deposit Securities and satisfying redemptions with Redemption Securities, Funds will comply with the Federal securities laws, including that the Deposit Securities and Redemption Securities are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act'').[10] Deposit Securities and Redemption Securities either (a) will correspond pro rata to the Portfolio Securities of a Fund, or (b) will not correspond pro rata to the Portfolio Securities, provided that the Deposit Securities and Redemption Securities will (i) Consist of the same representative sample of Portfolio Securities designed to generate performance that is highly correlated to the performance of the Portfolio Securities, (ii) consist only of securities that are already included among the existing Portfolio Securities, and (iii) be the same for all Authorized Participants on a given Business Day.[11]

13. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or ''mutual fund.'' Instead, each Fund will be marketed as an ''exchange-traded fund'' or an ''ETF''. All advertising materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and that the owners of Shares may acquire or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to shareholders.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act; and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Trust and each Fund to redeem Shares in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units according to the provisions of the Act. Applicants further state that because the market price of Shares will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary substantially from their NAV per Share.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that, while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution system of investment company shares by eliminating price competition from non-contract dealers offering Shares at less than the published sales price and repurchasing Shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference

[10] In accepting Deposit Securities and satisfying redemptions with Redemption Securities that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the relevant Funds will comply with the conditions of rule 144A.

[11] In either case, Deposit Securities and Redemption Securities may differ solely to the extent necessary (1) because it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement, (2) because, in the case of equity securities, rounding is necessary to eliminate fractional shares or lots, that are not tradeable round lots or (3) for temporary periods, to effect changes in the Portfolio Securities as a result of the rebalancing of an Underlying Index. A tradable round lot will be the standard unit of trading in that particular type of security in its primary market.

between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds, including the Initial Fund, and Global Funds will be contingent not only on the settlement cycle of the U.S. Securities markets but also on the delivery cycles in local markets for underlying foreign Portfolio Securities held by the Foreign Funds and Global Funds. Applicants state that current delivery cycles for transferring Portfolio Securities to redeeming investors, coupled with local market holiday schedules, in certain circumstances will cause the delivery process for the Foreign Funds, including the Initial Fund, and Global Funds up to 14 calendar days. Applicants request relief under section 6(c) of the Act from section 22(e) to allow Foreign Funds, including the Initial Fund, and Global Funds to pay redemption proceeds up to 14 calendar days after the tender of the Creation Units for redemption. Except as disclosed in the relevant Foreign Fund's and Global Fund's SAI, applicants expect that each Foreign Fund and Global Fund will be able to deliver redemption proceeds within seven days.[12]

8. Applicants state that Congress adopted section 22(e) to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within the number of days indicated above would not be inconsistent with the spirit and intent of section 22(e). Applicants state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days, and the maximum number of days needed to deliver the proceeds for each affected Foreign Fund, including the Initial Fund, and Global Fund.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds or Global Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1) of the Act

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit management investment companies (''Investing Management Companies'') and unit investment trusts (''Investing Trusts'') registered under the Act that are not sponsored or advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser and are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Funds (collectively, ''Investing Funds'') to acquire shares of a Fund beyond the limits of section 12(d)(1)(A). In addition, applicants seek relief to permit a Fund, any Distributor, and/or any Broker to sell Shares to Investing Funds in excess of the limits of section 12(d)(1)(B).

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Investing Fund Adviser'') and may be sub-advised by one or more investment advisers within the meaning of section 2(a)(20)(B) of the Act (each an ''Investing Fund Sub-Adviser''). Any investment adviser to an Investing Fund will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in section 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither an Investing Fund nor an Investing Funds Affiliate would be able to exert undue influence over a Fund.[13] To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting the Investing Fund Adviser, Sponsor, any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Adviser, the Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor (''Investing Funds' Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Investing Fund Sub-Adviser, any person controlling, controlled by or under common control with the Investing Fund Sub-Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Sub-Adviser or any person controlling, controlled by or under common control with the Investing Fund Sub-Adviser (''Investing Funds' Sub-Advisory Group''). Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Investing Fund or Investing Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund Sub-Adviser, employee or Sponsor of

[12] Rule 15c6–1 under the Exchange Act requires that most securities transactions be settled within three business days of the trade date. Applicants acknowledge that relief obtained from the requirements of section 22(e) will not affect any obligations that they have under rule 15c6–1.

[13] An ''Investing Funds Affiliate'' is any Investing Fund Adviser, Investing Fund Sub-Adviser, Sponsor, promoter and principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund Sub-Adviser, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

15. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not interested directors or trustees within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. In addition, under condition 9, an Investing Fund Adviser, or Investing Trust's trustee (''Trustee'') or Sponsor, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Investing Fund Adviser, Trustee or Sponsor or an affiliated person of the Investing Fund Adviser, Trustee or Sponsor, in connection with the investment by the Investing Fund in the Fund. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in Conduct Rule 2830 of the NASD.[14]

16. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares for short-term cash management purposes. To ensure that an Investing Fund is aware of the terms and conditions of the requested order, the Investing Funds must enter into an agreement with the respective Funds (''Investing Fund Participation Agreement''). The Investing Fund Participation Agreement will include an acknowledgement from the Investing Fund that it may rely on the order only to invest in the Funds and not in any other investment company.

17. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by an Investing Fund. To the extent that an Investing Fund purchases Shares in the secondary market, a Fund would still retain its ability to reject initial purchases of Shares made in reliance on the requested order by declining to enter into the Investing Fund Agreement prior to any investment by an Investing Fund in excess of the limits of section 12(d)(1)(A).

Section 17 of the Act

18. Section 17(a) of the Act generally prohibits an Affiliated Person or a Second-Tier Affiliate, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence, and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by the Adviser or an entity controlling, controlled by or under common control with the Adviser (an ''Affiliated Fund''). Applicants also state that any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

19. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act in order to permit in-kind purchases and redemptions of Creation Units from the Funds by persons that are Affiliated Persons or Second-Tier Affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or more than 25%, of the Shares of the Trust or one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds. Applicants also request an exemption in order to permit each Fund to sell Shares to and redeem Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, any Investing Fund of which the Fund is an Affiliated Person or Second-Tier Affiliate.[15]

20. Applicants contend that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Deposit Securities and Redemption Securities for each Fund will be valued in the same manner as the Portfolio Securities currently held by such Fund, and will be valued in this same manner, regardless of the identity of the purchaser or redeemer. Portfolio Securities, Deposit Securities, Redemption Securities, Balancing Amounts and Cash Redemption Payments (except for any permitted cash-in-lieu amounts) will be the same regardless of the identity of the purchaser or redeemer. Therefore, applicants state that in-kind purchases and redemptions will afford no opportunity for the specified affiliated persons of a Fund to effect a transaction detrimental to the other holders of Shares. Applicants also believe that in-kind purchases and redemptions will not result in abusive self-dealing or overreaching of the Fund. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund satisfies the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[16] Applicants also

[14] All references to Conduct Rule 2830 of the NASD include any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority.

[15] To the extent that purchases and sales of Shares of a Fund occur in the secondary market (and not through principal transactions directly between an Investing Fund and a Fund), relief from Section 17(a) would not be necessary. The requested relief is intended to cover, however, in-kind transactions directly between Funds and Investing Funds.

[16] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the

state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

ETF Relief

1. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from a Fund and tender those Shares for redemption to a Fund in Creation Units only.

3. The Web site maintained for each Fund, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or the Bid/Ask Price against such NAV.

4. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based exchange-traded funds.

Section 12(d)(1) Relief

5. The members of an Investing Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of an Investing Funds' SubAdvisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Funds' Advisory Group or the Investing Funds' SubAdvisory Group, each in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of a Fund, it will vote its Shares in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Funds' SubAdvisory Group with respect to a Fund for which the Investing Fund Sub-Adviser or a person controlling, controlled by, or under common control with the Investing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

6. No Investing Fund or Investing Funds Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Funds Affiliate and the Fund or a Fund Affiliate.

7. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to assure that the Investing Fund Adviser and any Investing Fund Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Funds Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

8. Once an investment by an Investing Fund in securities of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the board of trustees of the Trust (''Board''), including a majority of the disinterested trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (b) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

9. The Investing Fund Adviser, Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from the Fund by the Investing Fund Adviser, Trustee or Sponsor, or an affiliated person of the Investing Fund Adviser, Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, Trustee, or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Adviser will waive fees otherwise payable to the Investing Fund Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Adviser, or an affiliated person of the Investing Fund Sub-Adviser, other than any advisory fees paid to the Investing Fund Sub-Adviser or its affiliated person by the Fund, in connection with any investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Adviser. In the event that the Investing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

10. No Investing Fund or Investing Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause the Fund to purchase a security in any Affiliated Underwriting.

11. The Board, including a majority of the disinterested trustees, will adopt procedures reasonably designed to monitor any purchases of securities by a Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of

sale by the Fund of Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The Investing Fund Participation Agreement also will include this acknowledgment.

procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

12. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

13. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), each Investing Fund and the Fund will execute an Investing Fund Participation Agreement stating, without limitation, that their respective boards of directors or trustees and their investment advisers or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Funds Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list of names as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the Investing Fund Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

14. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

15. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in Conduct Rule 2830 of the NASD.

16. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–14843 Filed 6–14–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Apparel America, Inc. (n/k/a HSK Industries, Inc.), Decora Industries, Inc., Diversicon Holdings Corp., Flagship Global Health, Inc., Integrated Transportation Network Group, Inc., and Premier Wealth Management, Inc. (a/k/a Premiere Wealth Management, Inc.); Order of Suspension of Trading

June 13, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Apparel America, Inc. (n/k/a HSK Industries, Inc.) because it has not filed any periodic reports since the period ended January 31, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Decora Industries, Inc. because it has not filed any periodic reports since the period ended June 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Diversicon Holdings Corp. because it has not filed any periodic reports since the period ended December 31, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Flagship Global Health, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Integrated Transportation Network Group, Inc. because it has not filed any periodic reports since the period ended September 30, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Premier Wealth Management, Inc. (a/k/a Premiere Wealth Management, Inc.) because it has not filed any periodic reports since the period ended September 30, 2007.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on June 13, 2011, through 11:59 p.m. EDT on June 24, 2011.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2011–14986 Filed 6–13–11; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64643; File No. SR–NYSEArca–2011–21]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change To List and Trade the WisdomTree Global Real Return Fund

June 10, 2011.

I. Introduction

On April 20, 2011, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade the shares (''Shares'') of the WisdomTree Global

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Real Return Fund (''Fund'') under NYSE Arca Equities Rule 8.600.[3] The proposed rule change was published for comment in the **Federal Register** on May 10, 2011.[4] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares pursuant to NYSE Arca Equities Rule 8.600. The Fund will be an actively managed exchange-traded fund that is registered with the Commission as an investment company.[5] The Shares will be offered by the WisdomTree Trust (''Trust''), a Delaware statutory trust established on December 15, 2005. WisdomTree Asset Management, Inc. (''Adviser''), which will be the investment adviser to the Fund, is not affiliated with any broker-dealer. Mellon Capital Management Corporation (''Sub-Adviser''), which will serve as the sub-adviser for the Fund,[6] is affiliated with multiple broker-dealers and, accordingly, has implemented a ''fire wall'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio.[7] The Bank of New York Mellon will be the administrator, custodian, and transfer agent for the Fund, and ALPS Distributors, Inc. will serve as the distributor for the Fund.

The Fund will seek total returns that exceed the rate of inflation over long-term investment horizons. To achieve its objective, the Fund will invest in Fixed Income Securities[8] and other instruments designed to provide protection against inflation. The Fund will be actively managed and will have targeted exposure to commodities and commodity strategies. Using this approach, the Fund will seek to provide investors with both inflation protection and income.

The Fund intends to invest at least 70% of its net assets in Fixed Income Securities tied to U.S. inflation rates, such as U.S. Treasury Inflation Protected Securities (''TIPS''), as well as inflation-linked Fixed Income Securities tied to non-U.S. inflation rates. The Fund's investments outside the United States will focus on inflation-linked securities from countries that are leading exporters of global commodities, such as Australia, Brazil, Canada, Chile, and South Africa. The Fund will not invest more than 35% of its net assets in Fixed Income Securities of issuers in emerging markets. The Fund may invest in Fixed Income Securities that are not linked to inflation, such as U.S. or non-U.S. government bonds, as well as Fixed Income Securities that pay variable or floating rates.

The Fund expects that it will have at least 70% of its assets invested in investment grade securities, and no more than 30% of its assets invested in non-investment grade securities. Because the debt ratings of issuers will change from time to time, the exact percentage of the Fund's investments in investment grade and non-investment grade Fixed Income Securities will change from time-to-time in response to economic events and changes to the credit ratings of such issuers. Within the non-investment grade category, some issuers and instruments are considered to be of lower credit quality and at higher risk of default. In order to limit its exposure to these more speculative credits, the Fund will not invest more than 10% of its assets in securities rated BB or below by Moody's, or equivalently rated by S&P or Fitch. The Fund does not intend to invest in unrated securities. However, it may do so to a limited extent, such as where a rated security becomes unrated, if such security is determined by the Adviser and Sub-Adviser to be of comparable quality.[9]

While the Fund intends to focus its investments in Fixed Income Securities on bonds and other obligations of U.S. and non-U.S. governments and agencies, the Fund may invest up to 20% of its net assets in corporate bonds.[10] The Fund may invest in securities with effective or final maturities of any length and will seek to keep the average effective duration of its portfolio between 2 and 8 years. The Fund's actual portfolio duration may be longer or shorter depending on market conditions.

The Fund intends to invest in Fixed Income Securities of at least 13 non-affiliated issuers. The Fund will not concentrate 25% or more of the value of its total assets (taken at market value at the time of each investment) in any one industry, as that term is used in the 1940 Act (except that this restriction does not apply to obligations issued by the U.S. government or any non-U.S. government or their respective agencies and instrumentalities, or government-sponsored enterprises). Although the Fund intends to invest in a variety of securities and instruments, the Fund will be considered non-diversified, which means that it may invest more of its assets in the securities of a smaller number of issuers than if it were a diversified Fund. In addition, the Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended, and no portfolio security held by the Fund (other than U.S. government securities and non-U.S. government securities) will represent more than 30% of the weight of the Fund, and the five highest

---

[3] The Fund was formerly known as the ''WisdomTree Real Return Fund.'' *See* Securities Exchange Act Release No. 61697 (March 12, 2010), 75 FR 13616 (March 22, 2010) (SR–NYSEArca–2010–04) (approving the listing and trading of the WisdomTree Real Return Fund) (''March 12, 2010 Order''). The Fund Shares have not yet been listed and have not commenced trading on the Exchange because the Fund seeks to make certain changes to its investment strategy that are not reflected in the March 12, 2010 Order. The Exchange seeks to propose the listing and trading of Shares of the Fund based on this new investment strategy.

[4] *See* Securities Exchange Act Release No. 64411 (May 5, 2011), 76 FR 27127 (''Notice'').

[5] *See* Post Effective Amendment No. 43 to the Registration Statement on Form N–1A for the Trust filed with the Securities and Exchange Commission on February 4, 2011 (File Nos. 333–132380 and 811–21864) (''Registration Statement''). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (''1940 Act''). *See* Investment Company Act Release No. 28471 (October 27, 2008) (File No. 812–13458). In compliance with Commentary .04 to NYSE Arca Equities Rule 8.600, the Trust's application for exemptive relief under the 1940 Act states that the Fund will comply with the Federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

[6] The Sub-Adviser will be responsible for the day-to-day management of the Fund and, as such, will typically make all decisions with respect to portfolio holdings. The Adviser will have ongoing oversight responsibility.

[7] *See* Commentary .06 to NYSE Arca Equities Rule 8.600. The Exchange represents that, in the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, such adviser and/or sub-adviser will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio.

[8] For these purposes, Fixed Income Securities include bonds, notes, or other debt obligations, such as government or corporate bonds, denominated in U.S. dollars or non-U.S. currencies.

[9] In determining whether a security is of ''comparable quality,'' the Adviser and Sub-Adviser will consider, for example, whether the issuer of the security has issued other rated securities.

[10] The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid. Generally, a corporate bond must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. However, the Fund may invest up to 5% of its net assets in corporate bonds with less than $200 million par amount outstanding if (i) the Adviser or Sub-Adviser deems such security to be sufficiently liquid based on its analysis of the market for such security (based on, for example, broker-dealer quotations or its analysis of the trading history of the security or the trading history of other securities issued by the issuer), and (ii) such investment is deemed by the Adviser or Sub-Adviser to be in the best interest of the Fund.

weighted portfolio securities of the Fund (other than U.S. government securities and/or non-U.S. government securities) will not in the aggregate account for more than 65% of the weight of the Fund.

The Fund intends to invest in Money Market Securities [11] in order to help manage cash flows in and out of the Fund, such as in connection with payment of dividends or expenses and to satisfy margin requirements, to provide collateral, or to otherwise back investments in derivative instruments. All Money Market Securities acquired by the Fund will be rated investment grade. The Fund does not intend to invest in any unrated Money Market Securities.

The Fund may use derivative instruments as part of its investment strategies. The Fund expects that no more than 30% of the value of the Fund's net assets will be invested in derivative instruments. Such investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. The Fund's use of derivative instruments will be collateralized or otherwise backed by investments in short-term, high-quality U.S. money market securities. The Fund may engage in foreign currency transactions and may invest directly in foreign currencies in the form of bank and financial institution deposits, certificates of deposit, and bankers acceptances denominated in a specified non-U.S. currency. The Fund also may enter into forward currency contracts in order to ''lock in'' the exchange rate between the currency it will deliver and the currency it will receive for the duration of the contract.[12] In addition, the Fund may invest in the securities of other investment companies (including money market funds and ETFs) and up to an aggregate amount of 15% of its net assets in illiquid securities, including securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets.

The Fund intends to have targeted exposure to commodities across a number of sectors, such as energy, precious metals, and agriculture, primarily through its investments in a wholly-owned subsidiary organized in the Cayman Islands (''Subsidiary''). The Subsidiary is wholly-owned and controlled by the Fund, and its investments will be consolidated into the Fund's financial statements. The Fund's investment in the Subsidiary may not exceed 25% of the Fund's total assets at the end of each fiscal quarter. The Subsidiary's shares will be offered only to the Fund, and the Fund will not sell shares of the Subsidiary to other investors. The Fund will not invest in any non-U.S. equity securities (other than shares of the Subsidiary). The Subsidiary will comply with the 1940 Act and will have essentially the same compliance policies and procedures as the Fund, except that, unlike the Fund, the Subsidiary may invest without limitation in commodity-linked investments.[13] The Subsidiary will otherwise operate in essentially the same manner as the Fund. Because the Subsidiary's investments are consolidated into the Fund's, the Fund's combined holdings (including the investments in the Subsidiary) must comply with the 1940 Act.

Additional information regarding the Trust, the Fund, the Shares, the investment objectives, strategies, policies, and restrictions, risks, fees and expenses, creation and redemption procedures, portfolio holdings, distributions and taxes, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Registration Statement and in the Notice, as applicable.[14]

III. Discussion and Commission's Findings

After careful review, the Commission finds that NYSE Arca's proposal to list and trade the Shares of the Fund is consistent with the requirements of Section 6 of the Act [15] and the rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[17] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[18] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association high-speed line, and the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be updated and disseminated by one or more major market data vendors at least every 15 seconds during the

[11] For these purposes, Money Market Securities include: Short-term, high-quality obligations issued or guaranteed by the U.S. Treasury or the agencies or instrumentalities of the U.S. government; short-term, high-quality securities issued or guaranteed by non-U.S. governments, agencies, and instrumentalities; repurchase agreements backed by U.S. government securities; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions.

[12] The Fund and the Subsidiary (as defined herein) will invest only in currencies, and instruments that provide exposure to such currencies, that have significant foreign exchange turnover and are included in the Bank for International Settlements Triennial Central Bank Survey, December 2007 (''BIS Survey''). Specifically, the Fund and Subsidiary may invest in currencies, and instruments that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey.

[13] The Subsidiary will achieve exposure to commodities through investments in a combination of listed commodity futures, commodity index swaps, and structured notes that provide commodity returns. The Subsidiary's investments will be subject to applicable requirements of the Commodity Exchange Act and rules thereunder, and to rules of the applicable U.S. futures exchanges. The Subsidiary's investments in commodity futures contracts will be limited by the application of position limits imposed by the Commodity Futures Trading Commission and U.S. futures exchanges intended to prevent undue influence on prices by a single trader or group of affiliated traders. The Adviser has represented that the Subsidiary intends to invest only in listed futures contracts that are heavily traded and are based on some of the world's most liquid and actively-traded commodities. The Subsidiary intends to invest in or have exposure to the following listed futures contracts: Cocoa; coffee; corn; cotton; light crude oil; gold; heating oil; high grade copper; lean hogs; live cattle; natural gas; silver; soybeans; sugar; unleaded gas; and wheat. In addition, the Subsidiary intends to enter into over-the-counter swap transactions only with respect to transactions based on the commodities described herein or on major commodity indexes or indicators, such as the S&P GSCI Total Return Index, Dow Jones-UBS Commodity Returns Index or the AFT Commodity Trends Indicator. The Subsidiary also may invest in commodity-linked notes, which will be limited to notes providing exposure to the commodities described herein or any commodity index.

[14] *See supra* notes 4 and 5.

[15] 15 U.S.C. 78f.

[16] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78k–1(a)(1)(C)(iii).

Core Trading Session. In addition, the Trust will disclose on its Web site on each business day before the commencement of trading in Shares in the Core Trading Session the Disclosed Portfolio,[19] as defined in NYSE Arca Equities Rule 8.600(c)(2), that will form the basis for the calculation of the net asset value (''NAV''), which will be determined at the end of each business day.[20] The Fund's Web site will also include additional quantitative information updated on a daily basis relating to NAV. Information regarding the market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and the previous day's closing price and trading volume information will be published daily in the financial section of newspapers. In addition, the intra-day, executable price quotations and/or end-of-day prices on futures contracts, commodities, and other Fund investments are available from major broker-dealer firms and/or through subscription services, such as Bloomberg and Thomson Reuters. The Fund's Web site will also include a form of the prospectus, information relating to NAV, and other quantitative and trading information.

The Commission further believes that the proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer that the NAV per share for the Fund will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[21] In addition, the Exchange will halt trading in the Shares under the specific circumstances set forth in NYSE Arca Equities Rule 8.600(d)(2)(D), and may halt trading in the Shares to the extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Funds, or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[22] The Exchange represents that the Sub-Adviser is affiliated with multiple broker-dealers and, accordingly, has implemented a ''fire wall'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio.[23] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.[24]

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will be subject to NYSE Arca Equities Rule 8.600(d), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable Federal securities laws.

(3) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares and that Shares are not individually redeemable; (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (d) how information regarding the Portfolio Indicative Value is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(4) For initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[25]

(5) The Fund will not invest in non-U.S. equity securities (other than shares of the Subsidiary).

(6) The Fund's investments in derivative instruments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

(7) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

This approval order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[26] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–NYSEArca–2011–21) be, and it hereby is, approved.

[19] The Adviser will disclose for each portfolio security or other financial instrument of the Fund the following information: Ticker symbol (if applicable), name or description of security or financial instrument; number of shares or dollar value of financial instruments held in the portfolio; and percentage weighting of the security or financial instrument in the portfolio.

[20] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4 p.m. Eastern time.

[21] *See* NYSE Arca Equities Rule 8.600(d)(1)(B).

[22] With respect to trading halts, the Exchange may consider other relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds. Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

[23] *See supra* note 7 and accompanying text. With respect to the Fund, the Exchange represents that the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Investment Advisers Act of 1940 (''Advisers Act'') relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[24] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[25] *See* 17 CFR 240.10A–3.

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78s(b)(1).

[28] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–14849 Filed 6–14–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64642; File No. SR–CBOE–2011–052]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Linkage Fees

June 10, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2011, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 Linkage fees. 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

On March 1, 2011, the Exchange ceased passing through or otherwise charging orders, including non-customer orders, routed to other exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan (''Linkage'') that were originally transmitted to the Exchange from the trading floor through an Exchange-sponsored terminal (*e.g.* a Floor Broker Workstation).[3] However, the institution of this waiver had the unintended consequence of brokers-dealers submitting large-volume non-customer orders to the Exchange that CBOE ended up routing through the Linkage system to other exchanges. The Exchange was then forced to incur the costs of this process without making up for those costs in the collection of transaction fees. Therefore, the Exchange proposes to limit this Linkage Fees exception to customer orders. As a result, the $0.50 per contract Linkage Fee under Section 20 of the Fees Schedule, plus customary CBOE execution charges, will apply to all non-customer orders. Customer orders originally transmitted to the Exchange from the trading floor through an Exchange-sponsored terminal (*e.g.* a Floor Broker Workstation) will still be exempt from such fees. This change is consistent with the Exchange's philosophy regarding the handling of non-customer Linkage orders, which is that the Exchange should not be responsible for covering non-customer Linkage costs. The change will allow the Exchange to equitably assess reasonable fees incurred for processing such orders, and permit the Exchange to recoup administrative and other costs.

This fee change is to take effect as of June 1, 2011.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(4)[5] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE Trading Permit Holders and other persons using its facilities. The Exchange believes limiting the exception from Linkage Fees to customer orders is equitable, reasonable and not unfairly discriminatory because non-customer (*e.g.,* broker-dealer proprietary) orders originate from broker-dealers who are by and large more sophisticated than public customers and can readily control the exchange to which their orders are routed. While there may be some sophisticated customers who are capable of directing the exchange to which their orders are routed, generally, retail customers submit orders to their brokerages but do not or cannot specify the exchange to which a customer order is sent. Therefore, non-customer order flow can, in most cases, more easily route directly to other markets if desired and thus avoid Linkage Fees. This includes the ability of broker-dealers to sweep better-priced away markets in connection with routing large orders to CBOE's floor for handling by floor brokers. Moreover, the Commission has a long history of permitting differential treatment of customers and non-customer investors.[6] Therefore, it is equitable to assess a reasonable fee to cover the costs incurred for processing non-customer Linkage orders while continuing to exempt such customer orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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[7] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 64057 (March 8, 2011), 76 FR 13690 (March 14, 2011) (SR–CBOE–2011–019).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] See the Exchange Fees Schedule, which provides for differential treatment of customer and non-customer orders in at least 14 places, and has been permitted by the Commission, and more directly, the BATS Exchange, Inc. (''BZX''), BATS Y–Exchange, Inc. (''BYX''), NASDAQ Options Market (''NOM'') and NYSE Amex LLC (''NYSE Amex'') Fee Schedules, which provide for different pricing for the routing of customer and non-customer orders through Linkage.

[7] 15 U.S.C. 78s(b)(3)(A).

subparagraph (f)(2) of Rule 19b–4 [8] 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 e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2011–052 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

All submissions should refer to File Number SR–CBOE–2011–052. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public 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 CBOE. 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–CBOE–2011–052 and should be submitted on or before July 6, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–14848 Filed 6–14–11; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities; Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a request for one extension and two revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, *Attn:* Desk Officer for SSA. *Fax:* 202–395–6974. *E-mail address: oira_submission@omb.eop.gov.*

(SSA)

Social Security Administration, DCBFM, *Attn:* Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235. *Fax:* 410–965–6400. *E-mail address: OPLM.RCO@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than August 15, 2011. Individuals can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

1. Application for Benefits under a U.S. International Social Security Agreement—20 CFR 404.1925—0960–0448. Section *233(a)* of the *Social Security Act (Act)* authorizes the President to broker international Social Security agreements (totalization agreements) between the United States and foreign countries. SSA collects information using form SSA–2490–BK to determine entitlement to Social Security benefits from the United States, or from a country that enters into a totalization agreement with the United States. The respondents are individuals applying for Old Age Survivors and Disability Insurance (OASDI) benefits from the United States or from a totalization agreement country.

Type of Request: Revision of an OMB-approved information collection.

Form number	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
SSA–2490–BK (Modernized Claims System)	14,000	1	30	7,000
SSA–2490–BK (paper)	2,000	1	30	1,000
Totals	16,000	.....	.....	8,000

2. Plan for Achieving Self-Support (PASS)—20 CFR 416.110(e), 416.1180–1182, 416.1225–1227—0960–0559. The Supplemental Security Income (SSI) program encourages recipients to return to work. One of the program objectives

[8] 17 CFR [sic] 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

is to provide incentives and opportunities that help recipients to do this. The PASS provision allows individuals to use available income or resources (such as business equipment, education, or specialized training) to enter (or re-enter) the workforce and become self-supporting. In turn, SSA does not count the income or resources recipients use to fund a PASS when determining an individual's SSI eligibility or payment amount. An SSI recipient who wants to use available income and resources to obtain education or training to become self-supporting completes the SSA–545. SSA uses the information from the SSA–545 to evaluate the recipient's plan for achieving self-support, and to determine eligibility under the provisions of the SSI program. The respondents are SSI recipients who are blind or disabled and want to develop a plan to work.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 7,000.

Frequency of Response: 1.

Average Burden Per Response: 2 hours.

Estimated Annual Burden: 14,000 hours.

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 15, 2011. Individuals can obtain copies of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

Representative Payee Report—Adult, Representative Payee Report—Child, Representative Payee Report—Organizational Representative Payees—20 CFR 404.635, 404.2035, 404.2065, and 416.665—0960–0068. When SSA determines it is not in an OASDI or SSI recipient's best interest to receive Social Security payments directly, the agency will designate a representative payee for the recipient. The representative payee can be: (1) A family member; (2) a non-family member who is a private citizen and is acquainted with the beneficiary; (3) an organization; (4) a state or local government agency; or (5) a business. In the capacity of representative payee, the person or organization receives the SSA payments directly and manages these payments for the recipient. As part of its stewardship mandate, SSA must ensure the representative payees are properly using the payments they receive for the recipients they represent. The agency annually collects the information necessary to make this assessment using the SSA–623, Representative Payee Report—Adult; SSA–6230, Representative Payee Report—Child; SSA–6234, Representative Payee Report—Organizational Representative Payee; and through the Internet Representative Payee Accounting (iRPA) application. The respondents are representative payees of OASDI and SSI recipients.

Type of Request: Revision to an OMB-approved information collection.

Form No.	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
SSA–623	2,378,400	1	15	594,600
SSA–6230	2,875,900	1	15	718,975
SSA–6234	702,100	1	15	175,525
iRPA*	652,500	1	15	163,125
Totals	6,608,900	.....	.....	1,652,225

* One Internet platform encompasses all three paper forms.

Dated: June 9, 2011.

Liz Davidson,

Center Director, Center for Reports Clearance, Social Security Administration.

[FR Doc. 2011–14741 Filed 6–14–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 7502]

Culturally Significant Objects Imported for Exhibition Determinations; ''Monet/Lichtenstein: Rouen Cathedrals''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition ''Monet/Lichtenstein: Rouen Cathedrals,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Boston, Boston, Massachusetts, from on or about July 3, 2011, until on or about September 18, 2011, the Los Angeles County Museum of Art, Los Angeles, California, from on or about October 2, 2011, until on or about January 2, 2012, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: June 8, 2011.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2011–14822 Filed 6–14–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 101 Sub-No. 18X]

Duluth, Missabe and Iron Range Railway Company; Abandonment Exemption—in St. Louis County, MN

Duluth, Missabe and Iron Range Railway Company (DMIR), filed a verified notice of exemption under 49 CFR pt. 1152 subpart F–*Exempt*

Abandonments to abandon 1.96 miles of rail line between mileposts 0.00 and 1.96, in Duluth, St. Louis County, Minn.[1] The line traverses United States Postal Service Zip Code 55808.

DMIR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will become effective on July 15, 2011, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 27, 2011. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 5, 2011, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to DMIR's representative: Thomas J. Healey, 17641 S. Ashland Ave., Homewood, IL 60430.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

DMIR has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by June 20, 2011. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA, at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), DMIR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by DMIR's filing of a notice of consummation by June 15, 2012, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 8, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–14639 Filed 6–14–11; 8:45 am]

BILLING CODE 4915–01–P

[1] DMIR is a wholly owned subsidiary of Canadian National Railway Company.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Agency Information Collection Activities; Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Surface Transportation Board, DOT.

ACTION: 30-Day notice of submission of information collection approval from the Office of Management and Budget and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, the Surface Transportation Board has submitted a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery '' to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et. seq.*).

DATES: Comments must be submitted July 11, 2011.

ADDRESSES: Comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Kimberly Nelson, Surface Transportation Board Desk Officer, by fax at (202) 395–6974; by mail at Room 10235, 725 17th Street, NW., Washington, DC 20503; or by e-mail at: *OIRA_SUBMISSION@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Marilyn Levitt, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, or to: *levittm@stb.dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative

information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

The Agency received no comments in response to the 60-day notice published in the **Federal Register** of December 22, 2010 (75 FR 80542).

Below we provide the Surface Transportation Board's projected average estimates for the next three years:[1]

Current Actions: New collection of information.

Type of Review: New Collection.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of activities: 5.

Respondents: 15 (for one focus group), 150 (for each of two surveys), 200 (for each of two comments card requests).

Annual responses: 15 (for focus groups), 300 (for surveys), 400 (for comment cards)

Frequency of Response: Once per request.

Average minutes per response: 24 minutes (2 hours per focus group, 36 minutes per survey, 10 minutes per comment card).

Burden hours: 277.

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 Office of Management and Budget control number.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–14784 Filed 6–14–11; 8:45 am]

BILLING CODE 4915–01–P

[1] The 60-day notice included the following estimate of the aggregate burden hours for this generic clearance Federal-wide:

Average Expected Annual Number of activities: 25,000.

Average number of Respondents per Activity: 200.

Annual responses: 5,000,000.

Frequency of Response: Once per request.

Average minutes per response: 30.

Burden hours: 2,500,000.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35524]

Canexus Chemicals Canada L.P. v. BNSF Railway Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Oral Argument.

SUMMARY: In a decision served on June 8, 2011, the Board announced that it has tentatively scheduled an oral argument in this complaint proceeding.

Dates/Location: The oral argument is tentatively scheduled to be held Thursday, June 23, 2011, at 2 p.m., or at a later time that afternoon designated by the Board, in the hearing room at the Board's headquarters located at 395 E Street, SW., Washington, DC.

FOR FURTHER INFORMATION, CONTACT: Joseph Dettmar, (202) 245–0395. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339.

SUPPLEMENTARY INFORMATION: Canexus Chemicals Canada L.P. (Canexus) has filed a complaint with a request for expedited consideration. The complaint asks the Board to issue an order compelling BNSF Railway Company (BNSF) to establish common carrier rates and service terms effective July 1, 2011, between North Vancouver, B.C., and Kansas City, Mo., and between Marshall, Wash., and Kansas City, Mo.

Currently, BNSF is hauling Canexus shipments of chlorine from North Vancouver and Marshall to Kansas City in joint line service under temporary rates that terminate on June 30, 2011. According to the complaint, BNSF interchanges with Union Pacific Railroad Company (UP) in Kansas City and the shipments are hauled by UP to their final destinations in Illinois, Texas, and Arkansas. Canexus states that BNSF will terminate the interline service with UP through Kansas City after the temporary rates expire. Instead, BNSF has offered to interchange with UP at Spokane, Wash. (for movements originating from Marshall), and Portland, Or. (for movements originating from North Vancouver).

In the June 8, 2011 decision, the Board directed BNSF by June 15, 2011, to submit its argument as to whether BNSF has a legal obligation to provide the specific service to Kansas City that Canexus has requested and to establish an appropriate rate. The Board noted that UP has an interest in this matter as a carrier involved in these movements. Accordingly, the Board also directed UP by June 15, 2011, to submit a pleading addressing its legal obligation, if any, to interchange with BNSF at Spokane and Portland. Lastly, in the decision, the Board advised Canexus, BNSF, and UP that the Board may, following the receipt of the pleadings, convene an oral hearing to receive testimony from Canexus and the two railroads during the afternoon of June 23, 2011, at the Board's headquarters. If the Board determines that a hearing is necessary, it will issue a subsequent notice setting the time no later than June 16, 2011.

This action will not significantly affect either the human environment or the conservation of energy resources.

Decided: June 10, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–14844 Filed 6–14–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Sidley Austin LLP on behalf of Norfolk Southern Railway Company (WB484–1—6/7/11), for permission to use certain data from the Board's 2000–2009 Carload Waybill Samples. A copy of the request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245–0330.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–14739 Filed 6–14–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974, as Amended

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of Proposed Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Departmental Offices, U.S. Department of the Treasury (''Treasury''), on behalf of itself and the Consumer Financial Protection Bureau (''CFPB''), gives notice of the establishment of a new Privacy Act System of Records.

DATES: Comments must be received no later than July 15, 2011. The new database will be effective July 15, 2011, unless the comments received result in a contrary determination.

ADDRESSES: Comments should be sent to Claire Stapleton, Consumer Financial Protection Bureau implementation team, 1801 L Street, NW., Washington, DC 20036. Comments will be made available for inspection upon written request. Treasury will make such comments available for public inspection and copying in Treasury's Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622–0990. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Consumer Financial Protection Bureau implementation team, 1801 L Street, NW., Washington, DC 20036, (202) 435–7220.

SUPPLEMENTARY INFORMATION: The Dodd-Frank Wall Street Reform and Consumer Protection Act (''Act''), Public Law 111–203, Title X, established the CFPB. Once fully operational, the CFPB will administer, enforce, and implement Federal consumer financial protection laws, and, among other powers, will have authority to protect consumers from unfair, deceptive, and abusive practices when obtaining consumer financial products or services. The Act grants Treasury certain ''interim authority'' to help stand up the agency. The CFPB implementation team, which includes both Treasury and CFPB personnel, will maintain the records covered by this notice. The new system of records described in this notice, Treasury/DO.318—CFPB Implementation Team Correspondence Tracking Database, will track and process controlled correspondence. The Correspondence Tracking Database will allow the CFPB implementation team to keep track of official correspondence while it is being actively handled.

The report of the new system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000, and the Privacy Act, 5 U.S.C. 552a(r).

Dated: May 31, 2011.

Melissa Hartman,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

TREASURY/DO .318

SYSTEM NAME:

Consumer Financial Protection Bureau (CFPB) Implementation Team Correspondence Tracking Database.

SYSTEM LOCATION:

CFPB implementation team, 1801 L Street, NW., Washington, DC 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are those whose correspondence is submitted to the CFPB implementation team and members of the CFPB implementation team assigned to help process, review and/or respond to the correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in the database may contain (1) correspondence (including, without limitation, official letters, memoranda, faxes, telegrams, and e-mails) received and sent; (2) mailing lists of correspondence submitters; (3) identifying information regarding both the individual who is submitting the correspondence or the individual or entity on whose behalf such correspondence is submitted, such as the individual's name, phone number, address, e-mail address, and any other disclosed identifiable information; (4) information concerning the CFPB implementation team employees responsible for processing the correspondence; (5) correspondence disposition information; (6) correspondence tracking dates; and (7) internal office assignment information. Supporting records may include correspondence between the CFPB implementation team and the individual. Records related to consumer complaints will not be contained in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 111–203, Title X, Sections 1012, 1066, codified at 12 U.S.C. 5492, 5586.

PURPOSE:

The purpose of the information database is to enable the CFPB implementation team to track correspondence, including responsibilities for processing, tracking, responding to, or referring sensitive and/or time-critical correspondence for appropriate processing and responsive action.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed to:

(1) Appropriate agencies, entities, and persons when: (a) Treasury or the CFPB suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) Treasury or the CFPB has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by Treasury or the CFPB or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with Treasury's or the CFPB's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) A contractor or agent who needs to have access to this system of records to perform an assigned activity;

(3) The U.S. Department of Justice (''DOJ'') for its use in providing legal advice to the Treasury or the CFPB or in representing the Treasury or the CFPB in a proceeding before a court, adjudicative body, or other administrative body before which the Treasury or the CFPB is authorized to appear, where the use of such information by the DOJ is deemed by the Treasury or the CFPB to be relevant and necessary to the litigation, and such proceeding names as a party or interests:

(a) The Treasury or any component thereof;

(b) The CFPB;

(c) Any employee of the Treasury or the CFPB in his or her official capacity;

(d) Any employee of the Treasury or the CFPB in his or her individual capacity where DOJ has agreed to represent the employee; or

(e) The United States, where the Treasury or the CFPB determines that litigation is likely to affect the Treasury or any of its components or the CFPB.

(4) Appropriate agencies, entities, and persons, to the extent necessary to respond to or refer correspondence;

(5) A court, magistrate, or administrative tribunal, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings when the Treasury or the CFPB is party to the proceeding or has a significant interest in the proceeding;

(6) A grand jury pursuant either to a Federal or state grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, where the subpoena or request has been specifically approved by a court;

(7) Congressional offices in response to correspondence submitted at the request of the individual to whom the record pertains;

(8) Appropriate Federal, foreign, state, local, Tribal, or other public authorities or self-regulatory organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation of civil or criminal law or regulation;

(9) Another Federal agency to (a) permit a decision as to access, amendment, or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to, amendment of, or correction of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in this system are stored electronically and in file folders. Paper copies of individual records are made by the authorized CFPB implementation team staff.

RETRIEVABILITY:

Records are retrievable by the name of the individual covered by the system, date of correspondence, or correspondence control number.

SAFEGUARDS:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

Computer and paper records will be maintained indefinitely until a records disposition schedule is approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Consumer Financial Protection Bureau implementation team, 1801 L Street, NW., Washington, DC 20036.

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in this database, or seeking to contest its content, may inquire in writing in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Address such requests to: Director, Disclosure Services, Department of Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures,'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures,'' above.

RECORD SOURCE CATEGORIES:

Information in this system is maintained about individuals who submit correspondence to the CFPB implementation team and employees assigned to help process, review, or respond to correspondence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–14834 Filed 6–14–11; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. OCC–2011–0011]

FEDERAL RESERVE SYSTEM

[Docket No. OP–1421]

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Guidance on Stress Testing for Banking Organizations With More Than $10 Billion in Total Consolidated Assets

AGENCIES: Office of the Comptroller of the Currency, Treasury (''OCC''); Board of Governors of the Federal Reserve System (''Board'' or ''Federal Reserve''); Federal Deposit Insurance Corporation (''FDIC'').

ACTION: Proposed joint guidance with request for public comment.

SUMMARY: The OCC, Board, and the FDIC (collectively, the ''agencies'') request comment on proposed guidance on stress testing (proposed guidance). The proposed joint guidance outlines high-level principles for stress testing practices, applicable to all Federal Reserve-supervised, FDIC-supervised, and OCC-supervised banking organizations with more than $10 billion in total consolidated assets. The proposed guidance highlights the importance of stress testing as an ongoing risk management practice that supports a banking organization's forward-looking assessment of its risks.

DATES: Comments must be submitted on or before July 29, 2011.

ADDRESSES: *OCC:* Please use the title ''Proposed Guidance on Stress Testing'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *E-mail: regs.comments@occ.treas.gov.*
- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.
- *Fax:* (202) 874–5274.
- *Hand Delivery/Courier:* 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.

Instructions: You must include ''OCC'' as the agency name and ''Docket Number OCC–2011–0011'' in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address

information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this notice by any of the following methods:

• *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. 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.

• *Docket:* You may also view or request available background documents and project summaries using the methods described above.

Board: When submitting comments, please consider submitting your comments by e-mail or fax because paper mail in the Washington, DC area and at the Board may be subject to delay. You may submit comments, identified by Docket No. OP–1411, by any of the following methods:

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

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

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

• *Fax:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Street, NW.,Washington, DC 20551) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments by any of the following methods:

• *Agency Web site: http://www.FDIC.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments.

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

• *E-mail: comments@FDIC.gov.* Include ''Stress Testing Guidance'' in the subject line of the message. Comments received will be posted without change to *http://www.FDIC.gov/regulations/laws/federal/propose.html*, including any personal information provided.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (EDT).

FOR FURTHER INFORMATION CONTACT:

OCC: Robert Scavotto, Lead International Expert, International Analysis and Banking Condition (202) 874–4943, Tanya Smith, NBE, Basel II Program Manager, Large Bank Supervision (202) 874–4464, Akhtarur Siddique, Deputy Director, Enterprise Risk Analysis Division (202) 874–4665, or Jeanette Quick, Attorney, Legislative and Regulatory Activities Division (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Anna Lee Hewko, Assistant Director, Capital and Regulatory Policy (202) 530–6260, or Constance M. Horsley, Manager, Capital and Regulatory Policy (202) 452–5239, David Palmer, Senior Supervisory Analyst, Risk Section, (202) 452–2904, Sviatlana Phelan, Financial Analyst, Capital and Regulatory Policy (202) 912–4306, Division of Banking Supervision and Regulation; or Benjamin W. McDonough, Counsel, (202) 452–2036, or Dominic A. Labitzky, Senior Attorney, (202) 452–3428, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: George French, Deputy Director, Policy, (202) 898–3929; Robert Burns, Chief, Exam Support & Analysis Section, (704) 333–3132 x4215; Karl Reitz, Senior Capital Markets Specialist, (202) 898–6775, Division of Risk Management Supervision; or Mark Flanigan, Counsel, (202) 898–7426; Ryan Clougherty, Senior Attorney, (202) 898–3843, Supervision Branch, Legal Division.

SUPPLEMENTARY INFORMATION:

I. Background

All banking organizations should have the capacity to understand their risks and the potential impact of stressful events and circumstances on their financial condition.[1] The U.S. Federal banking agencies have previously highlighted the use of stress testing as a means to better understand the range of a banking organization's potential risk exposures.[2] The 2007–2009 financial crisis further underscored the need for banking organizations to incorporate stress testing into their risk management, as banking organizations unprepared for stressful events and circumstances can suffer acute threats to their financial condition and viability. The proposed guidance is intended to be consistent with industry practices and with international supervisory standards.[3]

Building upon previously issued supervisory guidance that discusses the uses and merits of stress testing in specific areas of risk management, the proposed guidance provides an overview of how a banking organization should structure its stress testing activities and ensure they fit into overall risk management. The purpose of this guidance is to outline broad principles for a satisfactory stress testing framework and describe the manner in

[1] For purposes of this guidance, the term ''banking organization'' means national banks and Federal branches and agencies supervised by the OCC; state member banks, bank holding companies, and all other institutions for which the Federal Reserve is the primary Federal supervisor; and state nonmember insured banks and other institutions supervised by the FDIC.

[2] *See,* for example, Supervision and Regulation (SR) letter 10–6 or OCC Bulletin 2010–13 or FDIC FIL–13–2010, ''Interagency Policy Statement on Funding and Liquidity Risk Management''; SR 10–1 or OCC Bulletin 2010–1 or FDIC Financial Institution Letter (FIL–2–2010), ''Interagency Advisory on Interest Rate Risk''; SR letter 09–04, ''Applying Supervisory Guidance and Regulations on the Payment of Dividends, Stock Redemptions, and Stock Repurchases at Bank Holding Companies''; SR letter 07–1, ''Interagency Guidance on Concentrations in Commercial Real Estate'' or OCC Bulletin 2006–46 or FDIC FIL–104–2006, ''Interagency Guidance on CRE Concentration Risk Management''; SR letter 99–18, ''Assessing Capital Adequacy in Relation to Risk at Large Banking Organizations and Others with Complex Risk Profiles''; OCC Bulletin 2008–20 or FDIC FIL–71–2008 ''Supervisory Guidance: Supervisory Review Process of Capital Adequacy (Pillar 2) Related to the Implementation of the Basel II Advanced Capital Framework''; the Supervisory Capital Assessment Program (*see http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20080715a1.pdf);* and Comprehensive Capital Analysis and Review: Objectives and Overview (*see www.federalreserve.gov/newsevents/press/bcreg/20110318a.htm*).

[3] *See* ''Principles for Sound Stress Testing Practices and Supervision,'' Basel Committee on Banking Supervision, May 2009.

which stress testing should be employed as an integral component of risk management that is applicable at various levels of aggregation within a banking organization, as well as for contributing to capital and liquidity planning. While the guidance is not intended to provide detailed instructions for conducting stress testing for any particular risk or business area, the proposed guidance aims to describe several types of stress testing activities and how they may be most appropriately used by banking organizations. The guidance does not explicitly address the stress testing requirements imposed upon certain companies by section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.[4] The Board, FDIC, and OCC expect to implement that provision in a future rulemaking that would be consistent with the principles in the proposed guidance.

II. Principal Elements of the Proposed Guidance

The agencies are issuing this proposed guidance to emphasize the importance of stress testing as an ongoing risk management practice that supports banking organizations' forward-looking assessment of risks and better equips them to address a range of adverse outcomes. The proposed joint guidance is applicable to all banking organizations supervised by the agencies with more than $10 billion in total consolidated assets. Specifically, with respect to the OCC, these banking organizations would include national banking associations and Federal branches and agencies; with respect to the Board, these banking organizations would include state member banks, bank holding companies, and all other institutions for which the Federal Reserve is the primary Federal supervisor; with respect to the FDIC, these banking organizations would include state nonmember insured banks or insured branches of foreign banks. A banking organization should develop and implement its stress testing framework in a manner commensurate with its size, complexity, business activities, and overall risk profile.

The uses of a banking organization's stress testing framework should include, but are not limited to, augmenting risk identification and measurement; estimating business line revenues and losses and informing business line strategies; identifying vulnerabilities and assessing their potential impact; assessing capital adequacy and enhancing capital planning; assessing liquidity adequacy and informing contingency funding plans; contributing to strategic planning; enabling senior management to better integrate strategy, risk management, and capital and liquidity planning decisions; and assisting with recovery planning.

A. Stress Testing Principles

Principle 1: A banking organization's stress testing framework should include activities and exercises that are tailored to and sufficiently capture the banking organization's exposures, activities, and risks.

An effective stress testing framework covers a banking organization's full set of material activities, exposures, and risks, whether on or off the balance sheet. An effective stress testing framework should be applied at various levels in the banking organization, such as business line, portfolio, and risk type, as well as on an enterprise-wide basis. Each stress test should be tailored to the relevant level of aggregation, capturing critical risk drivers, internal and external influences, and other key considerations at the relevant level. Stress testing should capture the interplay among different exposures, activities, and risks and their combined effects. Scenarios used in a banking organization's stress tests should be relevant to the direction and strategy set by its board of directors.

Principle 2: An effective stress testing framework employs multiple conceptually sound stress testing activities and approaches.

Banking organizations should use multiple stress testing activities and approaches and ensure that each is conceptually sound. Stress tests usually vary in design and complexity, including the number of factors employed and the degree of stress applied. Effective stress testing relies on high-quality input data and information to produce credible outcomes. A banking organization should document the assumptions used in its stress tests and note the degree of uncertainty that may be incorporated into the tools used for stress testing. Furthermore, almost all stress tests, including well-developed quantitative tests supported by high-quality data, employ a certain amount of expert or business judgment that should be made transparent to users of stress test results.

Principle 3: An effective stress testing framework is forward-looking and flexible.

A stress testing framework should be sufficiently dynamic and flexible to incorporate changes in a banking organization's on- and off-balance-sheet activities, portfolio composition, asset quality, operating environment, business strategy, and other risks that may arise. While stress testing should utilize available historical information, a banking organization should look beyond assumptions based only on historical data and challenge conventional assumptions. A banking organization should carefully consider the incremental and cumulative effects of stress conditions. In addition to conducting formal, routine stress tests, a banking organization should have the flexibility to conduct new or ad hoc stress tests in a timely manner to address rapidly emerging risks. A banking organization should continue updating and maintaining its stress testing framework in light of new risks, better understanding of the banking organization's exposures and activities, and any changes in its operating structure and environment.

Principle 4: Stress test results should be clear, actionable, well supported, and inform decision-making.

Stress testing should incorporate measures that adequately and effectively convey the results of its tests. In addition, all stress test results should be accompanied by descriptive and qualitative information (such as key assumptions and limitations) to allow users to interpret the exercises in context. A banking organization should regularly communicate stress test results to appropriate levels within the banking organization to foster dialogue around stress testing, keep management and staff apprised, and to inform stress testing approaches, results, and decisions in other areas of the banking organization. In addition, management should review stress testing activities on a regular basis to determine, among other things, the validity of the assumptions, the severity of scenarios and sensitivity tests, the robustness of the estimates, the performance of any underlying models, and the stability and reasonableness of the results. Finally, stress test results should inform a banking organization's analysis and decision-making.

B. Stress Testing Approaches and Applications

The proposed guidance describes certain stress testing approaches and applications—scenario analysis, sensitivity analysis, enterprise-wide testing, and reverse stress testing—that a banking organization should strongly consider using within its stress testing framework, as appropriate. Each banking organization should apply these approaches and applications

[4] Public Law 111–203, 124 Stat. 1376. Section 165(i) of the Dodd-Frank Act is codified at 12 U.S.C. 5365(i).

commensurate with its size, complexity, and business profile, and may not need to incorporate all of the details described in the proposed guidance.

Scenario Analysis

Scenario analysis refers to a type of stress testing in which a banking organization applies historical or hypothetical scenarios to assess the impact of various events and circumstances, including extreme ones. Scenarios usually involve some kind of coherent, logical narrative or ''story'' as to why certain events and circumstances are occurring and in which combination and order they occur, such as a severe recession, failure of a major counterparty, loss of major clients, natural or man-made disaster, localized economic downturn, or a sudden change in interest rates brought about by unfavorable inflation developments. Stress scenarios should reflect a banking organization's unique vulnerabilities to factors that affect its exposures, activities, and risks.

Sensitivity Analysis

Sensitivity analysis refers to a banking organization's assessment of its exposures, activities, and risks when certain variables, parameters, and inputs are ''stressed'' or ''shocked.'' Generally, sensitivity analysis differs from scenario analysis in that it involves changing variables, parameters, or inputs without an explicit underlying reason or narrative, in order to explore what occurs under a range of inputs and at extreme or highly adverse levels. Sensitivity analysis can also help to assess the combined impact on a banking organization of several variables, parameters, factors, or drivers.

Enterprise-Wide Stress Testing

Enterprise-wide stress testing involves assessing the impact of certain specified scenarios on the banking organization as a whole, particularly on capital and liquidity. As is the case with scenario analysis more generally, enterprise-wide stress testing involves robust scenario design and effective translation of scenarios into measures of impact. Enterprise-wide stress tests can help a banking organization in its efforts to assess the impact of its full set of risks under adverse events and circumstances, but should be supplemented with other stress tests and other risk measurement tools given inherent limitations in capturing all risks and all adverse outcomes. Selection of scenario variables is important for enterprise-wide tests, because they generally serve as the link between the overall narrative of the scenario and tangible impact on the banking organization as a whole. For an enterprise-wide test, assumptions across business lines and risk areas should remain constant for the chosen scenario, since the objective is to see how the banking organization as a whole responds to a common outcome.

Reverse Stress Testing

Reverse stress testing is a tool that allows a banking organization to assume a known adverse outcome, such as suffering a credit loss that breaches regulatory capital ratios or suffering severe liquidity constraints making it unable to meet its obligations, and then deduce the types of events that could lead to such an outcome. This type of stress testing may help a banking organization to consider scenarios beyond its normal business expectations and see the impact of severe systemic effects on the banking organization. It also allows a banking organization to challenge common assumptions about its performance and expected mitigation strategies. Reverse stress testing helps a banking organization evaluate the combined effect of several types of extreme events and circumstances that might threaten the survival of the banking organization, even if in isolation each of the effects might be manageable.

C. Stress Testing for Assessing Adequacy of Capital and Liquidity

Given the importance of capital and liquidity to a banking organization's viability, stress testing should be applied to these two areas on a regular basis. Stress testing for capital and liquidity adequacy should be conducted in coordination with a banking organization's overall strategy and annual and planning cycles. Results should be refreshed in the event of major strategic decisions, or other decisions that can materially impact capital or liquidity. Banking organizations should conduct stress testing for capital and liquidity adequacy periodically.

Capital stress testing supplements a banking organization's regulatory capital analysis by providing a forward-looking assessment of capital adequacy, usually with a forecast horizon of at least two years, and highlighting the potential adverse effects on capital levels and ratios of risks not fully captured in regulatory capital requirements.[5] Stress testing can aid capital contingency planning by helping management identify exposures or risks that would need to be reduced and actions that could be taken to bolster capital levels or otherwise maintain capital adequacy, as well as actions that in times of stress might not be possible—such as raising capital.

Using liquidity stress testing, a banking organization can work to identify vulnerabilities related to liquidity adequacy in light of both firm-specific and market-wide stress events and circumstances.[6] Effective stress testing helps a banking organization identify and quantify the depth, source, and degree of potential liquidity strain and to analyze possible impacts on its cash flows, liquidity position, profitability, and other aspects of its financial condition over various time horizons. These tests also help determine whether the banking organization has a sufficient liquidity buffer to meet various types of future liquidity demands. In this regard, liquidity stress testing should be an integral part of the development and maintenance of a banking organization's contingency funding planning.

An effective stress testing framework should explore the potential for capital and liquidity problems to arise at the same time or exacerbate one another. A banking organization's liquidity stress analysis should explore situations in which the banking organization may be operating with a capital position that exceeds regulatory minimums, but is nonetheless viewed within the financial markets or by its counterparties as being of questionable viability. For its capital and liquidity stress tests, a banking organization should articulate clearly its objectives for a post-stress outcome, for instance to remain a viable financial market participant that is able to meet its existing and prospective obligations and commitments.

D. Governance Over the Stress Testing Framework

Similar to other aspects of its risk management, a banking organization's stress testing framework will be effective only if it is subject to strong governance and controls to ensure that the framework is functioning as intended. Strong governance and controls also help ensure that the framework contains core elements, from clearly defined stress testing objectives to recommended actions. Importantly, strong governance provides critical review of elements of the stress testing framework, especially regarding key

[5] The portions of the proposed guidance that discuss stress testing for capital adequacy do not apply to U.S. branches and agencies of foreign banking organizations.

[6] *See* SR letter 10–6, SR letter 10–1; OCC Bulletin 2010–13, OCC Bulletin 2010–1; FDIC FIL 13–2010 and FIL 2–2010.

assumptions, uncertainties, and limitations. A banking organization should ensure that the stress testing framework is not isolated within a banking organization's risk management function, but is firmly integrated into business lines, capital and asset-liability committees, and other decision-making bodies.

The results of stress testing analyses should facilitate decision-making by the board and senior management. Stress testing results should be used to inform the board about alignment of the banking organization's risk profile with the board's chosen risk appetite, as well as inform operating and strategic decisions. Stress testing results should be considered directly by the board and senior management for decisions relating to capital and liquidity adequacy. The board and senior management should ensure that the stress testing framework includes a sufficient range of stress testing activities applied at the appropriate levels of the banking organization (*i.e.,* not just one enterprise-wide stress test).

III. Request for Comment

The agencies invite comment on all aspects of the proposed guidance. More specifically, what, if any, additional elements or aspects of an effective stress testing framework should the agencies consider including in this guidance? What additional approaches and applications of stress testing have been found to be particularly useful aside from those included in the proposed guidance? What challenges, if any, exist in applying this guidance generally or at particular banking organizations and why? Are there any terms described by the proposed guidance that require further clarification and how should they be defined?

IV. Administrative Law Matters

A. Paperwork Reduction Act Analysis

In accordance with the Paperwork Reduction Act (''PRA'') of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the agencies reviewed the proposed guidance. The agencies may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. The agencies have determined that certain aspects of the proposed guidance may constitute a collection of information. In particular, these aspects are the provisions that state a banking organization should (i) have a stress testing framework that includes clearly defined objectives, well-designed scenarios tailored to the banking organization's business and risks, well-documented assumptions, conceptually sound methodologies to assess potential impact on the banking organization's financial condition, informative management reports, and recommended actions based on stress test results and (ii) have policies and procedures for a stress testing framework. The agencies estimate that the above-described information collections included in the proposed guidance would take respondents, on average, 260 hours each year. The frequency of information collection is estimated to be annual. Respondents are banking organizations with more than $10 billion in total consolidated assets, as defined in the guidance:

OCC:

Respondents: 50.

Estimated annual burden: 13,000 hours.

Board:

Respondents: 120.

Estimated annual burden: 31,200 hours.

FDIC:

Respondents: 22.

Estimated annual burden: 5,720 hours.

OCC: For purposes of the PRA, this information collection will be titled Recordkeeping and Disclosure Provisions Associated with Stress Testing Guidance.

This information collection is authorized pursuant to the National Bank Act, (12 U.S.C. 1 *et seq.;* 12 U.S.C. 161) and the International Banking Act (12 U.S.C. 3101 *et seq.*). The OCC expects to review the policies and procedures for stress testing as part of its supervisory process. To the extent the OCC collects information during an examination of a banking organization, confidential treatment may be afforded to the records under exemption 8 of the Freedom of Information Act (''FOIA''), 5 U.S.C. 552(b)(8). Comments should also be sent to the Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention: 1557–NEW, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments. Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–NEW, 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 or to request a copy of the OCC's collection, please contact Mary H. Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, OCC, 250 E Street, SW., Washington, DC 20219.

Board: For purposes of the PRA, this information collection will be titled Recordkeeping and Disclosure Provisions Associated with Stress Testing Guidance. The agency form number for the collection is FR 4202. The agency control number for this new collection will be assigned by OMB.

This information collection is authorized pursuant to sections 11(a), 11(i), 25, and 25A of the Federal Reserve Act (12 U.S.C. 248(a), 248(i), 602, and 611), section 5 of the Bank Holding Company Act (12 U.S.C. 1844), and section 7(c) of the International Banking Act (12 U.S.C. 3105(c)). The Board expects to review the policies and procedures for stress testing as part of the Board's supervisory process. To the extent the Board collects information during an examination of a banking organization, confidential treatment may be afforded to the records under exemption 8 of the Freedom of Information Act (''FOIA''), 5 U.S.C. 552(b)(8).

Comments on the collection of information should be sent to Cynthia Ayouch, Acting Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 95–A, Board of Governors of the Federal Reserve System, Washington, DC 20551, with copies of such comments sent to the Office of Management and Budget, Paperwork Reduction Project (Docket No. OP–1374), Washington, DC 20503.

Comments are invited on:

(1) Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions, including whether the information has practical utility;

(2) The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the cost of compliance;

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

(4) Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

FDIC: You may submit comments by any of the following methods:

- *Agency Web site: http://www.FDIC.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: comments@FDIC.gov*. Include ''Stress Testing Guidance'' in the subject line of the message. Comments received will be posted without change to *http://www.FDIC.gov/regulations/laws/federal/propose.html,* including any personal information provided.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (EDT). Comments are invited on:

(1) Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions, including whether the information has practical utility;

(2) The accuracy of the agencies' estimate of the burden of the proposed information collection, including the cost of compliance;

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

(4) Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

B. Regulatory Flexibility Act Analysis

Board:

While the guidance is not being adopted as a rule, the Board has considered the potential impact of the proposed guidance on small banking organizations in accordance with the Regulatory Flexibility Act (5 U.S.C. 603(b)). For the reason discussed in the Supplementary Information above, the Board is issuing the proposed guidance to emphasize the importance of stress testing as an ongoing risk management practice to support a banking organization's forward-looking assessment of risks in order to better equip such organization to address a range of adverse outcomes. The guidance provides an overview of how a banking organization should structure its stress testing activities to ensure they fit into the organization's overall risk management program. The guidance outlines broad principles for a satisfactory stress testing framework, and describes the manner in which a banking organization should employ stress testing as an integral component of risk management. Based on its analysis and for the reasons stated below, the Board believes that the proposed guidance will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing an initial regulatory flexibility analysis, and seeking comment on whether the proposed guidance would impose undue burdens on, or have unintended consequences for, small organizations.

Under regulations issued by the Small Business Administration (''SBA''), a small banking organization is defined as a banking organization with total assets of $175 million or less. *See* 13 CFR 121.201. The guidance being proposed by the Board is intended for banking organizations supervised by the agencies with more than $10 billion in total assets, including state member banks, bank holding companies, and U.S. branches and agencies of foreign banking organizations. Banking organizations that are subject to the proposed guidance therefore substantially exceed the $175 million total asset threshold at which a banking organization is considered a small banking organization under SBA regulations.

In light of the foregoing, the Board does not believe that the proposed guidance, if adopted in final form, would have a significant economic impact on a substantial number of small entities. As noted above, the Board specifically seeks comment on whether the proposed guidance would impose undue burdens on, or have unintended consequences for, small organizations and whether there are ways such potential burdens or consequences could be addressed in a manner consistent with the guidance.

V. Proposed Guidance

The text of the proposed guidance is as follows:

Office of the Comptroller of the Currency

Federal Reserve System

Federal Deposit Insurance Corporation

Guidance on Stress Testing for Banking Organizations With Total Consolidated Assets of More Than $10 Billion

I. Introduction

All banking organizations should have the capacity to understand fully their risks and the potential impact of stressful events and circumstances on their financial condition. The U.S. Federal banking agencies have previously highlighted the use of stress testing as a means to better understand the range of a banking organization's potential risk exposures.[1] The 2007–2009 financial crisis further underscored the need for banking organizations to incorporate stress testing into their risk management practices, demonstrating that banking organizations unprepared for stressful events and circumstances can suffer acute threats to their financial condition and viability.[2] The Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (collectively, the ''agencies'') are issuing this guidance to emphasize the importance of stress testing as an ongoing risk management practice that supports banking organizations' forward-looking assessment of risks and better equips them to address a range of adverse outcomes. This proposed joint guidance is applicable to all institutions supervised by the agencies with more than $10 billion in total consolidated assets. Specifically, with respect to the OCC, these banking organizations would include national banking associations and Federal branches and agencies; with respect to the Board, these banking organizations would include state member banks, bank holding companies, and all other institutions for which the Federal Reserve is the primary Federal supervisor; with respect to the FDIC, these banking organizations would include state

[1] *See,* for example, Supervision and Regulation (SR) letter 10–6 or OCC Bulletin 2010–13 or FDIC FIL–13–2010, ''Interagency Policy Statement on Funding and Liquidity Risk Management''; SR 10–1 or OCC Bulletin 2010–1 or FDIC FIL–2–2010, ''Interagency Advisory on Interest Rate Risk''; SR letter 09–04, ''Applying Supervisory Guidance and Regulations on the Payment of Dividends, Stock Redemptions, and Stock Repurchases at Bank Holding Companies''; SR letter 07–1, ''Interagency Guidance on Concentrations in Commercial Real Estate'' or OCC Bulletin 2006–46 or FDIC FIL–104–2006, ''Interagency Guidance on CRE Concentration Risk Management''; SR letter 99–18, ''Assessing Capital Adequacy in Relation to Risk at Large Banking Organizations and Others with Complex Risk Profiles''; OCC Bulletin 2008–20 or FDIC FIL–71–2008 ''Supervisory Guidance: Supervisory Review Process of Capital Adequacy (Pillar 2) Related to the Implementation of the Basel II Advanced Capital Framework''; the Supervisory Capital Assessment Program (*see http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20080715a1.pdf*); and Comprehensive Capital Analysis and Review: Objectives and Overview (*see www.federalreserve.gov/newsevents/press/bcreg/20110318a.htm*).

[2] Moreover, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376) requires financial organizations with more than $10 billion in total consolidated assets to conduct a stress test at least annually. *See* generally 12 U.S.C. 5365(i)(2).

nonmember insured banks or insured branches of foreign banks.

Building upon previously issued supervisory guidance that discusses the uses and merits of stress testing in specific areas of risk management, this guidance provides an overview of how a banking organization should structure its stress testing activities and ensure they fit into overall risk management. The guidance outlines broad principles for a satisfactory stress testing framework and describes the manner in which stress testing should be employed as an integral component of risk management that is applicable at various levels of aggregation within a banking organization, as well as for contributing to capital and liquidity planning. While the guidance is not intended to provide detailed instructions for conducting stress testing for any particular risk or business area, the document describes several types of stress testing activities and how they may be most appropriately used by banking organizations.

II. Overview of Stress Testing Framework

For purposes of this guidance, stress testing refers to exercises used to conduct a forward-looking assessment of the potential impact of various adverse events and circumstances on a banking organization. Stress testing occurs at various levels of aggregation, including on an enterprise-wide basis. As outlined in section IV, there are several approaches and applications for stress testing and a banking organization should consider the use of each in its stress testing framework.

An effective stress testing framework provides a comprehensive, integrated, and forward-looking set of activities for a banking organization to employ along with other practices in order to assist in the identification and measurement of its material risks and vulnerabilities, including those that may only manifest themselves during stressful economic or financial environments, or arise from firm-specific adverse events. Such a framework should supplement other quantitative risk management practices, such as those that rely primarily on statistical estimates of risk or loss estimates based on historical data, as well as qualitative practices. In this manner, stress testing can assist in highlighting unidentified or under-assessed risk concentrations and interrelationships and their potential impact on the banking organization during times of stress.[3]

A banking organization should develop and implement its stress testing framework in a manner commensurate with its size, complexity, business activities, and overall risk profile. Its stress testing framework should include clearly defined objectives, well-designed scenarios tailored to the banking organization's business and risks, well-documented assumptions, sound methodologies to assess potential impact on the banking organization's financial condition, informative management reports, ongoing and effective review of stress testing processes, and recommended actions based on stress test results. Stress testing should incorporate the use of high-quality data to ensure that the outputs are sufficiently credible to support decision-making. Importantly, a banking organization should have a sound governance and control infrastructure with objective, critical review to ensure the stress testing framework is functioning as intended.

A stress testing framework should allow a banking organization to conduct consistent, repeatable exercises that focus on its material risks, exposures, activities, and strategies, and also conduct ad hoc scenarios as needed. The framework should consider the impact of both firm-specific and systemic stress events and circumstances that are based on historical experience as well as on hypothetical occurrences that could have an adverse impact on a banking organization's operations and financial condition. Banking organizations subject to this guidance should formally review and assess the effectiveness of their stress testing frameworks at least once per year.

III. General Stress Testing Principles

A banking organization should develop and implement an effective stress testing framework as part of its broader risk management and governance processes. The framework should include several activities and exercises, and not just rely on any single test or type of test, since every stress test has limitations and relies on certain assumptions.

The uses of a banking organization's stress testing framework should include, but are not limited to, augmenting risk identification and measurement; estimating business line revenues and losses and informing business line strategies; identifying vulnerabilities and assessing their potential impact; assessing capital adequacy and enhancing capital planning; assessing liquidity adequacy and informing contingency funding plans; contributing to strategic planning; enabling senior management to better integrate strategy, risk management, and capital and liquidity planning decisions; and assisting with recovery planning. This section describes general principles that a banking organization should apply in implementing such a framework.

Principle 1: A banking organization's stress testing framework should include activities and exercises that are tailored to and sufficiently capture the banking organization's exposures, activities, and risks.

An effective stress testing framework covers a banking organization's full set of material activities, exposures, and risks, whether on or off the balance sheet. The framework should also address non-contractual sources of risks, such as those related to a banking organization's reputation. Appropriate coverage is important as stress test results could give a false sense of comfort if certain portfolios, exposures, or business line activities are not captured. Stress testing exercises should be part of a banking organization's regular risk identification and measurement activities. For example, in assessing credit risk a banking organization should evaluate the potential impact of adverse outcomes, such as an economic downturn or declining asset values, on the condition of its borrowers and counterparties, and on the value of any supporting collateral. As another example, in assessing interest-rate risk, banking organizations should analyze the effects of significant interest rate shocks or other yield-curve movements.

An effective stress testing framework should be applied at various levels in the banking organization, such as business line, portfolio, and risk type, as well as on an enterprise-wide basis. In many cases, stress testing may be more effective at business line and portfolio levels, as a higher level of aggregation may cloud or underestimate the potential impact of adverse outcomes on a banking organization's financial condition. In some cases, stress testing can also be applied to individual exposures or instruments. Each stress test should be tailored to the relevant level of aggregation, capturing critical risk drivers, internal and external influences, and other key considerations at the relevant level.

Stress testing should capture the interplay among different exposures, activities, and risks and their combined

[3] For purposes of this guidance, the term ''concentrations'' refers to groups of exposures and/or activities that have the potential to produce losses large enough to bring about a material change in a banking organization's risk profile or financial condition.

effects. While stress testing several types of risks or business lines simultaneously may prove operationally challenging, a banking organization should aim to identify common risk drivers across risk types and business lines that can adversely affect its financial condition. Accordingly, stress tests should provide a banking organization with the ability to identify potential concentrations—including those that may not be readily observable during benign periods and whose sensitivity to a common set of factors is apparent only during times of stress—and to assess the impact of identified concentrations of exposures, activities, and risks within and across portfolios and business lines.

Stress testing should be tailored to the banking organization's idiosyncrasies and specific business mix and include all major business lines and significant individual counterparties. For example, a banking organization that is geographically concentrated may determine that a certain segment of its business may be more adversely affected by shocks to economic activity at the state or local level than by a severe national recession. On the other hand, if the banking organization has significant global operations, it should consider scenarios that have an international component and stress conditions that could affect the different aspects of its operations in different ways, as well as conditions that could adversely affect all of its operations at the same time.

A banking organization should use its stress testing framework to determine whether exposures, activities, and risks are aligned with the banking organization's risk appetite.[4] A banking organization can use stress testing to help inform decisions about its strategic direction and/or risk appetite by better understanding the risks of its exposures or of engaging in certain business practices. For example, if a banking organization pursues a business strategy for a new or modified product, and the banking organization does not have long-standing experience with that product or lacks extensive data, the banking organization can use stress testing to identify the product's potential downsides and unanticipated risks. Scenarios used in a banking organization's stress tests should be relevant to the direction and strategy set by its board of directors, as well as sufficiently severe to be credible to internal and external stakeholders.

Principle 2: An effective stress testing framework employs multiple conceptually sound stress testing activities and approaches.

All estimates of risk, including stress tests, have an element of uncertainty due to assumptions, limitations, and other factors associated with using past performance measures and forward-looking estimates. Banking organizations should, therefore, use multiple stress testing activities and approaches (consistent with section IV), and ensure that each is conceptually sound. Stress tests usually vary in design and complexity, including the number of factors employed and the degree of stress applied. A banking organization should ensure that the complexity of any given test does not undermine its integrity, usefulness, or clarity. In many cases, relatively simple tests can be very useful and informative.

Additionally, effective stress testing relies on high-quality input data and information to produce credible outcomes. A banking organization should ensure that it has readily available data and other information for the types of stress tests it uses, including key variables that drive performance. In addition, a banking organization should have appropriate management information systems (MIS) and data processes that enable it to collect, sort, aggregate, and update data and other information efficiently and reliably within business lines and across the banking organization for use in stress testing. If certain data and information are not current or not available, a banking organization should analyze the stress test outputs with an understanding of those data limitations.

A banking organization should also document the assumptions used in its stress tests and note the degree of uncertainty that may be incorporated into the tools used for stress testing. In some cases, it may be appropriate to present and analyze test results not just in terms of point estimates, but also including the potential margin of error or statistical uncertainty around the estimates. Furthermore, almost all stress tests, including well-developed quantitative tests supported by high-quality data, employ a certain amount of expert or business judgment; the role and impact of such judgment should be clearly documented. In some cases, when credible data are lacking and more quantitative tests are operationally challenging or in the early stages of development, a banking organization may choose to employ more qualitatively based tests, provided that the tests are properly documented and their assumptions are transparent. Regardless of the type of stress tests used, a banking organization should understand and clearly document all assumptions, uncertainties, and limitations, and provide that information to users of the stress testing results.

Principle 3: An effective stress testing framework is forward-looking and flexible.

A stress testing framework should be sufficiently dynamic and flexible to incorporate changes in a banking organization's on- and off-balance-sheet activities, portfolio composition, asset quality, operating environment, business strategy, and other risks that may arise over time from firm-specific events, macroeconomic and financial market developments, or some combination of these events. A banking organization should also ensure that its MIS are capable of incorporating relatively rapid changes in exposures, activities, and risks.

While stress testing should utilize available historical information, a banking organization should look beyond assumptions based only on historical data and challenge conventional assumptions. A banking organization should ensure that it is not constrained by past experience and that it considers a multiple scenarios, even scenarios that have not occurred in the recent past or during the banking organization's history. For example, a banking organization should not assume that if it has suffered no or minimal losses in a certain business line or product that such a pattern will continue. Structural changes in customer, product, and financial markets can present unprecedented situations for a banking organization. A banking organization with any type of significant concentration can be particularly vulnerable to rapid changes in economic and financial conditions and should try to identify and better understand the impact of those vulnerabilities in advance. For example, the risks related to residential mortgages were underestimated for a number of years by a large number of banking organizations, and those risks eventually affected the banking organizations in a variety of ways. Effective stress testing can help a banking organization identify any such concentrations and help understand the potential impact of several key aspects of the business being exposed to common drivers.

Stress testing should be conducted over various relevant time horizons to

[4] For purposes of this guidance, risk appetite is defined as the level and type of risk an organization is able and willing to assume in its exposures and business activities, given its business objectives and obligations to stakeholders. *See* Senior Supervisors Group report, ''Observations on Developments in Risk Appetite Frameworks and IT Infrastructure,'' December 2010 (*see http://www.newyorkfed.org/newsevents/news/banking/2010/an101223.pdf*).

adequately capture both conditions that may materialize in the near term and adverse situations that take longer to develop. For example, when a banking organization stress tests a portfolio for market and credit risks simultaneously, it should consider that certain credit risk losses may take longer to materialize than market risk losses, and also that the severity and speed of mark-to-market losses may create significant vulnerabilities for the firm, even if a more fundamental analysis of how realized losses may play out over time seems to show less threatening results. A banking organization should carefully consider the incremental and cumulative effects of stress conditions, particularly with respect to potential interactions among exposures, activities, and risks and possible second-order or ''knock-on'' effects.

In addition to conducting formal, routine stress tests, a banking organization should have the flexibility to conduct new or ad hoc stress tests in a timely manner to address rapidly emerging risks. These less routine tests usually can be conducted in a short amount of time and may be simpler and less extensive than a banking organization's more formal, regular tests. However, for its ad hoc tests, a banking organization should still have the capacity to bring together approximated information on risks, exposures, and activities and assess their impact.

More broadly, a banking organization should continue updating and maintaining its stress testing framework in light of new risks, better understanding of the banking organization's exposures and activities, new stress testing techniques, and any changes in its operating structure and environment. A banking organization's stress testing development should be iterative, with ongoing adjustments and refinements to better calibrate the tests to provide current and relevant information. Banking organizations should document the ongoing development of their stress testing practices.

Principle 4: Stress test results should be clear, actionable, well supported, and inform decision-making.

Stress testing should incorporate measures that adequately and effectively convey results of the impact of adverse outcomes. Such measures may include, for example, changes to asset values, accounting and economic profit and loss, revenue streams, liquidity levels, cash flows, regulatory capital, risk-weighted assets, loan loss provisions, internal capital estimates, levels of problem assets, breaches in covenants or key trigger levels, or other relevant measures. Stress test measures should be tailored to the type of test and the particular level at which the test is applied (for example, at the business line or risk level). Some stress tests may require using a range of measures to evaluate the full impact of certain events, such as a severe systemic event. In addition, all stress test results should be accompanied by descriptive and qualitative information (such as key assumptions and limitations) to allow users to interpret the exercises in context. The analysis and the process should be well documented so that stress testing processes can be replicated if need be.

A banking organization should regularly communicate stress test results to appropriate levels within the banking organization to foster dialogue around stress testing, to keep the board of directors, management, and staff apprised, and to inform stress testing approaches, results, and decisions in other areas of the banking organization. A banking organization should maintain an internal summary of test results to document at a high level the range of its stress testing activities and outcomes, as well as proposed follow-up actions. In addition, management should review stress testing activities on a regular basis to determine, among other things, the validity of the assumptions, the severity of tests, the robustness of the estimates, the performance of any underlying models, and the stability and reasonableness of the results.

Stress test results should inform analysis and decision-making related to business strategies, limits, risk profile, and other aspects of risk management, consistent with the banking organization's established risk appetite. A banking organization should review the results of its various stress tests with the strengths and limitations of each test in mind (consistent with Principle 2), determine which results should be given greater or lesser weight, analyze the combined impact of its tests, and then evaluate potential courses of action based on that analysis. A banking organization may decide to maintain its current course based on test results; indeed, the results of highly severe stress tests need not always indicate that immediate action has to be taken. Wherever possible, tools such as benchmarking or other comparative analysis should be used to evaluate the stress testing results relative to other tools and measures, both internal and external to the banking organization, to provide proper context and a check on results.

IV. Stress Testing Approaches and Applications

This section discusses some general types of stress testing approaches and applications. For any type of stress test, banking organizations should indicate the specific purpose and the focus of the test. Defining the scope of a given stress test is also important, whether it applies at the portfolio, business line, risk type, or enterprise-wide level, or even just for an individual exposure. Based on the purpose and scope of the test, different stress testing techniques are most useful. Thus, a banking organization should employ several stress testing approaches and applications, as needed. Among them should be approaches or applications such as scenario analysis, sensitivity analysis, enterprise-wide stress testing, and reverse stress testing. Consistent with Principle 1, banking organizations should apply these commensurate with their size, complexity, and business profile, and may not need to incorporate all of the details described below. Consistent with Principle 3, banking organizations should also recognize that stress testing approaches will evolve over time and they should update their practices as needed.

Scenario Analysis

Scenario analysis refers to a type of stress testing in which a banking organization applies historical or hypothetical scenarios to assess the impact of various events and circumstances, including extreme ones. Scenarios usually involve some kind of coherent, logical narrative or ''story'' as to why certain events and circumstances are occurring and in which combination and order, such as a severe recession, failure of a major counterparty, loss of major clients, natural or man-made disaster, localized economic downturn, or a sudden change in interest rates brought about by unfavorable inflation developments. Scenario analysis can be applied at various levels of the banking organization, such as within individual business lines to help identify factors that could harm those business lines most.

Stress scenarios should reflect a banking organization's unique vulnerabilities to factors that affect its exposures, activities, and risks. For example, if a banking organization is concentrated in a particular line of business, such as commercial real estate or residential mortgage lending, it would be appropriate to explore the impact of a downturn in those particular market segments. Similarly, a banking organization with lending

concentrations to oil and gas companies should include scenarios related to the energy sector. Other relevant factors to be considered in scenario analysis relate to reputational and legal risks to a banking organization, such as an existing major lawsuit, potential litigation, or a situation when a banking organization feels compelled to provide support to an affiliate or provide other types of non-contractual support to avoid reputational damage. Scenarios should be internally consistent and portray realistic outcomes based on underlying relationships among variables, and should include only those mitigating developments that are consistent with the scenario. Additionally, a banking organization should consider the best manner to try to capture combinations of stressful events and circumstances, including second-order and ''knock-on'' effects. Ultimately, a banking organization should select and design multiple scenarios that are relevant to its profile and make intuitive sense, use enough scenarios to explore the range of potential outcomes, and ensure that the scenarios continue to be timely.

A banking organization may apply scenario analysis within the context of its existing risk measurement tools (*e.g.,* the impact of a severe decline in market prices on a banking organization's value-at-risk (VaR) measure) or use it as an alternative, supplemental measure. For instance, a banking organization may use scenario analysis to measure the impact of a severe financial market disturbance and compare those results to what is produced by its VaR or other measures. This type of scenario analysis should account for known shortcomings of other risk measurement frameworks. For example, market risk VaR models generally assume liquid markets with known prices. Scenario analysis could shed light on the effects of a breakdown in liquidity and valuation difficulties.

One of the key challenges with scenario analysis is to translate a scenario into balance sheet impact, changes in risk measures, potential losses, or other measures of adverse financial impact, which would vary depending on the test design and the type of scenario used. For some aspects of scenario analysis, banking organizations may use econometric or similar types of analysis to estimate a relationship between some underlying factors or drivers and risk estimates or loss projections based on a given data set, and then extrapolate to see the impact of more severe inputs. Care should be taken not to make assumptions that relationships from benign or mildly adverse times will hold during more severe times or that estimating such relationships is relatively straightforward. For example, linear relationships between risk drivers and losses may become nonlinear during times of stress.

Sensitivity Analysis

Sensitivity analysis refers to a banking organization's assessment of its exposures, activities, and risks when certain variables, parameters, and inputs are ''stressed'' or ''shocked.'' A key goal of sensitivity analysis is to test the impact of assumptions on outcomes. Generally, sensitivity analysis differs from scenario analysis in that it involves changing variables, parameters, or inputs without an explicit underlying reason or narrative, in order to explore what occurs under a range of inputs and at extreme or highly adverse levels. In this type of analysis a banking organization may realize, for example, that a given relationship is much more difficult to estimate at extreme levels.

A banking organization may apply sensitivity analysis at various levels of aggregation to estimate the impact from a change in one or more key variables. The results may help a banking organization better understand the range of outcomes from some of its models, such as developing a distribution of output based on a variety of extreme inputs. For example, a banking organization may choose to calculate a range of changes to a structured security's overall value using a range of different assumptions about the performance and linkage of underlying cash flows. Sensitivity analysis should be conducted periodically due to potential changes in a banking organization's exposures, activities, operating environment, or the relationship of variables to one another.

Sensitivity analysis can also help to assess a combined impact on a banking organization of several variables, parameters, factors, or drivers. For example, a banking organization could better understand the impact on its credit losses from a combined increase in default rates and a decrease in collateral values. A banking organization could also explore the impact of highly adverse capitalization rates, declines in net operating income, and reductions in collateral when evaluating its risks from commercial real estate exposures. Sensitivity analysis can be especially useful because it is not necessarily accompanied by a particular narrative or scenario; that is, sensitivity analysis can provide banking organizations more flexibility to explore the impact of potential stresses that they may not be able to capture in designed scenarios. Furthermore, banking organizations may decide to conduct sensitivity analysis of their scenarios, *i.e.,* choosing different levels or paths of variables to understand the sensitivities of choices made during scenario design. For instance, banking organizations may decide to apply a few different interest-rate paths for a given scenario.

Enterprise-Wide Stress Testing

Enterprise-wide stress testing is an application of stress testing that involves assessing the impact of certain specified scenarios on the banking organization as a whole, particularly on capital and liquidity. As is the case with scenario analysis more generally, enterprise-wide stress testing involves robust scenario design and effective translation of scenarios into measures of impact. Enterprise-wide stress tests can help a banking organization in its efforts to assess the impact of its full set of risks under adverse events and circumstances, but should be supplemented with other stress tests and other risk measurement tools given inherent limitations in capturing all risks and all adverse outcomes in one test.

Scenario design for enterprise-wide stress testing involves developing scenarios that affect the banking organization as a whole that stem from macroeconomic, market-wide, and firm-specific events. These scenarios should incorporate the potential simultaneous occurrence of both firm-specific and macroeconomic and market-wide events, considering system-wide interactions and feedback effects. For example, price shocks may lead to significant portfolio losses, rising funding gaps, a ratings downgrade, and diminished access to funding. In general, it is a good practice to consult with a large set of individuals within the banking organization—in various business lines, research and risk areas—to gain a wide perspective on how enterprise-wide scenarios should be designed and to ensure that the scenarios capture the relevant aspects of the banking organization's business and risks. Banking organizations should also conduct scenarios of varying severity to gauge the relative impact. At least some scenarios should be of sufficient severity to challenge the viability of the banking organization, and should include instant market shocks and stressful periods of extensive duration (*e.g.,* not just a one or two-quarter shock after which conditions return to normal).

Selection of scenario variables is important for enterprise-wide tests,

because they generally serve as the link between the overall narrative of the scenario and tangible impact on the banking organization as a whole. For instance, in aiming to capture the combined impact of a severe recession and a financial market downturn, a banking organization may choose a set of variables such as changes in GDP, unemployment rate, interest rates, stock market levels, or home price levels. However, particularly when assessing the impact on the whole banking organization, using a large number of variables can make a test more cumbersome and complicated—so a banking organization may also benefit from simpler scenarios or from those with fewer variables. Banking organizations should balance the comprehensiveness of contributing variables and tractability of the exercise.

As with scenario analysis generally, translating scenarios into tangible effects on the banking organization as a whole presents certain challenges. An institution should identify appropriate and meaningful mechanisms for translating scenarios into relevant internal risk parameters that provide a banking organization-wide view of risks and understanding of how the risks are translated into loss estimates. Not all business areas are equally affected by a given scenario, and problems in one business area can have effects on other units. However, for an enterprise-wide test, assumptions across business lines and risk areas should remain constant for the chosen scenario, since the objective is to see how the banking organization as a whole responds to a common outcome.

Reverse Stress Testing

Reverse stress testing is a tool that allows a banking organization to assume a known adverse outcome, such as suffering a credit loss that breaches regulatory capital ratios or suffering severe liquidity constraints making it unable to meet its obligations, and then deduce the types of events that could lead to such an outcome. This type of stress testing may help a banking organization to consider scenarios beyond its normal business expectations and see the impact of severe systemic effects on the banking organization. It also allows a banking organization to challenge common assumptions about its performance and expected mitigation strategies.

Reverse stress testing helps to explore so-called ''break the bank'' situations, allowing a banking organization to set aside the issue of estimating the likelihood of severe events and to focus more on what kinds of events could threaten the viability of the banking organization. Reverse stress testing helps a banking organization evaluate the combined effect of several types of extreme events and circumstances that might threaten the survival of the banking organization, even if in isolation each of the effects might be manageable. For instance, reverse stress testing may help a banking organization recognize that a certain level of unemployment would have a severe impact on credit losses, that a market disturbance could create additional losses and result in rising funding costs, and that a firm-specific case of fraud would cause even further losses and reputational impact that could threaten a banking organization's viability. In some cases, reverse stress tests could reveal to a banking organization that ''breaking the bank'' is not as remote an outcome as originally thought.

Given the numerous potential threats to a banking organization's viability, the organization should ensure that it focuses first on those scenarios that have the largest firm-wide impact, such as insolvency or illiquidity, but also on those that seem most imminent given the current environment. Focusing on the most prominent vulnerabilities helps a banking organization prioritize its choice of scenarios for reverse stress testing. However, a banking organization should also consider a wider range of possible scenarios that could jeopardize the viability of the banking organization, exploring what could represent potential blind spots.

V. Stress Testing for Assessing the Adequacy of Capital and Liquidity

There are many uses of stress testing within banking organizations. Prominent among these are stress tests designed to assess the adequacy of capital and liquidity. Given the importance of capital and liquidity to a banking organization's viability, stress testing should be applied in these two areas in particular, including an evaluation of the interaction between capital and liquidity and the potential for both to become impaired at the same time. Depletions and shortages of capital or liquidity can cause a banking organization to no longer perform effectively as a financial intermediary, be viewed by its counterparties as no longer viable, become insolvent, or diminish its capacity to meet legal and financial obligations. A banking organization's capital and liquidity stress testing should consider how earnings, capital, and liquidity would be affected in an environment in which multiple risks manifest themselves at the same time, for example, an increase in credit losses during an adverse interest-rate environment. Additionally, banking organizations should recognize that at the end of the time horizon considered by a given stress test, the banking organization may still have substantial residual risks or problem exposures that may continue to pressure capital and liquidity resources.

Stress testing for capital and liquidity adequacy should be conducted in coordination with a banking organization's overall strategy and annual planning cycles. Results should be refreshed in the event of major strategic decisions, or other decisions that can materially impact capital or liquidity. Banking organizations should conduct stress testing for capital and liquidity adequacy periodically.

Capital Stress Testing [5]

Capital stress testing results can serve as a useful tool to support a banking organization's capital planning and corporate governance.[6] They may help a banking organization better understand its risks and evaluate the impact of adverse outcomes on its capital position and ensure that the banking organization holds adequate capital given its business model, including the complexity of its activities and its risk profile. Capital stress testing supplements a banking organization's regulatory capital analysis by providing a forward-looking assessment of capital adequacy, usually with a forecast horizon of at least two years, and highlighting the potential adverse effects on capital levels and ratios of risks not fully captured in regulatory capital requirements. It should also be used to help a banking organization assess the quality and composition of capital and its ability to absorb losses. Stress testing can aid capital contingency planning by helping management identify exposures or risks that would need to be reduced and actions that could be taken to bolster capital levels or otherwise maintain capital adequacy, as well as actions that in times of stress might not be possible—such as raising capital.

A capital stress testing framework should include exercises that analyze the potential for changes in earnings,

[5] The portions of this guidance related to capital stress testing do not apply to U.S. branches and agencies of foreign banking organizations.

[6] In this manner, stress testing can form an integral part of an organization's internal capital adequacy process, consistent with supervisory standards outlined in SR letter 09–04, SR letter 99–18, OCC Bulletin 2008–20 or FDIC FIL–71–2008 ''Supervisory Guidance: Supervisory Review Process of Capital Adequacy (Pillar 2) Related to the Implementation of the Basel II Advanced Capital Framework.''

losses, reserves, and other potential effects on capital under a variety of stressful circumstances. The framework should also capture any potential change in risk-weighted assets, the ability of capital to absorb losses, and any resulting impact on the banking organization's capital ratios. The framework should include all relevant risk types that have a potential to affect capital adequacy, whether directly or indirectly. A banking organization should also explore the potential for possible balance sheet expansion to put pressure on capital ratios and consider mitigation options, other than simply shrinking the balance sheet. Capital stress testing should assess the potential impact of a banking organization's material subsidiaries suffering capital problems on their own, even if the consolidated banking organization is not encountering problems.[7]

Enterprise-wide stress testing, as described in section IV, should be an integral part of a banking organization's capital stress testing. Such enterprise-wide testing should include pro forma estimates of not only potential losses and resources available to absorb losses, but also potential planned capital actions (such as dividends or share repurchases) that would affect the banking organization's capital position, including regulatory and other capital ratios. There should also be consideration of the impact on the banking organization's provision for loan and lease losses and other relevant financial metrics. Even with very effective enterprise-wide tests, banking organizations should use capital stress testing in conjunction with other internal approaches (in addition to regulatory measures) for assessing capital adequacy, such as those that rely primarily on statistical estimates of risk or loss estimates based on historical data.

Liquidity Stress Testing

A banking organization should also conduct stress testing for liquidity adequacy.[8] Through such stress testing a banking organization can work to identify vulnerabilities related to liquidity adequacy in light of both firm-specific and market-wide stress events and circumstances. Effective stress testing helps a banking organization identify and quantify the depth, source, and degree of potential liquidity strain and to analyze possible impacts on its cash flows, liquidity position, profitability, and other aspects of its financial condition over various time horizons. For example, stress testing can be used to explore potential funding shortfalls, shortages in liquid assets, the inability to issue debt, exposure to possible deposit outflows, volatility in short-term brokered deposits, and the impact of reduced collateral values on borrowing capacity at the Federal Home Loan Banks, the Federal Reserve discount window, or other secured wholesale funding sources.

Liquidity stress testing should explore the potential impact of adverse developments that may affect market and asset liquidity, including the freezing up of credit and funding markets, and the corresponding impact on the banking organization. Such tests can also help identify the conditions under which balance sheets might expand, thus creating additional funding needs (*e.g.,* through accelerated drawdowns on unfunded commitments). These tests also help determine whether the banking organization has a sufficient liquidity buffer to meet various types of future liquidity demands. In this regard, liquidity stress testing should be an integral part of the development and maintenance of a banking organization's contingency funding planning. Liquidity stress testing should include enterprise-wide tests as discussed in section IV, but should also be applied, as appropriate, at lower levels of the banking organization, particularly for entities that might face regulatory restrictions or limitations on receiving or providing funds. As with capital stress testing, banking organizations may need to conduct liquidity stress tests at both the consolidated and subsidiary level. In undertaking enterprise-wide liquidity tests banking organizations should make realistic assumptions as to the implications of liquidity stresses in one part of the banking organization on other parts.

An effective stress testing framework should explore the potential for capital and liquidity problems to arise at the same time or exacerbate one another. For example, a banking organization in a stressed liquidity position is often required to take actions that have a negative direct or indirect capital impact (*e.g.,* selling assets at a loss or incurring funding costs at above market rates to meet funding needs). A banking organization's liquidity stress analysis should explore situations in which the banking organization may be operating with a capital position that exceeds regulatory minimums, but is nonetheless viewed within the financial markets or by its counterparties as being of questionable viability. As with other applications of stress testing, for its capital and liquidity stress tests, it is beneficial for a banking organization to articulate clearly its objectives for a post-stress outcome, for instance to remain a viable financial market participant that is able to meet its existing and prospective obligations and commitments.

VI. Governance

Similar to other aspects of its risk management, a banking organization's stress testing framework will be effective only if it is subject to strong governance and controls to ensure the framework is functioning as intended. Strong governance and controls help ensure that the framework contains core elements, from clearly defined stress testing objectives to recommended actions. Importantly, strong governance provides critical review of elements of the stress testing framework, especially regarding key assumptions, uncertainties, and limitations. A banking organization should ensure that the stress testing framework is not isolated within a banking organization's risk management function, but is firmly integrated into business lines, capital and asset-liability committees, and other decision-making bodies. The extent and sophistication of a banking organization's governance over its stress testing framework should align with the extent and sophistication of that framework.

Governance over a banking organization's stress testing framework rests with the banking organization's board of directors and senior management. As part of their overall responsibilities, a banking organization's board and senior management should establish a comprehensive, integrated and effective stress testing framework that fits into the broader risk management of the banking organization. While the board is ultimately responsible for ensuring that the banking organization has an effective stress testing framework, senior management generally has responsibility for implementing that framework. Senior management duties should include establishing adequate policies and procedures and ensuring compliance with those policies and procedures, assigning competent staff, overseeing stress test development and implementation, evaluating stress test results, reviewing any findings related to the functioning of stress test processes, and taking prompt remedial action where necessary. Senior management, directly and through

[7] For regulated subsidiaries, stress testing activities should be fully consistent with the regulations and guidance of the relevant primary Federal supervisor.

[8] *See* SR letter 10–6, OCC Bulletin 2010–13, OCC Bulletin 2010–1, and SR letter 10–1.

relevant committees, also should be responsible for regularly reporting to the board on stress testing developments and results from individual and collective stress tests as well as on compliance with stress testing policy. Board members should actively evaluate and discuss these reports, ensuring that the stress testing framework is in line with the banking organization's risk appetite, overall strategy and business plans, and directing changes where appropriate.

A banking organization should have written policies, approved and annually reviewed by the board, that direct and govern the implementation of the stress testing framework in a comprehensive manner. Policies, along with procedures to implement them, should:

- Describe the overall purpose of stress testing activities;
- Articulate consistent and sufficiently rigorous stress testing practices across the entire banking organization;
- Indicate stress testing roles and responsibilities, including controls over external resources used for any part of stress testing (such as vendors and data providers);
- Describe the frequency and priority with which stress testing activities should be conducted;
- Indicate how stress test results are used and by whom;
- Be reviewed and updated as necessary to ensure that stress testing practices remain appropriate and keep up to date with changes in market conditions, banking organization products and strategies, banking organization exposures and activities, the banking organization's established risk appetite, and industry stress testing practices.

A stress testing framework should incorporate validation or other type of independent review to ensure the integrity of stress testing processes and results, consistent with existing supervisory expectations.[9] If a banking organization engages a third party vendor to support some or all of its stress testing activities, there should be appropriate controls in place to ensure that those externally-developed systems and processes are sound, applied correctly, and appropriate for the banking organization's risks, activities, and exposures. Additionally, senior management should be mindful of any potential inconsistencies, contradictions, or gaps among its stress tests and assess what actions should be taken as a result. Internal audit should also play a role focused on ensuring the ongoing performance, integrity, and reliability of the stress testing framework. A banking organization should ensure that its stress tests are documented appropriately, including a description of the types of stress tests and methodologies used, key assumptions, results, and suggested actions. The board and senior management should review stress testing activities and results with an appropriately critical eye and ensure that there is objective review of all stress testing processes.

The results of stress testing analyses should facilitate decision-making by the board and senior management. Stress testing results should be used to inform the board about alignment of the banking organization's risk profile with the board's chosen risk appetite, as well as inform operating and strategic decisions. Stress testing results should be considered directly by the board and senior management for decisions relating to capital and liquidity adequacy, including capital contingency plans and contingency funding plans. The board and senior management should ensure that the stress testing framework includes a sufficient range of stress testing activities applied at the appropriate levels of the banking organization (*i.e.,* not just one enterprise-wide stress test). Sound governance also includes using stress testing to consider the effectiveness of a banking organization's risk mitigation techniques for various risk types over their respective time horizons, such as to explore what could occur if expected mitigation techniques break down during stressful periods.

VII. Conclusion

A banking organization should use the principles laid out in this guidance to develop, implement, and maintain an effective stress testing framework. Such a framework should be adequately tailored to the banking organization's size, complexity, risks, exposures, and activities. A key purpose of stress testing is to explore various types of possible outcomes, including rare and extreme events and circumstances, assess their impact on the banking organization, and then evaluate the boundaries up to which the banking organization plans to be able to withstand such outcomes.

While stress testing can provide valuable information regarding potential future outcomes, similar to any other risk management tool it has limitations and cannot provide absolute certainty regarding the implications of assumed events and impacts. Furthermore, management should ensure that stress testing activities are not constrained to reflect past experiences, but instead consider a broad range of possibilities. No single stress test can accurately estimate the impact of all stressful events and circumstances; therefore, a banking organization should understand and account for stress testing limitations and uncertainties, and use stress tests in combination with other risk management tools to make informed risk management and business decisions.

This concludes the text of the proposed guidance.

Dated: June 2, 2011.

John Walsh,

Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, June 8, 2011.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 7th of June 2011.

By order of the Board of Directors. Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2011–14777 Filed 6–14–11; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P

[9] For validation of models and other quantitative tools used for stress testing, *see* OCC Bulletin 2011–12 ''Supervisory Guidance on Model Risk Management'', or SR letter 11–7, ''Guidance on Model Risk Management.''

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Mutual to Stock Conversion Application

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection request (ICR) described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before July 15, 2011. A copy of this ICR, with applicable supporting documentation, can be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain.*

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725 17th Street, NW., Room 10235,

Washington, DC 20503, or by fax to (202) 393–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552 by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills at *ira.mills@ots.treas.gov,* or on (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Mutual to Stock Conversion Application.

OMB Number: 1550–0014.

Form Numbers: 1680, 1681, 1682, and 1683.

Description: The OTS staff makes an in-depth study of all information furnished in the application in order to determine the safety and soundness of the proposed stock conversion. The purpose of the information collection is to provide OTS with the information necessary to determine if the proposed transaction may be approved. If the information required were not collected, OTS would not be able to properly evaluate whether the proposed transaction was acceptable. The information collection allows OTS to evaluate the merits of the proposed conversion plan and application in light of applicable statutory and regulatory criteria.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 30.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 15,300 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: June 9, 2011.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2011–14804 Filed 6–14–11; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Savings and Loan Holding Company Application

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection request (ICR) described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before July 15, 2011. A copy of this ICR, with applicable supporting documentation, can be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain.*

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725 17th Street, NW., Room 10235,Washington, DC 20503, or by fax to (202) 393–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552 by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills at *ira.mills@ots.treas.gov,* or on (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Savings Loan Holding Company Application.

OMB Number: 1550–0015.

Form Numbers: H–(e).

Description: Section 10(e) of the Home Owners' Loan Act, 12 U.S.C. 1467a(e), and its implementing regulations provide that no company, or any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting stock of a savings and loan holding company, shall acquire control of a savings association except upon receipt of written approval of OTS. While this prohibition and approval requirement applies to certain persons affiliated with a savings and loan holding company, a similar prohibition and approval requirement applies to other persons who seek to control a savings association. However, a transaction may be exempt.

OTS analyzes each holding company application to determine whether the applicant meets the statutory criteria set forth in Section 10(e) of the Act to become a savings and loan holding company. The forms are reviewed for adequacy of answers to items and completeness in all material respects.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 65.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 32,500 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: June 9, 2011.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2011–14805 Filed 6–14–11; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Atlantic Bank & Trust, Charleston, SC; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for Atlantic Bank & Trust, Charleston, South Carolina, (OTS No. 18016) on June 3, 2011.

Dated: June 9, 2011.

By the Office of Thrift Supervision.

Ira L. Mills,

Federal Register Liaison.

[FR Doc. 2011–14806 Filed 6–14–11; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0747]

Proposed Information Collection (Fully Developed Claim (Fully Developed Claims—Applications for Compensation, Pension, DIC, Death Pension, and/or Accrued Benefits)) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to process compensation and pension claims within 90 days after receipt of the claim.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 15, 2011.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or e-mail *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0747'' in any correspondence. During the comment period, comments may be viewed online at FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Fully Developed Claim (Fully Developed Claims—Applications for Compensation, Pension, DIC, Death Pension, and/or Accrued Benefits, VA Forms 21–526EZ, 21–527EZ and 21–534EZ.

OMB Control Number: 2900–0747.

Type of Review: Revision of a currently approved collection.

Abstract: VA Forms 21–526EZ, 21–527EZ and 21–534EZ will used to process a claim within 90 days after receipt from a claimant or their representative. Claimants or their representative are required to sign and date the certification, certifying as of the signed date, no additional information or evidence is available or needs to be submitted in order to adjudicate the claim.

Affected Public: Individuals and Households.

Estimated Annual Burden: 43,516 hours.

Estimated Average Burden per Respondent: 25 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 104,440.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–14760 Filed 6–14–11; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 76 Wednesday,
No. 115 June 15, 2011

Part II

The President

Proclamation 8689—Flag Day and National Flag Week, 2011

Federal Register
Vol. 76, No. 115
Wednesday, June 15, 2011

Presidential Documents

Title 3—

The President

Proclamation 8689 of June 10, 2011

Flag Day and National Flag Week, 2011

By the President of the United States of America

A Proclamation

On June 14, 1777, the Second Constitutional Congress adopted a flag with thirteen stripes and thirteen stars to represent our Nation, one star for each of our founding colonies. The stars were set upon a blue field, in the words of the Congress's resolution, ''representing a new constellation'' in the night sky. What was then a fledgling democracy has flourished and expanded, as we constantly strive toward a more perfect Union.

Through the successes and struggles we have faced, the American flag has been ever present. It has flown on our ships and military bases around the world as we continue to defend liberty and democracy abroad. It has been raised in yards and on porches across America on days of celebration, and as a sign of our shared heritage. And it is lowered on days of remembrance to honor fallen service members and public servants; or when tragedy strikes and we join together in mourning. Our flag is the mark of one country, one people, uniting under one banner.

When the American flag soars, so too does our Nation and the ideals it stands for. We remain committed to defending the liberties and freedoms it represents, and we give special thanks to the members of the Armed Forces who wear our flag proudly. On Flag Day, and during National Flag Week, we celebrate the powerful beacon of hope that our flag has become for us all, and for people around the world.

To commemorate the adoption of our flag, the Congress, by joint resolution approved August 3, 1949, as amended (63 Stat. 492), designated June 14 of each year as ''Flag Day'' and requested that the President issue an annual proclamation calling for its observance and for the display of the flag of the United States on all Federal Government buildings. The Congress also requested, by joint resolution approved June 9, 1966, as amended (80 Stat. 194), that the President annually issue a proclamation designating the week in which June 14 occurs as ''National Flag Week'' and call upon citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim June 14, 2011, as Flag Day and the week beginning June 12, 2011, as National Flag Week. I direct the appropriate officials to display the flag on all Federal Government buildings during that week, and I urge all Americans to observe Flag Day and National Flag Week by displaying the flag. I also call upon the people of the United States to observe with pride and all due ceremony those days from Flag Day through Independence Day, also set aside by the Congress (89 Stat. 211), as a time to honor America, to celebrate our heritage in public gatherings and activities, and to publicly recite the Pledge of Allegiance to the Flag of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of June, in the year of our Lord two thousand eleven, and of the Independence of the United States of America the two hundred and thirty-fifth.

[FR Doc. 2011–15046
Filed 6–14–11; 11:15 am]
Billing code 3195–W1–P

FEDERAL REGISTER

Vol. 76 Wednesday,
No. 115 June 15, 2011

Part III

The President

Notice of June 14, 2011—Continuation of the National Emergency With Respect to the Actions and Policies of Certain Members of the Government of Belarus and Other Persons To Undermine Belarus Democratic Processes or Institutions

Federal Register
Vol. 76, No. 115
Wednesday, June 15, 2011

Presidential Documents

Title 3—

The President

Notice of June 14, 2011

Continuation of the National Emergency With Respect to the Actions and Policies of Certain Members of the Government of Belarus and Other Persons To Undermine Belarus Democratic Processes or Institutions

On June 16, 2006, by Executive Order 13405, the President declared a national emergency and ordered related measures blocking the property of certain persons undermining democratic processes or institutions in Belarus, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706). The President took this action to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of certain members of the Government of Belarus and other persons to undermine Belarus democratic processes or institutions; to commit human rights abuses related to political repression, including detentions and disappearances; and to engage in public corruption, including by diverting or misusing Belarusian public assets or by misusing public authority.

The flawed December 2010 Presidential election in Belarus and its aftermath—the harsh violence against peaceful demonstrators; the continuing detention, prosecution, and imprisonment of opposition Presidential candidates and others; and the continuing repression of independent media and civil society activists—all show that the Government of Belarus has taken steps backward in the development of democratic governance and respect for human rights.

The actions and policies of the Government of Belarus and other persons continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, the national emergency declared on June 16, 2006, and the measures adopted on that date to deal with that emergency, must continue in effect beyond June 16, 2011. 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 declared in Executive Order 13405.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
June 14, 2011.

[FR Doc. 2011–15054
Filed 6–14–11; 11:15 am]
Billing code 3195–W1–P

Reader Aids

Federal Register

Vol. 76, No. 115

Wednesday, June 15, 2011

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **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.**

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**

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, JUNE

31451–31784 1
31785–32064 2
32065–32312 3
32313–32850 6
32851–33120 7
33121–33612 8
33613–33966 9
33967–34142 10
34143–34572 13
34573–34844 14
34845–35094 15

CFR PARTS AFFECTED DURING JUNE

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.

2 CFR

780 34143
782 34573

Proposed Rules:

Ch. XI 32330
Ch. XVIII 31884
Ch. XXIV 31884
Ch. XXVII 34003

3 CFR

Proclamations:

8683 32065
8684 32851
8685 32853
8686 32855
8687 32857
8688 33119
8689 35089

Executive Orders:

13575 34841

Administrative Orders:

Memorandums:
Memorandum of May 31, 2011 33117
Memorandum of June 6, 2011 33613
Notice of June 14, 2011 35093

5 CFR

531 32859
532 31785

Proposed Rules:

Ch. I 31886
532 31885
Ch. VII 32088
Ch. XXVI 32330
Ch. XXVIII 34003
Ch. XXXV 31886
Ch. XLII 34177
Ch. XLV 32330
Ch. LIX 31884
Ch. LXV 31884

6 CFR

Proposed Rules:

Ch. I 32331
5 ..... 34177, 34616

7 CFR

51 31787
201 31790
210 34542
215 34542
220 34542
225 34542
226 34542
457 32067
953 33967
985 33969

Proposed Rules:

36 31887
205 ..... 31495, 34180
916 31888
917 31888
983 34181
987 34618
1170 34004
1205 32088
3434 34187

8 CFR

214 33970

Proposed Rules:

Ch. I 32331
Ch. V 34003

9 CFR

307 33974
381 33974
590 33974

Proposed Rules:

92 31499
93 31499
94 31499
96 31499
98 31499

10 CFR

72 33121
217 33615
430 31750
431 ..... 31795, 33631

Proposed Rules:

35 33173
40 31507
50 ..... 32878, 34007
150 31507
430 34914
431 34192

12 CFR

202 31451
914 33121
1235 33121
1732 33121

Proposed Rules:

4 32332
5 32332
7 32332
8 32332
28 32332
34 32332
43 34010
244 34010
373 34010
Ch. XVII 31884
1234 34010

13 CFR

124 33980

14 CFR

1 34576

45 CFR

Proposed Rules:
Ch. II 32330
Ch. III 32330
Ch. IV 32330
Ch. V 34003
Ch. VIII 31886
Ch. X 32330
Ch. XIII 32330

46 CFR

45 32323

Proposed Rules:
Ch. I 32331
Ch. III 32331
515 34945

47 CFR

1 32866
2 33653
73 33656
80 33653
90 33653

Proposed Rules:
4 33686
27 32901
73 32116
76 32116

48 CFR

203 32840
211 33166
212 33170
225 ..... 32841, 32843
246 33166
252 ..... 32840, 32841, 33166
539 34886
552 34886

Proposed Rules:
Ch. 1 ..... 32133, 32330
2 32330
8 34634
9 34634
17 31886
21 31886
52 ..... 32330, 34634
54 32330
203 32846
204 32846
252 ..... 32845, 32846
Ch. 5 32088
Ch. 16 31886
Ch. 18 31884
Ch. 24 31884
Ch. 28 34003
Ch. 29 34177
Ch. 61 32088

49 CFR

171 32867
177 32867
213 34890
383 32327
390 32327
572 31860

Proposed Rules:
390 32906
391 34635
396 32906
Ch. XII 32331

50 CFR

17 ..... 31866, 33036
217 34157
300 34890
600 34892
622 ..... 31874, 34892
635 32086
648 ..... 31491, 32873, 34903
660 ..... 32876, 34910
679 ..... 31881, 33171

Proposed Rules:
17 ..... 31686, 31903, 31906, 31920, 32911, 33880, 33924
223 ..... 31556, 34023
224 31556
226 32026
648 34947
660 33189
665 32929

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (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. 754/P.L. 112–18

Intelligence Authorization Act for Fiscal Year 2011 (June 8, 2011; 125 Stat. 223)

Last List June 6, 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.