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WHO: Sponsored by the Office of the Federal Register.

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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, March 22, 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

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 12, 102, 141, 144, 146, and 163

[CBP Dec. 11–09; USCBP–2005–0009]

RIN 1515–AD57 (Formerly RIN 1505–AB60)

Country of Origin of Textile and Apparel Products

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, interim amendments to title 19 of the Code of Federal Regulations (“CFR”) to revise, update, and consolidate the Customs and Border Protection (“CBP”) regulations relating to the country of origin of textile and apparel products. The regulatory amendments adopted as a final rule in this document reflect changes brought about, in part, by the expiration on January 1, 2005, of the Agreement on Textiles and Clothing (“ATC”) and the resulting elimination of quotas on the entry of textile and apparel products from World Trade Organization (“WTO”) members. The primary regulatory change consists of the elimination of the requirement that a textile declaration be submitted for all importations of textile and apparel products. In addition, to improve the quality of reporting of the identity of the manufacturer of imported textile and apparel products, this document adopts as a final rule an amendment requiring importers to identify the manufacturer of such products through a manufacturer identification code (“MID”).

DATES: Final rule effective March 17, 2011.

FOR FURTHER INFORMATION CONTACT: *Operational aspects:* Roberts Abels, Textile Operations, Office of International Trade, (202) 863–6503.

Legal aspects: Cynthia Reese, Tariff Classification and Marking Branch, Office of International Trade, (202) 325–0046.

SUPPLEMENTARY INFORMATION:

Background

On January 1, 2005, the Agreement on Textiles and Clothing (“ATC”) expired. The ATC was the successor agreement to the Multifiber Arrangement Regarding International Trade in Textiles (“MFA”) which governed international trade in textiles and apparel through the use of quantitative restrictions. The ATC provided for the integration of textiles and clothing into the General Agreement on Tariffs and Trade (“GATT”) regime over a 10-year transition period. With the conclusion of the 10-year period, the integration was complete and the ATC thus expired. As of January 1, 2005, textile and apparel products of World Trade Organization members are no longer subject to quantitative restrictions for entry of such products into the United States.

By letter dated February 11, 2005, the Chairman of CITA requested that CBP review the regulations relating to the country of origin of textile and apparel products set forth in § 12.130 of the CBP regulations (19 CFR 12.130) and recommend appropriate changes in light of the conclusion of the 10-year transition period for the integration of the textile and apparel sector into GATT 1994 to ensure ongoing enforcement of trade in textiles and apparel. By letter dated February 23, 2005, CBP responded to CITA’s request. CITA agreed by letter dated May 4, 2005, that § 12.130 should be amended at this time and responded to the recommendations offered by CBP in response to CITA’s solicitation of February 11, 2005. By letter dated July 28, 2005, the Department of the Treasury, pursuant to the authority retained by the Department of the Treasury over the customs revenue functions defined in the Homeland Security Act, and pursuant to section 204 of the Agricultural Act of 1956, as amended, as that authority is delegated by Executive Order 11651 of March 3, 1972, and Executive Order 12475 of May 9, 1984, and in accordance with the policy guidance, recommendation and direction provided by the Chairman of CITA in his letter of May 4, 2005, authorized and directed the Department of Homeland Security to promulgate, as immediately effective regulations, amendments to the CBP regulations regarding the country of origin of textiles and textile products, including elimination of the textile declaration and requiring that importers provide the identity of the manufacturer.

Accordingly, on October 5, 2005, CBP published CBP Dec. 05–32 in the **Federal Register** (70 FR 58009) setting forth interim amendments to the CBP regulations relating to the country of origin of textile and apparel products. In addition to revising and updating the provisions of § 12.130, CBP Dec. 05–32 re-designated § 12.130 as new §§ 102.22 and 102.23(b) and (c) to consolidate the rules of origin for textiles and apparel products for all countries in Part 102 of the CBP regulations. Similarly, §§ 12.131 and 12.132, which set forth certain procedural matters regarding the entry of textile and apparel products, were also revised and updated and, as part of the consolidation of the textile regulations, re-designated as new §§ 102.24 and 102.25, respectively. The interim amendments were effective on the date that the interim rule was published in the **Federal Register** (October 5, 2005). For a more comprehensive discussion of these interim regulatory amendments, *please see* CBP Dec. 05–32.

One of the principal regulatory changes effected by CBP Dec. 05–32 was the elimination of the requirement that a textile declaration accompany importations of textile and apparel products. The interim rule document stated that this will reduce the paperwork burden on importers and is consistent with the movement toward paperless entries.

In addition, the interim amendments included a requirement that importers of textile and apparel products identify on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary), and in all electronic data submissions that require identification of the manufacturer, the manufacturer of such products through a manufacturer identification code (MID) constructed

from the name and address of the entity performing the origin-conferring operations. CBP Dec. 05–32 stated that this requirement resulted from guidance provided by CITA and the Department of the Treasury, and that it applied to all entries of textile or apparel products listed in § 102.21(b)(5) of the CBP regulations. The interim rule document explained that this requirement will assist CBP in verifying the origin of imported textile and apparel products, thereby enabling CBP to better enforce trade in textile and apparel products.

CBP Dec. 05–32 noted that importers of all goods are required to provide either a manufacturer or shipper identification code at the time of entry. The MID requirement for textile or apparel goods described above differs from the identification code required for all products in that the MID must identify the manufacturer (*i.e.,* the entity performing the origin-conferring operations with respect to the imported product).

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures and took effect on October 5, 2005, CBP Dec. 05–32 provided for the submission of public comments which would be considered before adoption of the interim regulations as a final rule, and the prescribed public comment period closed on December 5, 2005. A discussion of the comments received by CBP is set forth below.

Discussion of Comments

A total of 26 commenters responded to the solicitation of public comments on the interim regulations set forth in CBP Dec. 05–32. Nearly all of the commenters supported the elimination of the textile declaration, although 24 of the commenters expressed opposition to or raised concerns or questions regarding the interim rule's requirement that entries of textile and apparel goods identify the manufacturer of the goods through a manufacturer identification code (MID). The comments are discussed below.

Comment:

Thirteen of the commenters objected to the fact that the interim rule became effective immediately upon publication in the **Federal Register** and, as a result, failed to provide any advance notice to the trade community of the change in the MID requirement for textile and apparel products. These commenters emphasized that because a change of this significance has impacts on many levels of trade, prior notice is necessary to afford importers and other supply chain participants sufficient time to fully understand the new MID requirement and to establish procedures to meet the requirement. One commenter stated that the adoption of the interim rule without a "phase-in" period is not in conformity with the principle of "informed compliance" and that members of the trade community believe that business certainty is imperative for good trade compliance.

CBP's Response:

CBP fully understands the concerns expressed by the commenters regarding the interim rule's immediate effective date. It was in response to these concerns that CBP decided to delay enforcement of the new requirement, as discussed in more detail below. CBP will continue to work with the trade community to ensure that this regulatory change results in as little disruption to the flow of legitimate trade as possible.

Comment:

Although several commenters noted that CBP delayed enforcement of the new MID requirement until November 18, 2005, ten commenters urged that CBP delay implementation and/or enforcement of the revised MID requirement beyond that date to allow importers and other trade participants adequate time to track the required MID information and incorporate it into their logistic systems. Four commenters recommended a six-month phase-in period, two commenters suggested a delay of 90 days in enforcing the new MID requirement, one commenter suggested a one-year delay (until October 5, 2006) in implementing and enforcing the requirement, and one commenter recommended a delay in enforcement until the final rule is published. Two other commenters stated that the final rule in regard to the MID requirement should provide the public with advance notice of any changes.

CBP's Response:

The interim regulations took effect on the date of publication of CBP Dec. 05–32 (October 5, 2005). However, cognizant of the challenges facing some importers in complying with the new MID requirement, CBP advised the importing community by administrative notice (TBT–05–029 dated October 20, 2005) posted on the *cbp.gov* Web site that it was delaying enforcement of the requirement until November 18, 2005. CBP believed at that time that a further delay in the implementation and/or enforcement of the MID requirement was unwarranted. The requirement now has been in place for an extended period of time, and it appears that few importers are experiencing problems complying with the requirement.

Regarding the request by several commenters for advance notice of any changes in the MID requirement effected by the final rule, CBP is making two changes to the MID requirement, as discussed later in this comment analysis. However, these changes limit the scope of the MID requirement and, therefore, reduce the burden on the importer. This final rule is effective upon publication in the **Federal Register**.

Comment:

One commenter stated that with respect to merchandise that was procured before the interim rule was published, importers were not on notice that the new MID would be required to make entry. Therefore, according to the commenter, it would be a violation of the Due Process Clause of the U.S. Constitution for CBP to penalize importers (or their customs brokers) for failing to present accurate MIDs when the merchandise was procured prior to publication of the interim rule. The commenter further suggested that CBP implement and publish a policy of non-enforcement with respect to this merchandise.

CBP's Response:

As noted earlier in this comment discussion, CBP informed the importing community by administrative notice posted on the *cbp.gov* Web site that CBP was delaying enforcement of the new MID requirement until November 18, 2005. With respect to imported textile or apparel goods that may have been purchased prior to October 5, 2005 (but were entered on or after November 18, 2005), CBP believes that the nearly six-week delay in enforcement afforded these importers sufficient time and notice to enable them to ascertain the identity of the manufacturers of their goods (if not already known) for purposes of constructing accurate MIDs in compliance with § 102.23(a). For this reason, CBP declines to implement a policy of non-enforcement with respect to such merchandise. However, in determining whether, or to what extent, penalties should be assessed in instances in which importers of textile or apparel goods fail to present accurate MIDs, CBP port directors will take into consideration the circumstances of each case, including the importer's use of reasonable care in attempting to determine the information necessary to comply with the new MID requirement.

Comment:

One commenter stated that requiring the change in the MID requirement is a major rule change that should have been the subject of a notice of proposed rulemaking and pre-implementation comment in conformance with the

mandates of the Administrative Procedure Act (APA). According to this commenter, the interim rule's conclusion that the foreign affairs exception of the APA applies is incorrect (rendering the interim regulations null and void) for two main reasons. First, the notion that the new MID requirement is centrally aimed at enforcing textile restraint agreements with China is belied by the fact that the requirement applies to textile goods from *all* countries. Second, CBP's authority to promulgate regulations relating to the country of origin of textile products derives from a delegation of congressional authority (section 334 of the Uruguay Round Agreements Act) and is no longer within the discretion of the Executive Branch.

CBP's Response:

CBP promulgated these regulations pursuant to section 204 of the Agricultural Act of 1956, as amended, and as directed by the Department of the Treasury. They were issued as "immediately effective interim regulations" because they involve a foreign affairs function of the United States.

Section 334 of the Uruguay Round Agreements Act sets forth rules for determining the origin of textile products and authorizes the issuance of regulations to implement those rules. However, section 334(b) begins with the words "[e]xcept as otherwise provide for by statute" and proceeds to provide principles by which the origin of textile products is to be determined "for purposes of the customs laws and the administration of quantitative restrictions." Section 204 of the Agricultural Act of 1956, as amended, is broader in scope than section 334 and provides for the issuance of regulations relevant to the enforcement of any textile agreement.

The enactment of section 334 of the Uruguay Round Agreements Act did not eliminate the President's authority under section 204 of the Agricultural Act of 1956 to regulate the importation of textile products.

Regarding the commenter's reference to the textile restraint agreement with China, CBP notes that the United States-China Memorandum of Understanding dated November 8, 2005, has expired.

However, CBP noted in the interim rule that "by improving the proper reporting of the country of origin of textile imports, these interim regulations [including the MID requirement] will facilitate enforcement and administration of the various bilateral and multilateral free trade agreements with which the United States is a party by helping to ensure that only those textile products that are entitled to trade benefits receive those benefits." Textile and apparel products may receive preferential tariff treatment under the various free trade agreements (FTAs) as originating goods (*i.e.,* goods that meet the applicable rules of origin) or, under certain FTAs, as non-originating goods that nevertheless qualify for preference under tariff preference levels (TPLs). TPLs negotiated by the President under certain FTAs limit the quantity of textile and apparel products that may receive preferential tariff treatment when they fail to qualify as originating goods under the applicable rules of origin. In view of the continuing proliferation of free trade agreements between the United States and numerous other countries around the world, CBP believes that it is entirely appropriate to apply the new MID requirement to textile and apparel products imported into the United States from all countries.

Comment:

Eleven commenters complained that the new MID requirement places an undue burden on importers and exporters because of: (1) Significantly increased paperwork and associated costs to importers in terms of the size (number of pages) of typical entries, especially in regard to consolidated shipments sourced from multiple manufacturers and multiple countries (requiring MID codes on a line-by-line basis); (2) increased paperwork and costs to collect, track, report, and store data for the first time relating to the actual manufacturer; (3) costs involved in reprogramming exporter and importer systems to capture manufacturer information; (4) additional costs to buyers and sellers when shipments are refused entry by CBP due to incorrect MID information; and (5) exorbitant costs and physical obstacles associated with segregating fungible goods that previously were commingled in inventory without reference to the manufacturer. One commenter alleged that the new MID requirement is more of a burden on importers than the textile declaration that was just eliminated.

CBP's Response:

Based on discussions with the trade community and from a review of the textile declarations submitted over the years, CBP believes that most importers were aware of the name of the entity producing their goods and were providing this information to CBP prior to implementation of the new MID requirement. For these companies, there has been little, if any, additional expense or burden associated with complying with the new requirement. CBP understands that there are some companies that face challenges in complying with the new regulation. However, CBP worked closely with the trade community before implementing the interim regulations and believes that the elimination of the paper textile declaration, which was a required document for nearly all textile shipments to the United States, is a benefit to most firms. The elimination of the paper textile declaration has allowed importers to complete paperless entry filing, thereby facilitating trade in textiles and wearing apparel. CBP believes that the overall tradeoff between the elimination of the textile declaration and the initiation of the new MID requirement is of benefit to the majority of importers. CBP recognizes that expenditures may be necessary to comply with the new rule with respect to fungible goods that are commingled in inventory. But, consistent with common business practices, many companies already know the identity of their suppliers/producers and the quantity of products purchased from each for accounts payable purposes.

Comment:

Two commenters stated the new MID requirement for textile and apparel goods is having a severe and unjustifiable impact upon the ability of the EU and Swiss textile and apparel industries to sell their products into the U.S. market. According to these commenters, this unexpected new requirement is creating significant problems, and a growing number of companies are having their products blocked at Customs, thus imposing huge costs on them and placing several on the verge of bankruptcy through their inability to deliver products on time to their U.S. customers.

CBP's Response:

Although the interim regulations were immediately effective, CBP recognized the challenges facing some importers in complying with the new regulations and accordingly delayed enforcement to permit companies to fully implement the requirements. However, as previously indicated, CBP no longer requires the submission of a paper textile declaration that was traditionally completed by the manufacturer. The elimination of the textile declaration should expedite the processing of textile entries. The textile declaration required information on manufacturing processes that could only be obtained by contacting the manufacturer. CBP believes that providing the MID constructed from the name and address of the manufacturer is a less intrusive and onerous undertaking than describing the production process

which was a requirement of the textile declaration.

Comment:

Two commenters questioned whether the new MID requirement is in conformity with "WTO common practice" because the requirement appears to be: (1) Stricter and more cumbersome than the previous one that regulated textile and apparel imports during the Multi Fiber Arrangement (MFA) and the subsequent WTO Agreement on Textile and Clothing (ATC); and (2) inapplicable to a few country suppliers who have privileged relations with the U.S. A third commenter stated that the new requirement may be in contradiction to the goals of Article 2 of the WTO Agreement on rules of origin, such as "not to create unnecessary obstacles to trade." This commenter asked whether certain free trade partners of the U.S. are exempt from the new MID requirement.

CBP's Response:

CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary) require importers of all goods (textile and non-textile products) to provide a MID at the time of entry in blocks 26 and 13, respectively. Prior to publication of the interim amendments, importers of all goods had the option of constructing the MID from the name and address of the manufacturer, shipper or exporter. However, effective October 5, 2005, importers of textile and apparel products have been required to construct the MID from the manufacturer only, and not from the exporter or shipper (unless that entity is also the manufacturer). Prior to this change, many importers were already constructing the MID from the name and address of the manufacturer. Only in cases in which importers of textile products were constructing the MID from the shipper or exporter (who was not also the manufacturer) have importers been required to provide a different MID. The MID requirement for textile and apparel goods was created, in part, to facilitate trade into the United States by compensating for the elimination of the paper textile declaration.

Comment:

A commenter stated that the new MID requirement will generate fewer paperless entries, contrary to CBP's stated goal of a paperless environment. Another commenter stated that it was his understanding that the Automated Invoice Interface (AII) module of ACS/ABI is capable of only handling one MID per commercial invoice. This commenter also indicated that it is his understanding that the AII module is mandatory for Remote Location Filing (RLF), and that, under the new MID requirement, an entry will need to show as many MIDs as there are actual manufacturers of the goods in the shipment. The commenter asked whether "CBP is capable of accepting multiple MID codes per invoice for AII/RLF purposes," and, if the answer is no, whether the new requirement is defeating the push toward automation.

CBP's Response:

The "AII" module, utilized for electronic invoices, is capable of handling more than one MID per invoice. For example, if there are three lines on an invoice, each line could be transmitted separately with a different MID for each. If a broker needs assistance with the AII module, he or she should contact their ABI Client Representative. Also, it should be noted that the AII module is separate from the line data transmitted for purposes of CBP Forms 3461 and 7501. The RLF program allows for multiple line entries and a broker would be able to transmit a different MID for each line on the entry/entry summary.

Comment:

Two commenters addressed whether the information collections set forth in this interim rule meet the requirements of the Paperwork Reduction Act (44 U.S.C. 3507). One commenter contended that the estimates of the annual burden associated with these information collections, as published in the **Federal Register**, greatly understate the additional level of burden and cost placed on companies as a result of this interim rule. The second commenter stated that because the interim rule "results in a tremendous increased burden on importers with regard to the quantity and content of the information to be collected," the rule violates the basic principles of the Act.

CBP's Response:

CBP consulted closely with many parties before the issuance of this regulation. Although some importers may find it necessary to increase their data collections, CBP believes that those importers who already had knowledge of the manufacturer of their goods will have a significantly-reduced information collection burden due to the elimination of the textile declaration. In estimating the annual burden associated with the collection of information set forth in the interim rule, CBP took into account that many U.S. importers of textile and apparel products already knew the name and address of the entity performing the origin-conferring operations with respect to their goods.

Comment:

Eight commenters provided examples of situations in which they allege it will be impossible or extremely difficult for importers of textile and apparel goods to comply with the requirement that entries identify the entity that performed the origin-conferring operations through a MID. Several of these commenters indicated that requiring the identification of the manufacturer in these situations in effect imposes a barrier to trade. The examples provided include:

a. Cross-border trade, especially between the U.S. and Canada, involving re-imports/re-exports, such as when clothing from the U.S. is cleaned, repaired, or altered in Canada and returned to the U.S. (or vice-versa). Cross-border trade in which a company is three or four steps removed from the importer of the goods into the NAFTA territory and is unable to determine the manufacturer due to the commingling of the goods in inventory by parties in the chain of commerce both within and outside the NAFTA territory;

b. Fungible goods, such as parts and trimmings, that are procured from multiple manufacturers and are commingled in inventory without reference to the manufacturer;

c. Fabric purchased from a middleman who has no information on the identity of the weaver of the fabric for a myriad of reasons such as the unavailability of records due to the passage of time or because the manufacturer has gone out of business;

d. Mail orders of textile and apparel items by U.S. retail customers;

e. Textile products sourced from vendors who subcontract to a "cottage industry," primarily involving individuals working from their homes;

f. Textile and apparel goods entered into a bonded warehouse or foreign trade zone and not intended to be sold or used in the U.S.;

g. Clothing contributed for charitable purposes from outside the U.S.; and

h. Textile and apparel articles imported as sets.

CBP's Response:

For the most part, U.S. importers should be aware of their supply chain and, therefore, should know the identity of the manufacturer of their goods. If an agent or seller is unwilling to provide the importer with the identity of the manufacturer, the importer should question the security of that transaction and/or the legality of the production process. However, CBP recognizes that there may be instances in which the importer, despite the use of reasonable care, is unable to determine the identity of the entity that performed the origin-conferring operations with respect to

certain imported goods. Under these circumstances, importers must be able to demonstrate to the CBP port director the use of reasonable care in attempting to determine the information required to comply with the MID regulation. Although the importer technically may be in violation of § 102.23(a) for not providing the required MID in these rare instances, CBP port directors will take into account the importer's use of reasonable care in determining whether to assess penalties.

The following examples are offered to provide guidance as to when a port director may consider not pursuing penalties:

- Antique Persian carpets are imported from a European dealer. The importer has a statement from the dealer claiming that the dealer has no idea who produced each carpet.
- Six one-of-a-kind dresses purchased at retail at a South American boutique are imported into the United States. The importer offers correspondence showing that the boutique owner does not know the entities that produced the 6 dresses being imported.
- An importer purchases vintage World War II uniforms on a trip to Eastern Europe. Most of the uniforms were surplus with no visible signs of wear and, therefore, not eligible for entry as worn clothing under heading 6309, HTSUS. The importer, due in part to historical interest, asks the shop owner for the identity of the manufacturer. The shop owner is unable to provide any information relating to the production of the uniforms, even after checking various records, including relevant invoices, packing slips, and shipping documents. Together, the shop owner and the eventual importer verify that neither the surplus goods nor the boxes in which they are packed contain information on the manufacturer.

The following examples are offered to provide guidance as to when a port director may consider pursuing penalties:

- An importer states to CBP that his agent located in Asia does not wish to disclose the name of the manufacturer for fear of being cut out of future business.
- A particular style of flannel bed sheets formed from Asian cloth is imported from Europe. Pursuant to the origin rules in § 102.21, the sheets are a product of the country where the cloth was formed. Because the goods were purchased from Europe, the importer believes it is "too difficult" to request the necessary origin information from the European supplier.

Comment:

Ten commenters raised business confidentiality concerns regarding the new MID requirement for textile and apparel products. Five of these commenters pointed out that where the seller is not the manufacturer of the imported goods but an intermediary, the seller may be reluctant, or even refuse, to disclose information regarding its sources for fear that the importer will bypass the seller in future transactions by going directly to the manufacturer to purchase goods. Five of the commenters also expressed concern that identifying the manufacturer on entry documents increases the risk of the disclosure of proprietary business information (product sources) to competitors. In this regard, several commenters indicated that there was some confusion in the trade as to whether the interim rule requires the submission of the name and address of the manufacturer in addition to the MID to provide CBP the means to verify the accuracy of the MID provided. One commenter suggested the use of a confidential MID system using random codes that are known only to CBP and the exporter. Another commenter expressed concern that part of CBP's justification in requiring the MID is to enable CBP to provide specific information to foreign customs administrations concerning foreign entities violating customs laws.

CBP's Response:

Regarding the concern that an intermediary may be reluctant or even refuse to disclose the identity of its suppliers, CBP incorporates by reference the response to the immediately-preceding comment above.

The objectives of the regulatory changes are to assist in the enforcement of U.S. textile laws and to facilitate the movement of textile trade into the United States. The MID requirement has allowed CBP to eliminate the paper textile declaration, thereby permitting the electronic processing of entries. The textile and apparel MID requirement involves providing the Manufacture Identification *Code* on appropriate entry documentation. There is no requirement that the name and address of the manufacturer appear on the commercial invoice or other entry documentation. However, CBP has the right to verify the accuracy of all information provided by importers by requesting and reviewing additional records and documentation. CBP can provide assurances that the U.S. Government and its employees are prohibited from disclosing business confidential information pursuant to the Trade Secrets Act (18 U.S.C. 1905). In addition, § 552(b)(4) of the Freedom of Information Act, as amended, provides an exemption from the disclosure by the U.S. Government of "trade secrets and commercial or financial information obtained from a person and privileged or confidential." CBP considers all information provided in connection with the entry process to be confidential (*see* 19 CFR 103.34 and 103.35) and as such it is for official use only. CBP, however, reserves the right, pursuant to 19 U.S.C. 1628, to exchange this information with foreign customs and law enforcement agencies, as appropriate, for law enforcement purposes on a limited case-by-case basis.

Comment:

Four commenters recommended that, because informal entries were exempt from the textile declaration requirement, CBP similarly should provide an exemption from the MID requirement for non-commercial shipments for personal use as well as goods entered on informal entries.

CBP's Response:

CBP fully appreciates the concerns regarding the MID requirement for personal use shipments and has consulted with CITA regarding this matter. In a letter dated April 13, 2006, the Chairman of CITA concurred with CBP's suggested exclusion of personal use shipments from the MID requirements of § 102.23(a). Accordingly, § 102.23(a) has been amended in this final rule document to provide that the MID must reflect the entity performing the origin-conferring operations only with respect to commercial importations. As a result of this change, all personal use shipments subject to formal or informal entry procedures will be excepted from the MID requirement set forth in § 102.23(a), while all commercial shipments, whether covered by formal or informal entries, will continue to be subject to this requirement.

CBP wishes to clarify that this exemption relates only to the requirement that the MID be constructed from the entity performing the origin-conferring operations. Importers of personal use shipments must continue to provide a MID (a required data element on CBP Forms 3461 and 7501), but the MID may be constructed from the manufacturer, shipper, or exporter.

Comment:

Nine commenters urged CBP to allow the MID to be constructed from entities other than those performing the origin-conferring operations in situations in which it is impossible or extremely difficult to ascertain the identity of the manufacturer. One commenter indicated that such situations would include when the seller refuses to provide the identity of the manufacturer for

business proprietary reasons. Two of the commenters stated that the MID required by the interim rule should be constructed using the "best information available," which may be the name and address of the shipper, buying or selling agent, or seller, provided the parties to the transaction have used reasonable care to determine the identity of the true manufacturer. Two commenters suggested that in situations in which there are multiple manufacturers for a single shipment (e.g., fungible goods), importers should be able to describe the manufacturer as "multi" or "multiple" on the CBP Form 7501. Two commenters recommended that CBP maintain the use of textile declarations, coupled with the former requirements for MID completion, as an alternative to the new MID requirement.

CBP's Response:

Requiring the MID to be identified on entries of textile and apparel goods to be constructed from the entity performing the origin-conferring operations better enables CBP to enforce U.S. textile laws and trade agreements as well as facilitate trade in textile and apparel products.

Regarding fungible goods, importers should use reasonable care in constructing the MID for each shipment, but, as always, should work closely with the CBP port director in cases involving extraordinary circumstances. For example, if an importer purchases from a company with a unique inventory system, this information should be discussed with the port director to ensure that an acceptable yet accurate reporting of required information is provided.

Comment:

Two commenters indicated that it should be sufficient for CBP purposes for importers to provide the country of origin of imported textile and apparel goods on entry documents without also having to identify the manufacturer through the MID requirement. According to these commenters, CBP may request additional information regarding the manufacturer of the goods as part of a post-entry verification. One of these commenters proposed, as a practical alternative to the new MID requirement, that CBP permit importers to identify the MID of one actual producer (rather than all producers) in each separate country. As part of this proposal, CBP could request the "identity of manufacturers on a country-by-country basis, or by entry if it deems the information necessary for enforcement purposes."

CBP's Response:

CBP wishes to remind these commenters that the basic MID requirement is not new. Importers of virtually all goods (textile and non-textile products) have been required for some time to submit a MID at the time of entry. The instructions on completing the CBP Form 7501 clearly indicate that when an entry summary covers merchandise from more than one manufacturer, the word "MULTI" should be recorded in block 13, and column 28 should reflect the MID corresponding to each line item. CBP continues to believe that the MID requirement for both textile and non-textile products is an important tool in facilitating the correct reporting of the origin of imported goods.

Comment:

Eight commenters recommended that CBP grant exceptions to the new MID requirement. Six of these commenters noted that the primary function of the new requirement (according to CBP) is to assist CBP in properly enforcing the international textile restraint agreements to which the U.S. is a party. Consistent with that purpose, these commenters asked that CBP limit the new MID requirement to products that are still subject to quantitative restraints under bilateral textile agreements or due to safeguard actions. One commenter expressed concern that the new MID requirement may apply to a wide variety of products that are not traditionally considered textile and apparel products (*e.g.,* valves with mesh fabric filters, jump ropes, hats, and footwear). Other commenters suggested that exemptions from the MID requirement should be granted for goods of NAFTA and CAFTA–DR countries, goods entered under subheadings 9802.00.40, .50, .80, and .90, HTSUS, goods previously imported, exported, and then returned, products integrated prior to 2000 (consistent with the November 8, 2005, Memorandum of Understanding with the People's Republic of China), as well as merchandise sold in duty-free stores.

CBP's Response:

As noted above, the objectives of the interim amendments are to assist in the enforcement of U.S. textile laws and facilitate the movement of legitimate trade in textiles into the United States. Since illegal trade may be disguised as products of virtually any country, it would be of little help in enforcing the trade laws to require the MID only for products of certain countries. CBP has discovered illegal trade from dozens of countries, including some of our free trade agreement partners. Although the scope of textile and apparel goods subject to the new MID requirement closely parallels the scope of products formerly subject to the textile declaration requirement, CBP is sympathetic to the concerns regarding the wide range of products covered by § 102.23(a). In an April 13, 2006, letter to CBP, CITA indicated that it concurred with CBP's proposal to limit the scope of products for which the MID is required to textile and apparel goods classified within Section XI of the Harmonized Tariff Schedule of the United States (HTSUS), and any 10-digit HTSUS number outside Section XI with a three-digit textile category number assigned to the specific subheading. Section 102.23(a), which previously provided that the MID requirement applied to textile or apparel products listed in § 102.21(b)(5), has been amended in this final rule document to effect the above change. This amendment excludes from the scope of the MID requirement products such as umbrellas, seat belts, parachutes, watchstraps, and doll clothing.

With respect to the commenters' requested exemption for goods classified in subheading 9802.00.40, .50, .80, or .90, HTSUS, the MID for goods classified in Chapter 98, HTSUS, must be constructed from the entity performing the origin-conferring operations only if the Statistical Notes for the specific Chapter 98 subheading require the reporting of the associated Chapter 1–97 10-digit statistical number *and* that Chapter 1–97 number falls within the scope of the MID requirement set forth in amended § 102.23(a). Thus, if a good is classified in a Chapter 98 subheading and that subheading either does not require the reporting of the associated Chapter 1–97 number or the associated Chapter 1–97 number falls outside the scope of the MID requirement in § 102.23(a), then the MID may be constructed from the manufacturer, shipper, or exporter.

Comment:

Five commenters questioned the usefulness of the new MID requirement for security targeting purposes. Four of these commenters maintained that since the shipper is the last party in the supply chain to handle the product prior to export to the U.S., the identity of the shipper rather than that of the manufacturer is the better source of security targeting data. Two of the commenters pointed out that the MID is not a reliable tool in enforcement actions because of the many potential variations in MID construction—names and addresses of companies may be written and abbreviated in many different ways.

CBP's Response:

While CBP appreciates the commenters' concerns regarding security issues, the objectives of the interim regulations do not include using

the MID to improve CBP's security targeting efforts. That said, it should be noted that the manufacturer generally is the last party in the supply chain to load the goods into the shipping container, which usually is just as important a consideration from a security standpoint as the last party that handles the container. In addition, CBP is aware of the potential variations in MID construction and is considering ways to address this problem. However, it is important to recognize that these variations may occur regardless of whether the MID is reported as the manufacturer or as the shipper.

Comment:

Three commenters stated that the new MID requirement for textile and apparel products should conform to the rule for all other products so as to permit the identification of either the manufacturer or the shipper. One commenter described the new requirement as "discriminatory" and questioned why the criteria for the MID for textiles is far more stringent than for other products which pose a greater threat to the health and safety of U.S. citizens, such as food or spare parts for cars or airplanes. Another commenter observed that, for trade data collection purposes, MIDs for textile and apparel products now will represent completely different parties (manufacturers) from MIDs for other products (shippers or exporters).

CBP's Response:

In many cases, importers of textile and apparel goods were already constructing the MID from the manufacturer prior to the change in the MID requirement. CBP would also note that few, if any, non-textile products have the origin restrictions that exist for textile and apparel products. CBP will carefully evaluate the results of the change in the MID requirement for textile and apparel products before determining whether the same change also should be made for all non-textile products.

Comment:

Five commenters pointed out that the instructions for block 13 ("Manufacturer I.D.") on the CBP Form 7501 provide that for "purposes of this code, the manufacturer should be construed to refer to the invoicing party or parties (manufacturers or other direct suppliers)." Therefore, according to these commenters, the new MID requirement for textile and apparel products set forth in the interim rule conflicts with the CBP Form 7501. Two of these commenters stated that this discrepancy will result in confusion and uncertainty in the trading community.

CBP's Response:

CBP agrees that there should be no discrepancy between the requirements of § 102.23(a) and the instructions for the completion of CBP Form 7501. Therefore, the instruction notice for completing CBP Form 7501 has been amended to conform to the requirements of § 102.23(a) and posted to the *cbp.gov* Web site (*see http://www.cbp.gov/xp/cgov/import/cargo_summary/cbp7501/*).

Comment:

Two commenters expressed the view that CBP will have difficulty determining whether the MID for textile and apparel goods is constructed correctly, especially in the case of "home textiles" (where the seller is rarely the manufacturer) and in situations in which the seller is a trading company. One of these commenters inquired as to the type of documentation that will be required to enable CBP to enforce the new MID requirement. This commenter stated that "since there are no definitions of what is acceptable proof," there likely will be inconsistent enforcement around the country.

CBP's Response:

If CBP officials choose to verify the accuracy of MID information, these officials will request and review additional documentation and records for that purpose. What is "acceptable proof" will depend on the type of product being imported, as the origin-conferring operations will differ from product to product. For example, for most apparel, the MID reflects the firm assembling the garment, while for many home textile products such as bed sheets, the MID reflects the firm that formed the fabric. While sewing records would be appropriate in verifying MID information in the former situation, a mill certificate would be appropriate in the latter situation. We appreciate the concern for consistency and offer as guidance that, after CBP determines the origin-conferring operation for a particular textile product, it will request and review commercially available manufacturing documentation appropriate to the product involved, such as commercial invoices, sewing tickets, and spinning or mill certificates.

Comment:

Two commenters recommended that, as part of its final rule, CBP update the "Formal Entry List," or TBT–01–036, most recently issued on August 31, 2001. Both commenters suggested that the Formal Entry List exempt all non-commercial shipments from the requirement of filing a formal entry to help clarify that the new MID requirement applies only to formal entries of commercial shipments. One of these commenters also recommended that the Formal Entry List be modified to require formal entries only for commercial shipments valued over $250. The second commenter also suggested that the List have a single value limit, not less than the value limit set forth in 19 U.S.C. 1321. However, this commenter stated the value limit set forth in section 1321 should be increased from $200 to $500.

CBP's Response:

By way of background, TBT–01–036 dated August 31, 2001, is a CBP textile information issuance to the trade community that updated two lists of tariff numbers for which the submission of a formal entry is required. One list relates to tariff numbers for which a formal entry is required for commercial shipments only, regardless of value (pursuant to 19 CFR 143.22). The second list relates to tariff numbers for which a formal entry is required if the shipment is valued in excess of $250 (pursuant to 19 CFR 143.21(a)). TBT–01–036 indicates that if a tariff number is on both lists, the requirement for formal entry regardless of value takes priority.

CBP appreciates the recommendations of these commenters regarding the Formal Entry List and is reviewing and evaluating the potential impact of the suggested changes. However, CBP does not believe that this final rule document, which is concerned with the country of origin of textile and apparel products, is the appropriate vehicle for implementing changes relating to the types of merchandise that may be entered under informal entry. Any such changes that CBP decides to pursue affecting 19 CFR Part 143 will be the subject of a separate rulemaking.

In regard to the suggestion that CBP should clarify that the new MID requirement applies only to formal entries of commercial shipments, CBP notes (as previously pointed out in this comment discussion) that § 102.23(a) has been amended in this final rule document to provide that the MID must reflect the entity performing the origin-conferring operations only with respect to commercial importations. Thus, effective upon publication of this document in the **Federal Register**, all personal use shipments subject to formal or informal entry procedures will be excepted from the MID requirement set forth in § 102.21(a), while all commercial shipments (covered by formal or informal entries) will continue to be subject to this requirement.

Comment:

A commenter stated that he was unaware of any Customs statute that requires a U.S. importer to know the

manufacturer of textile and apparel products so long as the importer can demonstrate that it acted with "reasonable care" to enter, classify, and value the imported goods, as well as determine the application of other legal requirements (*e.g.,* requirements of other government agencies affecting admissibility).

CBP's Response:

The commenter is correct that there is no customs statute that requires a U.S. importer to know the manufacturer of his/her product. However, in accordance with the direction provided by the Chairman of CITA and pursuant to section 204 of the Agricultural Act of 1956, as amended, as that authority is delegated by Executive Orders 11651 and 12475, and with direction from the Department of the Treasury, CBP is requiring the U.S. importer to provide the manufacturer's identification code for entries of textile and apparel products to help enforce trade in textile and apparel products.

Comment:

A commenter stated that the new MID requirement for textile and apparel articles is poorly defined. The commenter indicated that, while it is reasonably easy to use the country of origin rules in § 102.21, CBP regulations, to ascertain the correct country of origin of a good, the rules are difficult to use in determining the specific "origin-conferring operation" for purposes of complying with the new MID requirement. Three examples were provided:

1. While § 102.21(c)(1) clearly defines country of origin as "the single country, territory, or insular possession in which the good was wholly obtained or produced," the rule does not identify the origin-conferring operation (*e.g.,* growing the cotton, spinning the thread, weaving the cloth, or cutting and sewing the final product).

2. Regarding the rule set forth in § 102.21(e)(2) ("the country of origin of the good is the country, territory, or insular possession in which the fabric comprising the good was both dyed and printed when accompanied by two or more of the following operations: * * *"), how is the entity performing the origin-conferring operation to be determined if more than one manufacturer performs these operations within one country? For example, if one company prints and dyes while a second company shrinks and fulls, which is the origin-conferring entity?

3. In a situation involving a single textile item consisting of fabrics made by multiple weavers, which of the weavers is the origin-conferring entity? Is it the one that wove the largest piece of fabric?

CBP's Response:

With regard to determining the entity who performed the origin-conferring operations for particular goods, importers may request and obtain a determination from CBP on that issue, provided sufficient information is furnished to enable CBP to make such a determination. Generally, however, one can look to the rules of origin for textile and apparel products set forth in § 102.21 (or the statutory source of those rules, 19 U.S.C. 3592) or § 102.22 (for products of Israel) and discern which operation will be the origin-conferring operation for the good at issue. For instance, in the first example above, assuming that the product is one that, if it had been produced in more than one country, would derive its origin from where it is wholly assembled, the assembler would be the entity that performed the origin-conferring operation.

The second example above is more difficult. Assuming that the good is subject to the rule set forth in § 102.21(e)(2), CBP believes that the entity performing the last or final step of these origin-conferring operations would be considered the origin-conferring entity. For example, the dyeing, printing, shrinking, and fulling must all occur in a single country for origin to be conferred in that country. The origin-conferring process is not complete until the last of the required or necessary steps is completed. Therefore, it is the last manufacturer to complete the origin-conferring steps who is to be considered the origin-conferring entity. However, the determination of the origin-conferring entity may vary depending on the specific facts involved and the product at issue. An importer should seek a ruling from CBP in cases of uncertainty of the entity to be considered the origin-conferring entity.

As for the third example, CBP is unable to determine the origin-conferring entity without more specific information regarding the "single textile item" involved.

Comment:

A commenter asked whether, in constructing a MID for companies located in amalgamated cities in Quebec (*e.g.,* Montreal, Quebec City, Hull), an importer should use the amalgamated location or the location of any former townships within said location.

CBP's Response:

Consistent with the rules for constructing the MID set forth in the Appendix to Part 102, if the location is indeed an amalgamated city, it would be appropriate to use such a location (such as Montreal) rather than a former township.

Comment:

A commenter inquired as to whether the new MID requirement applies to marked/mutilated textile samples. The commenter noted in this regard that such goods are accorded tariff treatment based upon their classification in subheading 9811.00.60, HTSUS, and that this subheading is not within the HTSUS provisions defining the scope of textile or apparel products set forth in 19 CFR 102.21(b)(5). Another commenter recommended that the term "samples," as used in interim § 102.24(a) be defined to exclude samples classifiable in subheading 9811.00.60, HTSUS. According to this commenter, "[t]ariff samples are not subject to duty or quantitative restraints and there is no purpose in denying the informal entry procedure to them."

CBP's Response:

Subheading 9811.00.60 does not fall within the scope of the MID requirement set forth in amended § 102.23(a) and, because subheading 9811.00.60 does not require a 10-digit statistical reporting number, the MID for goods classified in this provision need not be constructed from the entity performing the origin-conferring operations. Samples that are referred to in 19 CFR 102.24(a) are not intended to include samples classifiable in subheading 9811.00.60.

Comment:

A commenter recommended that the final rule include a definition of the term "manufacturer" to clarify that the manufacturer is the entity that performs the origin-conferring operations. This commenter also noted that the Memorandum of Understanding (MOU) with the People's Republic of China includes a requirement for a visa transmission, and that a manufacturer's identification code is one of the data elements that must appear on the visa transmission. The commenter stated that since the MID on the visa transmission may not reflect the entity performing the origin-conferring operations, there may be a discrepancy between the MID on the visa transmission and the MID on the entry documentation. In this regard, the commenter recommended that interim § 102.23(a) be amended in the final rule to clarify that such a discrepancy will not be the cause of an entry rejection.

CBP's Response:

The first suggested clarification is unnecessary as § 102.23(a) specifically requires that the MID be "constructed from the name and address of the entity

performing the origin-conferring operations."

Pursuant to the MOU with China, an MID must be transmitted via the Electronic Visa Information System (ELVIS). The MOU closely parallels § 102.23(a) by providing that the MID is to be constructed from "the name of the entity performing the origin-conferring operations." Therefore, while there is no reason to expect a discrepancy between the MID reported on the visa transmission and the MID reported on entry documentation, CBP recognizes that there may be instances in which the two MIDs do not match. CBP will not reject an entry if there is a discrepancy between the two MIDs if the MID identified pursuant to 102.23(a) accurately reflects the name and address of the entity performing the origin-conferring operations.

Comment:

A commenter noted that, for goods produced in the NAFTA territories, a different conclusion regarding the country of origin of a good may be reached when applying the NAFTA preference override provision in 19 CFR 102.19 rather than the rules set forth in 19 CFR 102.21. Because § 102.19 takes precedence in such a situation, the commenter recommended that the final rule clarify that, in determining the entity performing the origin-conferring operations for purposes of the MID requirement, the NAFTA preference override provision in § 102.19 should be taken into consideration.

CBP's Response:

The clarification sought by the commenter is unnecessary. Section 102.21(c) clearly states that in determining the country of origin of a textile or apparel product by application of paragraphs (c)(1) through (c)(5) of § 102.21, where appropriate "the additional requirements or conditions of §§ 102.12 through 102.19 of this part" are to be applied.

Comment:

A commenter inquired regarding a situation involving sewing thread made of spun polyester fiber where the fiber is produced in China but the yarn is spun, twisted, dyed, and finished in Mexico. The commenter stated that although the sewing thread would be considered to be of Chinese origin for purposes of NAFTA, it appears that the MID should reflect the Mexican supplier since the "major transformation is done in Mexico."

CBP's Response:

Section 102.23(a) provides that the entity performing the origin-conferring operations is to be determined by application of the rules of origin set forth in 102.21 (or § 102.22 for products of Israel). Applying the rules in § 102.21 to the example provided, if the fiber referenced by the commenter is staple fiber, the origin of the sewing thread would be the country in which the fiber was spun into yarn, *i.e.,* Mexico. However, if the fiber referenced by the commenter is extruded filament, the origin of the thread would be the country in which the filament was extruded, *i.e.,* China. It should be emphasized that these determinations are made by application of the country of origin rules set forth in § 102.21 and not by the NAFTA preference rules set forth in General Note 12, HTSUS.

Comment:

A commenter requested clarification regarding whether post office boxes may be used in constructing the MID, and, if so, suggested that an example of a MID constructed, in part, from a P.O. Box would be helpful. This commenter also stated that there has been some confusion as to whether Kowloon should be reflected in the MID as the city. The commenter suggested that inserting an example in paragraph 7 of the Appendix to Part 102 where the factory is located in Kowloon would help eliminate the confusion.

CBP's Response:

As stated in paragraph 4 of the Appendix to Part 102, a post office box number (the first four numbers) is to be used in constructing the MID if it contains the largest number on the street address line. CBP agrees that it would be helpful to include an example in paragraph 7 of the Appendix showing the use of a P.O. Box number. With respect to whether Kowloon (in Hong Kong) should be reflected in the MID as the city, paragraph 5 of the Appendix provides that the last characters in the MID are derived from the first three letters in the city name. Paragraph 5 clearly states that, for city-states, the first three letters are to be taken from the country name and gives an example of "HON" for Hong Kong. CBP agrees with the commenter that it would be helpful to include in paragraph 7 an example of a manufacturer in Kowloon.

The following example, using both a post office box number and a manufacturer in Kowloon, has been added to the examples in paragraph 7 of the Appendix to Part 102: A.B.C. Company, 55–5 Hung To Road, P.O. Box 1234, Kowloon, Hong Kong. The MID is HKABCCOM1234HON.

Conclusion

Accordingly, based on the analysis of the comments received, CBP has determined that the interim regulations published as CBP Dec. 05–32 should be adopted as a final rule with certain changes as discussed above and as set forth below. The changes to the interim regulatory text effected by this final rule document are as follows:

1. In § 102.23(a), paragraph (a), relating to the manufacturer identification code (MID), has been revised to limit the MID requirement to commercial importations of textile and apparel goods classified within Section XI, HTSUS, and any 10-digit HTSUS number outside of Section XI with a three-digit textile category number assigned to the specific subheading; and

2. In the Appendix to Part 102, which sets forth rules for constructing the MID:

a. Paragraph 1 has been revised to reflect the limitation in the scope of the MID requirement set forth in amended § 102.23(a); and

b. Paragraph 7 has been revised by adding a new example that illustrates the use of a post office box number as well as a manufacturer located in Kowloon, Hong Kong.

Inapplicability of Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act ("APA") (5 U.S.C. 553), agencies generally are required to publish final amendments at least 30 days prior to their effective date. However, §§ 553(d)(1) and (d)(3) of the APA exempt agencies from the requirement of publishing notice of final rules at least 30 days prior to their effective date when a substantive rule grants or recognizes an exemption or relieves a restriction and when the agency finds that good cause exists for not meeting the advance publication requirement. As discussed earlier, the only changes to the interim regulations effected by this final rule involve limiting the scope of the MID requirement for textile and apparel products and adding a new example to clarify the proper construction of the MID. Accordingly, it has been determined that this final rule grants an exemption and relieves restrictions and that good cause exists for dispensing with a delayed effective date.

Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and, therefore, is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

CBP Dec. 05–32 was issued as an interim rule rather than as a notice of

proposed rulemaking because CBP had determined that: (1) The interim regulations involve a foreign affairs function of the United States pursuant to § 553(a)(1) of the APA; and (2) prior public notice and comment procedures on these regulations were impracticable, unnecessary, and contrary to the public interest pursuant to § 553(b)(B) of the APA. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information in these regulations (the identification of the manufacturer on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary)) have been previously reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control numbers 1651–0024 and 1651–0022, respectively. These regulations clarify that the manufacturer to be identified on entries of textile and apparel products must consist of the entity performing the origin-conferring operations. An agency may not conduct or sponsor and an individual is not required to respond to a collection of information unless it displays a valid OMB control number.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects in 19 CFR Part 102

Customs duties and inspections, Imports, Reporting and recordkeeping requirements, Rules of origin, Trade agreements.

Amendments to the Regulations

Accordingly, the interim rule amending parts 12, 102, 141, 144, 146, and 163 of the CBP regulations (19 CFR parts 12, 102, 141, 144, 146 and 163), which was published at 70 FR 58009 on October 5, 2005, is adopted as a final rule with certain changes as discussed above and set forth below.

PART 102—RULES OF ORIGIN

■ 1. The general authority citation for part 102 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

■ 2. Section 102.23 is amended by revising paragraph (a) to read as follows:

§ 102.23 Origin and manufacturer identification.

(a) *Textile or apparel product manufacturer identification.* All commercial importations of textile or apparel products must identify on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary), and in all electronic data transmissions that require identification of the manufacturer, the manufacturer of such products through a manufacturer identification code (MID) constructed from the name and address of the entity performing the origin-conferring operations pursuant to § 102.21 or § 102.22 of this part, as applicable. The code must be accurately constructed using the methodology set forth in the Appendix to this part, including the use of the two-letter International Organization for Standardization (ISO) code for the country of origin of such products. When a single entry is filed for products of more than one manufacturer, the products of each manufacturer must be separately identified. Importers must be able to demonstrate to CBP their use of reasonable care in determining the manufacturer. If an entry filed for such merchandise fails to include the MID properly constructed from the name and address of the manufacturer, the port director may reject the entry or take other appropriate action. For purposes of this paragraph, "textile or apparel products" means goods classifiable in Section XI, Harmonized Tariff Schedule of the United States (HTSUS), and goods classifiable in any 10-digit HTSUS number outside of Section XI with a three-digit textile category number assigned to the specific subheading.

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■ 3. The Appendix to part 102 is amended by revising paragraph 1 and by adding a new example at the end of paragraph 7. Revised paragraph 1 and the addition to paragraph 7 read as follows:

Appendix to Part 102—Textile and Apparel Manufacturer Identification

Rules for Constructing the Manufacturer Identification Code (MID)

1. Pursuant to § 102.23(a) of this part, all commercial importations of textile or apparel products, as defined in that paragraph, must identify on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary), and in all electronic data transmissions that require identification of the manufacturer, the manufacturer of such products through a manufacturer identification code (MID) constructed from the name and address of the entity performing the origin-conferring operations. The MID may be up to 15 characters in length, with no spaces inserted between the characters.

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7. * * *

A.B.C. COMPANY, 55–5 Hung To Road, P.O. Box 1234, Kowloon, Hong Kong; HKABCCOM1234HON.

Alan Bersin,

Commissioner, U.S. Customs and Border Protection.

Approved: March 14, 2011.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2011–6253 Filed 3–16–11; 8:45 am]

BILLING CODE 9111–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2006–0952; FRL–9246–4]

Approval and Promulgation of Air Quality Implementation Plans; Montana; Attainment Plan for Libby, MT $PM_{2.5}$ Nonattainment Area and PM_{10} State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revision submitted by the State of Montana on March 26, 2008. Montana submitted this SIP revision to meet Clean Air Act requirements for attaining the 1997 annual fine Particulate Matter ($PM_{2.5}$) national ambient air quality standard (NAAQS) for the Libby nonattainment area. The plan revision, herein called an "attainment plan," includes an attainment demonstration, an analysis of Reasonably Available Control Technology and Reasonably Available Control Measures (RACT/RACM), base-year and projection year emission inventories, and contingency measures. The requirement for a Reasonable Further Progress (RFP) plan is satisfied because Montana projected that attainment with the 1997 annual $PM_{2.5}$ NAAQS will occur in the Libby nonattainment area by April 2010. In addition, EPA is also approving revisions to the Lincoln County Air Pollution Control Program submitted by Montana on June 26, 2006, for inclusion into Libby's attainment plan for purposes of the 1987 PM_{10} NAAQS.

This submittal contains provisions, including contingency measures, for controlling both PM_{10} and $PM_{2.5}$ emissions from woodstoves, road dust, and outdoor burning. Finally, EPA is finding on-road directly emitted $PM_{2.5}$ and oxides of nitrogen (NO_X) in the Libby, Montana nonattainment area insignificant for regional transportation conformity purposes. As a result of this finding the Libby, Montana nonattainment area will not have to perform a regional emissions analysis for either direct $PM_{2.5}$ or NO_X as part of future conformity determinations for the 1997 annual $PM_{2.5}$ NAAQS.

DATES: *Effective date:* This final rule is effective April 18, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2006–0952. All documents in the docket are listed in the *http://www.regulations.gov* index. 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129. EPA requests that, if at all possible, you contact the individual listed in **FOR FURTHER INFORMATION CONTACT** to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Crystal Freeman, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, *Phone:* (303) 312–6602, *Fax:* (303) 312–6064, *freeman.crystal@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The initials *$PM_{2.5}$* mean or refer to particulate matter with an aerodynamic diameter of less than 2.5 micrometers.

(v) The initials *PM_{10}* mean or refer to particulate matter with an aerodynamic diameter of less than 10 micrometers.

(vi) The word *State* or *Montana* refers to the State of Montana unless the context indicates otherwise.

(vii) The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.

Table of Contents

I. Background

On July 18, 1997 (62 FR 38652), EPA established the first $PM_{2.5}$ NAAQS, including annual standards of 15.0 μg/m^3 based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and 24-hour (or daily) standards of 65 μg/m^3 based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA designated the Libby area "nonattainment" for the 1997 annual $PM_{2.5}$ NAAQS under section 107(d)(1) of the CAA on April 5, 2005 (70 FR 944, 986; *see* also 74 FR 58688, 58744–45). The specific geographic boundaries of this nonattainment area appear in 40 CFR 81.327.

On April 25, 2007, EPA issued the Clean Air Fine Particle Implementation Rule for the 1997 $PM_{2.5}$ NAAQS (72 FR 20586). The implementation rule describes the CAA framework and requirements for developing $PM_{2.5}$ attainment plans. Among other things, an attainment plan must include a demonstration that a nonattainment area will meet the applicable NAAQS within the timeframe provided in the statute. It must also include supporting technical analyses and descriptions of all relevant adopted federal, state, and local regulations and control measures that have been implemented by the proposed attainment date. For the 1997 $PM_{2.5}$ NAAQS, an attainment plan must show that a nonattainment area will attain the standard as expeditiously as practicable but within five years of designation (April 2010), or within up to ten years of designation (April 2015) if the EPA Administrator extends an area's attainment date by 1–5 years based upon the severity of the nonattainment problem or the feasibility of implementing control measures.

For each nonattainment area, the state must demonstrate that it has adopted all Reasonably Available Control Technology (RACT) and Reasonably Available Control Measures (RACM) needed to show that the area will attain the $PM_{2.5}$ standards as expeditiously as practicable. Any measures that are necessary to meet these requirements which are not already either federally promulgated or part of the state's SIP must be submitted in enforceable form as part of a state's attainment plan. The implementation rule provides recommendations (including specific measures for certain source categories) that states should consider in developing RACT/RACM. The implementation rule also addresses other required elements of a state's attainment plan, including emission inventories, the $PM_{2.5}$ precursors that must be addressed in the plan, contingency measures, and motor vehicle emissions budgets used for transportation conformity purposes.

On March 25, 2008, the Montana Board of Environmental Review (MBER) submitted revisions to meet the new attainment plan requirements for the Libby $PM_{2.5}$ nonattainment area. On March 23, 2006, the MBER had previously submitted revisions to the existing PM_{10} SIP plan for Lincoln County (the county containing Libby). EPA elected to act on both of these revisions simultaneously. On September 14, 2010 we proposed approval of both the $PM_{2.5}$ attainment plan and the PM_{10} SIP revisions (75 FR 55713).

The Libby attainment plan provided a demonstration that the 1997 annual $PM_{2.5}$ NAAQS would be met by April 2010 through the implementation of the revisions to the Lincoln County Air Pollution Control Program (Program) summarized below. Among other things, the Libby attainment plan includes an emissions inventory (EI), a woodstove air pollution control calculation, and a technical analysis showing that the emissions of $PM_{2.5}$ will be reduced sufficiently to meet the NAAQS.

The 2006 revisions to the PM_{10} SIP are also relevant to $PM_{2.5}$ for the Libby nonattainment area. Several provisions are included to regulate solid fuel burning devices (such as woodstoves) and to require owners and operators of these devices to obtain operating permits. Additionally, the revisions allow for air pollution alerts if either PM_{10} or $PM_{2.5}$ concentrations averaged over a 4-hour period exceed a level 20 percent below any federal or state particulate matter standard. Provisions are also included for penalties for non-compliance and for contingency measures that are triggered by an exceedance of the $PM_{2.5}$ NAAQS. Additionally, revisions were made for open and outdoor burning, including more stringent limits on the time periods for open burning activities.

The bases for EPA's approval of both the attainment plan for the 1997 annual $PM_{2.5}$ NAAQS for the Libby area and for the revisions to the existing PM_{10} SIP plan for Lincoln County, including EPA's analysis and findings, are explained in much more detail in the proposed rulemaking (75 FR 55713). Additional technical support documents are available at *www.regulations.gov,* Docket No. EPA–R08–OAR–2006–0952.

II. Public Comment

We received no public comments on the proposed approvals.

III. EPA Final Action

EPA is approving two separate Montana SIP submittals. First, EPA is approving the attainment plan for the 1997 $PM_{2.5}$ NAAQS for the Libby area submitted by Montana on March 26, 2008. Second, EPA is approving the PM_{10} SIP revisions to the Lincoln County Air Pollution Control Program for Lincoln County submitted by Montana on June 26, 2006. EPA has determined that the $PM_{2.5}$ attainment plan and PM_{10} SIP revisions meet applicable requirements of the Clean Air Act, including (for the $PM_{2.5}$ attainment plan) the Clean Air Fine Particle Implementation Rule issued by EPA on April 25, 2007 (72 FR 20586) and (for the PM_{10} SIP revisions) other statutory requirements including section 110(l). In particular, EPA has determined that Montana's $PM_{2.5}$ attainment plan for the Libby area includes the following acceptable elements: An attainment demonstration, an analysis of RACT/RACM and adoption of selected control measures, base-year and projection-year emission inventories, and contingency measures. Finally, EPA is finding on-road directly emitted $PM_{2.5}$ and NO_X in the Libby, Montana nonattainment area insignificant for regional transportation conformity purposes.

In accordance with section 172(c) of the CAA and the implementation rule, the attainment plan submitted by Montana for the Libby area included: (1) Emission inventories for the plan's base year (in this case, 2005) and projection year (2010); and (2) an attainment demonstration consisting of: (a) Technical analyses that locate, identify, and quantify sources of emissions contributing to violations of the annual $PM_{2.5}$ NAAQS; (b) a determination of which $PM_{2.5}$ precursors should be controlled in this area for purposes of expeditious attainment; (c) analyses of future-year emission reductions and air quality improvements expected to result from national and local programs, and from new measures to meet requirements for RACT/RACM; (d) adopted emission reduction measures; and (e) contingency measures.

With respect to the pollutants to control in the plan, the State evaluated, based on its emission inventories and by source category, sources of direct $PM_{2.5}$, SO_2 and NO_X for RACT/RACM control measures. The State's evaluation of sources of SO_2 and NO_X resulted in their conclusion that no additional controls for those precursors are necessary to attain the 1997 $PM_{2.5}$ NAAQS expeditiously based on the absence of stationary sources or area sources that can be cost effectively or reasonably controlled for these precursors in this area. The overwhelmingly predominant contributor to the $PM_{2.5}$ nonattainment problem in the Libby area was area sources of direct $PM_{2.5}$, and in particular emissions from wood burning devices and open burning. The State therefore adopted control measures it determined to be RACM for direct $PM_{2.5}$ from these area source categories. EPA has reviewed Montana's RACT/RACM analysis and has determined that the state reasonably identified potential control measures and reasonably selected and adopted appropriate measures for RACT/RACM for the Libby area. In addition, the state used a proportional model to demonstrate attainment in 2010 resulting from these measures, and adopted contingency measures triggered by any future exceedance of the 1997 $PM_{2.5}$ NAAQS.

Finally, transportation conformity is required under CAA section 176(c) to ensure that transportation plans, transportation improvement programs (TIPs) and federally supported highway and transit projects are consistent with ("conform to") the state air quality implementation plan. Transportation conformity applies to areas that are designated nonattainment, and to those areas redesignated to attainment after 1990 with a CAA section 175A maintenance plan ("maintenance areas") for transportation-related criteria pollutants: Carbon monoxide (CO), NO_X and particulate matter ($PM_{2.5}$ and PM_{10}).

EPA's transportation conformity rule (40 CFR parts 51 and 93) establishes the criteria and procedures for determining whether transportation activities conform to the SIP. One requirement of the rule is that transportation plans, TIPs, and projects must satisfy a regional emissions analysis for the relevant pollutants and precursors (40 CFR 93.118, 119). However, section 93.109(m) states that an area is not required to satisfy a regional emissions analysis for a pollutant or precursor if EPA finds that the SIP demonstrates that motor vehicle emissions of that pollutant or precursor are an insignificant contributor to the area's air quality problem.

In this action, EPA finds that regional emissions from motor vehicles of $PM_{2.5}$ and NO_X in the Libby $PM_{2.5}$ nonattainment area are an insignificant contributor to the Libby area's $PM_{2.5}$ air quality problem. In making this insignificance finding, EPA evaluated the provisions of 40 CFR 93.109(m) against the relevant information contained in the SIP attainment plan, the SIP revision's associated technical support document (TSD), and additional information as developed by EPA. We evaluated the following factors in determining whether on-road direct $PM_{2.5}$ and NO_X emissions are insignificant contributors to the area's $PM_{2.5}$ air quality problem; (1) the percentage of motor vehicle emissions in the context of the total SIP inventory; (2) the current state of air quality as determined by monitoring data for that NAAQS; (3) the absence of SIP motor vehicle control measures; and (4) historical trends and future projections of the growth of motor vehicle emissions. Detailed information regarding our evaluations of these factors and our conclusions are provided in our September 14, 2010 proposed rulemaking and will not be repeated here. EPA did not receive any public comments on the proposed insignificance finding. Please refer to our September 14, 2010 proposed rulemaking (75 FR 55713) and additional technical support documents which are available at *http://www.regulations.gov,* Docket No. EPA–R08–OAR–2006–0952.

Based on our evaluations and conclusions, as presented in our proposed rulemaking action (*see* 75 FR 55713, September 14, 2010), EPA is finding that regional motor vehicle emissions of $PM_{2.5}$ and NO_X are insignificant contributors to Libby's $PM_{2.5}$ nonattainment problem. With our finding, $PM_{2.5}$ and NO_X motor vehicle emissions budgets (MVEB) are not required to be established and a regional emissions analysis is not required for either $PM_{2.5}$ or NO_X in any future conformity determination in Libby. Please note, however, that $PM_{2.5}$ hot-spot analyses will be required for individual projects, if such an analysis is required in the future for transportation conformity purposes.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and

therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule 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 May 16, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: December 20, 2010.

James B. Martin,

Regional Administrator, Region 8.

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart BB—Montana

■ 2. Section 52.1370 is amended by adding and reserving paragraphs (c)(69) and (c)(70), and by adding paragraph (c)(71) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(71) The Governor of Montana submitted revisions, reordering and renumbering to the Libby County Air Pollution Control Program in a letter dated June 26, 2006. The revised Lincoln County regulations focus on woodstove emissions, road dust, and outdoor burning emissions.

(i) Incorporation by reference.

(A) Before the Board of Environmental Review of the State of Montana order issued on March 23, 2006, by the Montana Board of Environmental Review approving amendments to the Libby Air Pollution Control Program.

(B) Libby City Council Resolution No. 1660 signed February 27, 2006 and Lincoln County Board of Commissioners Resolution No. 725 signed February 27, 2006, adopting revisions, reordering and renumbering to the Lincoln County Air Pollution Control Program, Health and Environment Regulations, Chapter 1—Control on Air Pollution, Subchapter 1—General Provisions; Subchapter 2—Solid Fuel Burning Device Regulations; Subchapter 3—Dust Control Regulations; Subchapter 4—Outdoor Burning Regulations; as revised on February 27, 2006.

(ii) Additional Material.

(A) Stipulation signed October 7, 1991, between the Montana Department of Health and Environmental Sciences (MDHES), the County of Lincoln and the City of Libby, which delineates responsibilities and authorities between the MDHES, Lincoln County and Libby.

[FR Doc. 2011–5969 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 217 and 241

RIN 0750–AG48

Defense Federal Acquisition Regulation Supplement; Multiyear Contract Authority for Electricity From Renewable Energy Sources (DFARS Case 2008–D006)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, the interim rule

amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 828 of the National Defense Authorization Act for Fiscal Year 2008.

DATES: *Effective Date:* March 17, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, 703–602–0328.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule at 75 FR 34942 on June 21, 2010, to amend DFARS parts 217 and 241 to authorize the Department of Defense to enter into a contract for a period not to exceed 10 years for the purchase of electricity from sources of renewable energy, as that term is defined in section 203(b)(2) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)). Section 828 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110–181) authorizes DoD to enter into a contract for a period in excess of five years only if the head of the contracting activity determined, on the basis of a business case analysis prepared by DoD, that—

(1) The proposed purchase of electricity under such contract is cost effective; and

(2) It would not be possible to purchase electricity from the source in an economical manner without the use of a contract for a period in excess of five years.

II. Executive Order 12866

This rule is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Executive Order 13563

In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, DoD has determined that this rule is not excessively burdensome to the public, and is consistent with DoD's intent to purchase electricity from sources of renewable energy in the most cost-effective manner.

IV. Regulatory Flexibility Act

This final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because there are a very limited number of small businesses engaged in the sale of energy-related services, to include the sale of renewable energy. The market for renewable fuels is highly volatile and is less predictable than other fuel markets. Renewable-energy and alternative-fuel projects are capital-intensive investments and involve the construction of production facilities, which limits small-entity participation.

Although no significant economic impact on small business is anticipated, DoD has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis is summarized below and may be obtained from the point of contact specified herein. The analysis is summarized as follows:

The objective of this rule is to implement section 828 of the NDAA for FY 2008. Section 828 authorized the Department of Defense (DoD) to enter into a contract for a period not to exceed 10 years for the purchase of electricity from sources of renewable energy, as that term is defined in section 203(b)(2)of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)). This final rule establishes the conditions under which the head of the contracting activity may enter into a contract for the purchase of renewable energy not to exceed 10 years. Section 828 allows DoD to award a contract for a period in excess of five years: (1) Only after a determination of the cost effectiveness of the proposed purchase has been made based upon a business case analysis, and (2) if it would not be possible to purchase electricity from the source in an economical manner without the use of a contract for a period in excess of five years.

This final rule will apply to DoD contractors engaged in the sale of energy-related services to include the sale of renewable energy.

This rule does not duplicate, overlap, or conflict with any other Federal rules. DoD considers the approach described in the interim rule published at 75 FR 34942 on June 21, 2010, to be the most practical and beneficial for both Government and industry.

DoD invited comments from small business concerns and other interested parties on the expected impact of this rule on small entities. No comments were received.

V. Paperwork Reduction Act

This rule does not impose additional information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 217 and 241

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 217 and 241, which was published at 75 FR 34942 on June 21, 2010, is adopted as a final rule without change.

[FR Doc. 2011–6233 Filed 3–16–11; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

RIN 0750–AH17

Defense Federal Acquisition Regulation Supplement; Nonavailability Exception for Procurement of Hand or Measuring Tools (DFARS Case 2011–D025)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule.

SUMMARY: DoD is issuing an interim rule to implement section 847 of the National Defense Authorization Act for Fiscal Year 2011. Section 847 provides a nonavailability exception to the requirement at 10 U.S.C. 2533a (Berry Amendment) to acquire only domestic hand or measuring tools.

DATES: *Effective date:* March 17, 2011.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before May 16, 2011, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2011–D025, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by inputting "DFARS Case 2011–D025" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2011–D025." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2011–D025" on your attached document.

○ *E-mail: dfars@osd.mil.* Include DFARS Case 2011–D025 in the subject line of the message.

○ *Fax:* 703–602–0350.

○ *Mail:* Defense Acquisition Regulations System, Attn: Amy G. Williams, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, 703–602–0328.

SUPPLEMENTARY INFORMATION:

I. Background

This interim rule amends DFARS 225.7002–2 to implement section 847 of the National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383). Section 847 provides a nonavailability exception to the requirement at 10 U.S.C. 2533a (Berry Amendment) to acquire only domestic hand or measuring tools. The nonavailability exception was previously limited to the items covered in 10 U.S.C. 2533(b)(1).

II. Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Executive Order 13563

In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, DoD has determined that this rule is not excessively burdensome to the public and is consistent with DoD's requirement to acquire domestic hand or measuring tools unless an authorized exception applies.

IV. Regulatory Flexibility Act

DoD does not expect this rule to have a significant 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 allows purchase of hand or measuring tools from foreign sources only when such tools are not available from domestic sources. If no domestic sources produce the tools, then allowing purchase from a foreign source will not impact any U.S. small business. Therefore, an initial regulatory flexibility analysis has not been performed.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2011–D025) in correspondence.

V. Paperwork Reduction Act

The rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. chapter 35.

VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense, that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements section 847 of the National Defense Authorization Act for Fiscal Year 2011. This requirement became effective upon enactment, January 7, 2011. This action is necessary in order to enable contracting officers to acquire hand or measuring tools that are not available from domestic sources. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 225

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 225 is amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. In section 225.7002–2, the introductory text of paragraph (b) is revised to read as follows:

225.7002–2 Exceptions.

* * * * *

(b) Acquisitions of any of the items in 225.7002–1, if the Secretary concerned determines that items grown, reprocessed, reused, or produced in the United States cannot be acquired as and when needed in a satisfactory quality and sufficient quantity at U.S. market prices. (*See* the requirement in 205.301 for synopsis within 7 days after contract award when using this exception.)

* * * * *

[FR Doc. 2011–6235 Filed 3–16–11; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750–AH18

Defense Federal Acquisition Regulation Supplement; Repeal of Restriction on Ballistic Missile Defense Research, Development, Test, and Evaluation (DFARS Case 2011–D026)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule to implement section 222 of the National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383). Section 222 repeals the restriction on purchase of Ballistic Missile Defense research, development, test, and evaluation from foreign sources.

DATES: *Effective date:* March 17, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 703–602–0328; facsimile 703–602–0350.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends DFARS subpart 225.70 by deleting section 225.7016 and the associated clause at DFARS 252.225–7018, because section 222 of the National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383) repealed the restriction from foreign sources of acquisition of Ballistic Missile Defense research, development, test, and evaluation that was required by section 222 of the DoD Authorization Act for Fiscal Years 1988 and 1989.

II. Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not considered a major rule under 5 U.S.C. 804.

III. Executive Order 13563

In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, DoD has determined that this rule is not excessively burdensome to the public, and is consistent with section 222 of the National Defense Authorization Act for Fiscal Year 2011.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because a final regulatory flexibility analysis is only required for final rules that were previously published for public comment, and for which an initial regulatory flexibility analysis was prepared (5 U.S.C. 604).

This final rule does not constitute a significant FAR revision as defined at FAR 1.501–1 because this rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the Government. Therefore, publication for public comment under 41 U.S.C. 1707 is not required.

V. Paperwork Reduction Act

This rule modifies an existing information collection by removing the requirement for an offeror to represent whether it is or is not a United States firm by completing the clause at DFARS 252.225–7018. Deletion of this requirement reduces the total approved hours for the collection under OMB Control Number 0704–0229, "Defense Federal Acquisition Regulation Supplement Part 225, Foreign Acquisition, and Related Clauses" from 57,140 to 57,135. A change request has been submitted to OMB.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

225.7016 through 225.7016–4 [Removed]

■ 2. Sections 225.7016 through 225.7016–4 are removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7018 [Removed and reserved]

■ 3. Section 252.225–7018 is removed and reserved.

[FR Doc. 2011–6234 Filed 3–16–11; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 246 and 252

RIN 0750–AG73

Defense Federal Acquisition Regulation Supplement; Safety of Facilities, Infrastructure, and Equipment for Military Operations (DFARS Case 2009–D029)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 807 of the National Defense Authorization Act for Fiscal Year 2010. Section 807 requires that facilities, infrastructure, and equipment that are intended for use by military or civilian personnel of the Department of Defense (DoD), in current or future military operations, should be inspected for safety and habitability prior to use, and that such facilities should be brought into compliance with generally accepted standards for the safety and health of personnel to the maximum extent practicable consistent with the requirements of military operations and the best interests of DoD to minimize the safety and health risk posed to such personnel.

DATES: *Effective date:* March 17, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Clare Zebrowski, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060. Telephone 703–602–0289; facsimile 703–602–0350. Please cite DFARS Case 2009–D029.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule at 75 FR 66683 on October 29, 2010, to implement section 807 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84), which was signed on October 28, 2009. Section 807 requires that—

- Each contract, including task or delivery orders, entered into for the construction, installation, repair, maintenance, or operation of facilities, infrastructure, and equipment for use by DoD military or civilian personnel should be inspected for safety and habitability prior to use to minimize the safety and health risk posed to such personnel;
- The term "generally accepted standards" shall be defined with respect to fire protection, structural integrity, electrical systems, plumbing, water treatment, waste disposal, and telecommunications networks for the purposes of this section; and
- Exceptions and limitations shall be provided as may be needed to ensure that this section can be implemented in a manner that is consistent with the requirements of military operations and the best interests of the Department of Defense.

There were no comments submitted on the interim rule.

II. Executive Order 12866

This rule is a significant regulatory action and, therefore, was subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Executive Order 13563

In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, DoD has determined that this rule is not excessively burdensome to the public. It is consistent with DoD's requirement to ensure the safety and health of its military and civilian personnel to the maximum extent practicable.

IV. Regulatory Flexibility Act

DoD has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

The rule affects contractors with contracts, including task and delivery orders, in support of current and future military operations for construction, installation, repair, maintenance, or operation of facilities. This includes contracts for facilities, infrastructure, and equipment configured for occupancy, including but not limited to, existing host nation facilities, new construction, and relocatable buildings.

Contracts will require compliance with the Unified Facilities Criteria (UFC) 1–200–01 to meet generally accepted standards for fire protection, structural integrity, electrical systems, plumbing, water treatment, waste disposal, and telecommunications networks. Facilities, infrastructure, and equipment shall be inspected prior to use to ensure safety and habitability.

Military operations affected by this rule are those outside the United States, Guam, Puerto Rico, and the Virgin Islands.

Contract support for recent military operations has been provided primarily by the Department of Army's LOGCAP contracts, which were awarded to large businesses. There are high costs associated with a company being able to perform in the geographic regions where most military operations are currently taking place. This makes it unlikely that a small business could afford to sustain the infrastructure required to perform these types of services in locations such as Iraq and Afghanistan. Small business preferential programs under FAR part 19 may not apply to these contracts as they only apply to contracts placed in the United States or its outlying areas. DoD invited comments when the interim rule was published on October 29, 2010 (75 FR 66683). No comments were received. Based on the above factors, the number of small business firms to which the rule would apply is expected to be minimal.

V. Paperwork Reduction Act

The rule does not impose additional information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 246 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 246 and 252, which was published at 75 FR 66683 on October 29, 2010, is adopted as a final rule without change.

[FR Doc. 2011–6232 Filed 3–16–11; 8:45 am]

BILLING CODE 5001–08–P

Proposed Rules

Federal Register
Vol. 76, No. 52
Thursday, March 17, 2011

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 119, 121, 125, 135, 141, 142, and 145

[Docket No. FAA–2009–0671; Notice No. 09–06A]

RIN 2120–AJ15

Safety Management System; Withdrawal

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Advance notice of proposed rulemaking (ANPRM); withdrawal.

SUMMARY: The FAA is withdrawing a previously published advance notice of proposed rulemaking (ANPRM) that solicited public comment on a potential rulemaking requiring certain 14 Code of Federal Regulations (CFR) part 21, 119, 121, 125 135, 141, 142, and 145 certificate holders, product manufacturers, applicants, and employers (“product/service providers”) to develop a Safety Management System (SMS). The FAA is withdrawing the ANPRM because we have issued a notice of proposed rulemaking that would require certificate holders operating under 14 CFR part 121 to develop and implement an SMS. The FAA may initiate additional rulemaking in the future to consider SMS for other product/service providers.

DATES: The advance notice of proposed rulemaking (ANPRM) published on July 23, 2009 (74 FR 36414) is withdrawn as of March 17, 2011.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Scott Van Buren, Chief System Engineer for Aviation Safety, Office of Accident Investigation and Prevention (AVP), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 494–8417; facsimile: (202) 267–3992; e-mail: *scott.vanburen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 23, 2009, the FAA published an advance notice of proposed rulemaking (ANPRM) (Notice No. 09–06, 74 FR 36414). The ANPRM solicited public comment on the appropriate scope and applicability of a potential rulemaking that would require air carriers, aircraft design and manufacturing organizations, and maintenance repair stations to develop an SMS that would provide the organization’s management with a set of robust decision-making tools to use to improve safety. The FAA received 89 comments in response to the ANPRM. The comment period closed on October 21, 2009.

The *Airline Safety and Federal Aviation Extension Act of 2010* (Pub. L. 111–216) directed the FAA to issue an NPRM within 90 days of enactment of the Act, and a final rule by July 30, 2012. The Act requires the FAA to develop and implement an SMS for all part 121 air carriers. The NPRM was published on November 5, 2010 (75 FR 68224).

The FAA also chartered the Safety Management System Aviation Rulemaking Committee (ARC) (Order No. 1110.152; February 12, 2009) to solicit recommendations from industry experts on the issue of SMS, including the ANPRM. On March 31, 2010, the ARC submitted its report to the FAA.

As a result of the legislative mandate to issue a final rule implementing Safety Management Systems for part 121 air carriers by July 2012, the FAA has decided not to immediately address SMS for other product/service providers. The SMS ARC will complete its task with submittal of comments on the part 121 SMS rulemaking by the close of comment date, March 7, 2011. Further tasks of this ARC are not anticipated. However, the FAA reiterates its commitment to SMS and may decide to establish other advisory committees or industry panels in the future to provide recommendations that may lead to SMS rulemaking for other product/service providers.

A copy of the Committee report, the NPRM and comments received thus far can be found in the docket for this rulemaking.

Reason for Withdrawal

The FAA is withdrawing Notice No. 09–06 to redirect its resources to complete the SMS for part 121 final rule by the 24 month deadline of July 30, 2012. Although the NPRM is limited to part 121 operators, the general requirements in our proposed part 5 were designed so in the future, they could be adapted and applied to other FAA-regulated entities, such as part 135 operators, part 145 repair stations, and part 21 aircraft design and manufacturing organizations. The FAA is committed to developing SMS where it will improve safety of aviation and aviation related activities.

Conclusion

Withdrawal of Notice No. 09–06 does not preclude the FAA from issuing another proposal on this subject in the future nor does it commit the agency to any future course of action. The public will be provided the opportunity for public comment on any future rulemaking through the notice and comment process. Therefore, the FAA withdraws Notice No. 09–06, published at 74 FR 36414 on July 23, 2009.

Issued in Washington, DC, on March 11, 2011.

Margaret Gilligan,

Associate Administrator for Aviation Safety.

[FR Doc. 2011–6255 Filed 3–16–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 223

RIN 1510–AB27

Surety Companies Doing Business With the United States

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking with request for comment.

SUMMARY: The Department of the Treasury, Financial Management Service (Treasury), administers the Federal corporate surety program. Treasury issues certificates of authority to qualified sureties to underwrite and reinsure Federal bond obligations. We are proposing to amend our regulation to clarify the circumstances when an agency bond-approving official can decline to accept a bond underwritten by a Treasury-certified surety. We are

also proposing to amend the procedures to be used by Treasury in adjudicating any complaint received from an agency requesting that a surety's certificate be revoked for failure to satisfy an administratively final bond obligation due the agency.

DATES: Comments on the proposed rule must be received by May 16, 2011.

ADDRESSES: The Financial Management Service participates in the U.S. government's eRulemaking Initiative by publishing rulemaking information on *http://www.regulations.gov.* Regulations.gov offers the public the ability to comment on, search, and view publicly available rulemaking materials, including comments received on rules.

Comments on this rule, identified by docket FISCAL–FMS–2010–0001, should only be submitted using the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the Web site for submitting comments.
- *Mail:* Rose Miller, Manager, Surety Bond Branch, Financial Management Service, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

The fax and e-mail methods of submitting comments on rules to FMS have been retired.

Instructions: All submissions received must include the agency name ("Financial Management Service") and docket number FISCAL–FMS–2010–0001 for this rulemaking. In general, comments will be published on Regulations.gov without change, including any business or personal information provided. 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.

FOR FURTHER INFORMATION CONTACT: Rose Miller, Manager, Surety Bond Branch, Financial Management Service, at (202) 874–6850 or *rose.miller@fms.treas.gov,* or James J. Regan, Senior Counsel, Financial Management Service, at (202) 874–6680 or *james.regan@fms.treas.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Treasury is responsible for administering the corporate Federal surety bond program under the authority of 31 U.S.C. 9304–9308 and 31 CFR part 223 (part 223). Congress delegated to Treasury the discretion to issue a certificate if Treasury decides the surety's articles of incorporation authorize it to engage in the business of surety, the corporation has the requisite paid-up capital, cash, or equivalent assets, and the corporation is able to carry out its contracts. Treasury evaluates the qualifications of sureties to write Federal bonds and issues certificates of authority to those sureties that meet the specified corporate and financial standards. Treasury publishes the list of certified sureties in Department Circular 570 which is available online at *http://www.fms.treas.gov/c570.* Federal bond-approving officials consult and rely on this list whenever a corporate surety bond is presented to an agency because bonds underwritten by Treasury-certified sureties satisfy bonding requirements, provided such bonds are accepted by agency bond-approving officials.

Treasury finds it necessary to clarify the circumstances under which a Federal agency bond-approving official can decline to accept a bond underwritten by a Treasury-certified surety. Federal agencies have sometimes continued to accept bonds from a certified surety, even when the surety owes the agency an administratively final bond obligation, believing that Treasury certification mandates such acceptance in all cases. This is not the case.

The proposed rule would clarify that Treasury certification does not insulate a surety from the requirement to satisfy administratively final bond obligations in order to ensure that its bonds will be accepted by agencies in all cases. Specifically, under the proposed rule, an agency bond-approving official would have the discretion to decline to accept bonds underwritten by a Treasury-certified surety for cause, such as when the surety owes the agency an unpaid or unsatisfied bond obligation that is administratively final under agency procedures. This discretion is not without limit. Before declining to accept bonds from a Treasury-certified surety, an agency must provide the surety advance written notice stating: (i) The intention of the agency to decline bonds underwritten by the surety, (ii) the reasons for or cause of the proposed non-acceptance of such bonds, (iii) the opportunity for the surety to rebut the stated reasons or cause, and (iv) the surety's opportunity to cure the stated reasons or cause. Under the proposed rule, the agency may decline the bonds underwritten by the certified surety if, after consideration of any submission by the surety, the agency issues a written determination that the bonds should be declined. The agency is required to articulate standards for exercising its discretion to decline bonds from Treasury-certified sureties in an agency rule or regulation prior to declining any bonds in specific cases.

The proposed rule is consistent with the general and permanent surety laws that were enacted by Congress and later codified, without substantive change, as 31 U.S.C. 9304(b). The surety statutory framework is derived from public laws enacted in 1894 and 1910. The Act of August 13, 1894, 28 Stat. 279, as amended by The Act of March 23, 1910, 36 Stat. 241, provided that a bond underwritten by a Treasury-certified surety satisfied bonding requirements "*Provided,* That such recognizance, stipulation, bond, or undertaking be approved by the head of department, court, judge, officer, board, or body executive, legislative, or judicial required to approve or accept the same." This *proviso* conditioned acceptance of a bond on the approval by an agency. This language was first codified in 1925 as 6 U.S.C. 6, and codified again in 1982 as 31 U.S.C. 9304(b), without substantive change. *See, e.g., The Code of the Laws of the United States of America,* December 7, 1925, Preface Statement (The codification is the official restatement of the general and permanent laws of the United States, and under the codification "No new law is enacted and no law repealed"); Public Law 97–258 (1982), 96 Stat. 877, 1047 (Codification enacted "without substantive change").

Federal courts have affirmed that Section 9304(b), and its predecessor derivations, afford agency bond-approving officials discretion to decline the acceptance of a bond underwritten by a Treasury-certified surety, consistent with the due process standards articulated in the proposed rule. *See Concord Casualty & Surety Co.* v. *United States,* 69 F.2d 78, 81 (2d Cir. 1934)(The bond-approval official's approval of a bond underwritten by a Treasury-certified surety "is not mandatory" but calls for the exercise of wise discretion); *American Druggists Ins. Co.* v. *Bogart,* 707 F.2d 1229, 1233 (11th Cir. 1983)("The surety's approval by the Secretary of the Treasury * * * does not preclude the district court from exercising its discretion to approve only those [bail] bonds which it feels confident will result in the defendant's presence at trial" and "*Section 9304(b)* impliedly authorizes this discretion in its provision that 'each surety bond shall be approved by the official of the Government required to approve or accept the bond.' ").

The proposed text is also consistent with 31 U.S.C. 9305(d)(3) which authorizes Treasury to require

additional security in circumstances when the surety is no longer sufficient. Specifically, Treasury believes the discretion afforded to agency bond-approving officials under the proposed text is appropriate because a surety that has not paid an administratively final bond obligation to an agency, even after due process has been afforded, is no longer providing sufficient security vis-à-vis the agency.

The proposed rule is necessary to better facilitate the prompt resolution of bond disputes between Federal agencies and sureties. Under the current rule, the status of Treasury certification has had the unintended consequence of inhibiting the proper adherence to agency administrative processes in bond dispute matters. In practice, this has negatively impacted the ability to resolve administratively final bond obligation disputes at the agency level. In a limited number of cases, sureties appear to have simply ignored agency final decisions for extended periods of time. While these cases are anomalous and rare, they represent an unwelcome burden on the Treasury and the public fisc because the administratively final bond obligations at issue were not paid, or resolved, promptly.

Thus, the proposed rule would clarify that agencies have two options when experiencing surety performance and collection problems. *First,* an agency owed an administratively final bond obligation by a certified surety has the discretion to decline acceptance of additional bonds underwritten by such surety, *provided* the due process standards articulated in the rule are satisfied. *Second,* an agency owed an administratively final bond obligation by a certified surety can submit a complaint to Treasury requesting that the surety's certificate be revoked.

With regard to this second option, the proposed rule would clarify the procedures and standard of review that will be used by Treasury to adjudicate any complaint submitted by an agency to Treasury requesting that a surety's certificate be revoked for failure to satisfy an administratively final bond obligation. Under the proposed rule, Treasury will not conduct a *de novo* review of the administratively final agency determination that a bond obligation is past due because substantive agency bond obligation determinations are based, in large part, on the interpretation and application of laws that the agency, rather than Treasury, has been tasked by Congress with administering. Treasury will not substitute its judgment for that of the agency in determining whether a bond obligation is owed under agency authorities. Rather, in considering whether the surety's certificate should be revoked, Treasury will review whether the agency's administratively final decision (that the surety owes a past-due bond obligation) was reasonable, based on a consideration of relevant factors, and did not involve a clear error of judgment.

To the extent that a surety requests Treasury to conduct an informal hearing before reaching its decision on whether the surety's certificate should be revoked, the proposed rule clarifies that the formal adjudication standards under the Administrative Procedures Act, 5 U.S.C. 554, 556, and 557, do not apply to the conduct of such an informal hearing. This is appropriate because Treasury's surety statutes, 31 U.S.C. 9304–9308, do not require a formal adjudication to be determined on the record after an opportunity for a hearing. *See, e.g.,* 5 U.S.C. 554(a)(formal adjudication procedures only apply in cases "required by statute to be determined on the record after an opportunity for an agency hearing"). Moreover, a surety's property interest in its certificate is narrow. *American Druggists Ins. Co.* v. *Bogart,* 707 F.2d 1229, 1235 (11th Cir. 1983)("The scope of the surety's protected interest arising from the federal regulatory scheme is indeed narrow."). Given this narrow interest, the opportunity for a surety to request an informal hearing under the standards articulated in the proposed rule is consistent with due process requirements that the surety be given an opportunity to be heard "at a meaningful time and in a meaningful manner." *See, e.g., Matthews* v. *Eldridge,* 424 U.S. 319, 333 (1976)(Fundamental due process satisfied if the individual is given an opportunity to be heard "at a meaningful time and in a meaningful manner").

In addition, Treasury is proposing to make certain technical amendments to part 223 to update statutory citations and to provide current Treasury point of contact information.

II. Section-by-Section Analysis

Section 223.1

We are proposing to amend § 223.1 by stating, in plain language, that part 223 governs the issuance and revocation of certificates of authority of surety companies to do business with the United States as sureties on, or reinsurers of, Federal surety bond obligations, and the acceptance of such obligations. The proposed rule deletes archaic language and clarifies that the U.S. Department of the Treasury, Financial Management Service (Treasury), acts on behalf of the Secretary of the Treasury in performing these duties.

Section 223.2

We are proposing to amend § 223.2 to clarify that applications for certificates of authority should be submitted to Treasury at the location, and in the manner, specified online at *http://www.fms.treas.gov/c570,* as amended from time to time.

Section 223.3

Section 223.3(a) establishes the requirements that must be met by an applicant company in order to be issued a certificate of authority by Treasury. Proposed § 223.3(a) restates such requirements in plain language. In addition, the proposed regulation clarifies that any certificate issued by Treasury is expressly subject to the continuing compliance by the surety with all statutory requirements and the other conditions referenced in this part.

Section 223.4

Section 223.4 provides that no company will be issued a certificate of authority by Treasury unless it maintains on deposit with the insurance commissioner of the State in which it is incorporated, or other specified State official, legal investments having a current market value of not less than $100,000, for the protection of claimants, including the surety's policyholders in the United States. Proposed § 223.4 would add a sentence requiring a company to submit to Treasury with its initial application for a certificate of authority, and annually thereafter, a written statement signed by the State official attesting to the current market value of the deposit (not less than $100,000) and that the legal investments remain on deposit with the State.

Section 223.8

Section 223.8 requires Treasury-certified sureties to file annual and quarterly financial reports to Treasury for review. Proposed § 223.8(a) updates the specified Treasury official to whom these reports should be submitted.

Section 223.9

Section 223.9 establishes the criteria by which Treasury values the assets and liabilities of a company for certificate of authority purposes. Section 223.9 provides that Treasury will allow credit for reinsurance in all classes of risk if the reinsuring company holds a certificate of authority from Treasury, or has been recognized as an admitted reinsurer by Treasury. Proposed § 223.9 clarifies that this credit for reinsurance

will be allowed only if the reinsurer is in continuing compliance with all certificate of authority requirements.

Section 223.11

Section 223.11(b) provides that a surety can underwrite a Federal bond in excess of its underwriting limitation if the excess amount is reinsured by a company holding a certificate of authority issued by Treasury, provided the specified reinsurance requirements are met. Proposed § 223.11(b) clarifies that the requisite reinsurance bond forms are available on the General Services Administration Web site at *http://www.gsa.gov.*

Section 223.12

Section 223.12 establishes the application requirements and standards for a company to be recognized by Treasury as an admitted reinsurer (except on excess risks running to the United States) for surety companies doing business with the United States. When a Treasury-certified surety cedes non-Federal risks to an admitted reinsurer, Treasury will credit the surety for the ceded reinsurance when valuing its assets and liabilities, provided applicable requirements are met. Proposed § 223.12 updates the specified Treasury official to whom applications and reports pertaining to admitted reinsurer status should be submitted.

Section 223.16

Proposed § 223.16, List of certificate holding companies, adds a new fourth sentence to this subpart providing: "Bonds underwritten by certified companies on the Department Circular No. 570 list may be presented to an agency bond-approving official for acceptance." Proposed § 223.16 adds a final sentence to this subpart providing: "Selection of a particular qualified company from among all companies holding certificates of authority is discretionary with the principal required to furnish the bond, but the acceptance of a bond by an agency bond-approving official is subject to § 223.17."

This proposed text clarifies that Treasury-certified sureties have the opportunity to present their bonds to an agency bond-approving official for acceptance, but that the actual acceptance of a bond by an agency bond-approving official is subject to proposed § 223.17.

Section 223.17

Proposed § 223.17, Acceptance and non-acceptance of bonds, clarifies that every surety holding a Treasury-issued certificate of authority has the opportunity to present its bonds to an agency bond-approving official for acceptance, and that such bond-approving official may accept such proffered bonds in all cases. It also clarifies, however, that an agency bond-approving official has the discretion to decline bonds underwritten by a Treasury-certified surety for cause, *provided* the specified due process protections are satisfied. The agency is required to articulate standards for exercising its discretion not to accept bonds from Treasury-certified sureties in an agency rule or regulation prior to declining any bonds in specific cases. Existing agency rules or regulations that substantially comply with, or that are consistent with, the requirement to articulate standards in advance meet the requirements of this paragraph.

Under proposed § 223.17, for cause is primarily defined to mean that a surety has not paid or satisfied an administratively final bond obligation due the agency. The articulation of this primary definition is not intended to preclude an agency from articulating additional "for cause" reasons, provided such reasons are defined in an agency rule or regulation in advance, and such additional reasons are otherwise consistent with an agency's own authorities. *See, e.g.,* 27 CFR 25.101 (Existing Treasury Tax and Trade Bureau (TTTB) regulation authorizing rejection of a bond for substantive reason consistent with that agency's mission; under § 25.101, TTTB can disapprove a bond if the surety has been convicted of any fraudulent noncompliance with any provision of law of the United States related to internal revenue or customs taxation of distilled spirits, wines, or beer).

The authority of an agency to decline the acceptance of bonds "for cause" under this proposed paragraph would not apply when the for cause basis, *e.g.,* the obligation of the surety to satisfy administratively final bond obligations owed the agency, has been stayed or enjoined by a court of competent jurisdiction.

Section 223.18

Proposed § 223.18, Revocation, clarifies that revocation of a surety's certificate of authority by Treasury can occur in two ways. First, Treasury can initiate a revocation proceeding on its own initiative under proposed § 223.19, Treasury initiated revocation proceedings, when it has reason to believe that a surety is not complying with 31 U.S.C. 9304–9308 and/or the regulations under part 223. Second, Treasury can initiate a revocation proceeding under proposed § 223.20, Revocation proceedings initiated by Treasury upon receipt of an agency complaint, upon receipt of a complaint from an agency that a surety has not satisfied an administratively final bond obligation.

Section 223.19

Proposed § 223.19, Treasury initiated revocation proceedings, outlines the process by which Treasury initiates proceedings on its own accord to revoke a surety's certificate of authority for failure to meet the requirements of 31 U.S.C. 9304–9308 and/or part 223. These proceedings can be initiated due to a failure to meet financial strength requirements or any other requirement.

Section 223.20

Proposed § 223.20, Revocation proceedings initiated by Treasury upon receipt of an agency complaint, specifies the process for an agency to submit a complaint to Treasury requesting that a certified surety's certificate of authority be revoked for failure to satisfy an administratively final bond obligation. Proposed § 223.20 affords the surety the opportunity to demonstrate its qualifications to retain its certificate, establishes the roles of the Treasury Reviewing Official and the Treasury Deciding Official in the adjudicative process, and establishes the standard of review to be used by the Reviewing and Deciding Officials in reaching a decision.

The Treasury Reviewing and Deciding Officials will not conduct a de novo review of the agency's administratively final determination that a bond obligation is past due because substantive agency bond obligation determinations are based, in large part, on the interpretation and application of laws that the complaining agency, rather than Treasury, has been tasked by Congress with administering. The Treasury Reviewing and Deciding Officials will not substitute their judgment for that of the agency. Rather, in reviewing whether revocation is justified, Treasury will consider whether the agency's final decision (that the surety owes a past-due bond obligation) was reasonable, based on a consideration of relevant factors, and did not involve a clear error of judgment.

As a general rule, proposed § 223.20 anticipates that Treasury will adjudicate agency complaints without an informal oral hearing. Proposed § 223.20(c) ensures that the surety is afforded a fair opportunity to demonstrate, in writing, its qualifications to retain its certificate before a decision is reached. Nevertheless, in the event a surety

believes the opportunity to make known its views is inadequate, it may request that Treasury convene an informal hearing before reaching a decision under the timeframes established in the proposed rule. Proposed § 223.20(h) specifies the procedures under which such an informal hearing would be conducted.

In the event that the Treasury Deciding Official sustains the agency's complaint and makes a decision that the surety's certificate should be revoked, proposed § 223.20 clarifies that a surety will be afforded an opportunity to cure the noncompliance to avoid decertification, unless its noncompliance is "willful." Proposed § 223.20(g) articulates the scope and application of the willful exception to the cure opportunity.

Section 223.21

Proposed § 223.21, Reinstatement, provides that a surety whose certificate of authority has been revoked, or not renewed, by Treasury can apply for reissuance of a certificate of authority after one year. Among other things, such a surety must demonstrate as a condition of reinstatement that the basis for the non-renewal or revocation of its certificate has been eliminated. Under proposed § 223.21 the determination of whether the basis for the non-renewal or revocation has been eliminated or effectively cured will be made by Treasury in its discretion.

DERIVATION CHART FOR REVISED PART 223

Old section	New section
—	223.17
223.17	223.18
—	223.19
223.18	223.20
223.19	223.20
223.20	223.20
223.21	223.21
223.22	223.22

III. Procedural Analyses

Request for Comment on Plain Language

Executive Order 12866 requires each agency in the Executive branch to write regulations that are simple and easy to understand. We invite comment on how to make the proposed rule clearer. For example, you may wish to discuss: (1) Whether we have organized the material to suit your needs; (2) whether the requirements of the rules are clear; or (3) whether there is something else we could do to make these rules easier to understand.

Regulatory Planning and Review

The proposed rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

Regulatory Flexibility Act Analysis

It is hereby certified that the proposed rule will not have a significant economic impact on a substantial number of small entities. Treasury-certified sureties already have an existing obligation to make payment on bond obligations to ensure acceptance of their bonds by agency bond-approving officials under 31 U.S.C. 9304(b). The proposed rule merely codifies this existing obligation in the regulation and clarifies that Federal agencies can decline to accept bonds underwritten by Treasury-certified sureties in limited circumstances, primarily when the surety owes the agency an administratively final bond obligation. In addition, Treasury-certified sureties have an existing obligation to make payment on bond obligations or be subject to Treasury certificate revocation proceedings. The proposed rule merely clarifies the procedures and standard of review that will be used by Treasury in adjudicating revocation complaints submitted by agencies. Payment disputes involving Treasury-certified sureties are anomalous and rare. The proposed rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that the agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. We have determined that the proposed rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, we have not prepared a budgetary impact statement or specifically addressed any regulatory alternatives.

List of Subjects in 31 CFR Part 223

Administrative practice and procedure, Surety bonds.

For the reasons set out in the preamble, we propose to amend 31 CFR part 223 as set forth below:

PART 223—SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

1. Revise the authority citation for part 223 to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 9304–9308.

2. Revise § 223.1 to read as follows:

§ 223.1 Certificate of authority.

The regulations in this part will govern the issuance by the Secretary of the Treasury, acting through the U.S. Department of the Treasury, Financial Management Service (Treasury), of certificates of authority to bonding companies to do business with the United States as sureties on, or reinsurers of, Federal surety bonds (hereinafter "bonds" or "obligations") under the authority of 31 U.S.C. 9304–9308 and this part, and the acceptance of such obligations. The regulations in this part also govern the revocation of certificates.

3. Revise § 223.2 to read as follows:

§ 223.2 Application for certificate of authority.

Every company wishing to apply for a certificate of authority shall submit an application to the Financial Management Service, U.S. Department of the Treasury, c/o Surety Bond Branch, to the location, and in the manner, specified online at *http://www.fms.treas./c570,* as amended from time to time. In accordance with 31 U.S.C. 9305(a), the data will include a copy of the applicant's charter or articles of incorporation and a statement, signed and sworn to by its president and secretary, showing its assets and liabilities. A fee shall be transmitted with the application in accordance with the provisions of § 223.22(a)(i).

4. In § 223.3, revise paragraph (a) to read as follows:

§ 223.3 Issuance of certificates of authority.

(a)(1) A company submitting an application to be issued a certificate of authority by Treasury to underwrite and reinsure Federal surety bonds must include all required data and information, as determined by Treasury

in its discretion, for the application to be complete and ready for review. Upon receipt of a complete application, Treasury will evaluate the submission to determine whether the applicant company:

(i) Is duly authorized under its charter or articles of incorporation to conduct the business referenced under 31 U.S.C. 9304(a)(2);

(ii) Has paid-up capital of at least $250,000 in cash or its equivalent;

(iii) Is solvent and financially and otherwise qualified to conduct the business referenced under 31 U.S.C. 9304(a)(2); and

(iv) Is able and willing to carry out its contracts. In making the determination whether a company meets these requirements, Treasury will evaluate the application as a whole, the required financial statement(s) submitted by the company, the company's charter or articles of incorporation, the past history of the company, and any further evidence or information that Treasury may require the company to submit (at the company's expense).

(2) If Treasury determines, in its discretion, that the applicant company meets all of these requirements, Treasury will issue a certificate of authority to the company authorizing it to underwrite and reinsure Federal bonds. The certificate of authority will be effective for a term that expires on the last day of the next June. All such statutory requirements and regulatory requirements under this part are continuing obligations, and any certificate is issued expressly subject to continuing compliance with such requirements. The certificate of authority will be renewed annually on the first day of July, *provided* the company remains qualified under the law, the regulations in this part, and other pertinent Treasury requirements, *and* the company submits the fee required under § 223.22 by March 1st of each year to the address and/or account specified by Treasury.

* * * * *

5. In § 223.4, add a sentence to the end of the section to read as follows:

§ 223.4 Deposits.

* * * The company shall submit to Treasury with its initial application for a certificate of authority, and annually thereafter, a written statement signed by such State official attesting to the current market value of the deposit (not less than $100,000) and that the legal investments remain on deposit with the State under the terms specified.

6. In § 223.8, revise paragraph (a) to read as follows:

§ 223.8 Financial reports.

(a) Every such company will be required to file with the Assistant Commissioner, Management, or incumbent Treasury executive, on or before the last day of January of each year, a statement of its financial condition made up as of the close of the preceding calendar year upon the annual statement blank adopted by the National Association of Insurance Commissioners, signed and sworn to by its president and secretary. On or before the last days of April, July and October of each year, every such company shall file a financial statement with the Assistant Commissioner, Management, or incumbent Treasury executive as of the last day of the preceding month. A form is prescribed by the Treasury for this purpose. The quarterly statement form of the National Association of Insurance Commissioners when modified to conform to the Treasury's requirements, may be substituted for the Treasury's form. The quarterly statement will be signed and sworn to by the company's president and secretary or their authorized designees.

* * * * *

7. In § 223.9, revise the last sentence to read as follows:

§ 223.9 Valuation of assets and liabilities.

* * * Credit will be allowed for reinsurance in all classes of risks if the reinsuring company holds a certificate of authority from the Secretary of the Treasury, *provided* such reinsuring company is in continuing compliance with all certificate of authority requirements, or has been recognized as an admitted reinsurer in accord with § 223.12.

8. In § 223.11, revise paragraph (b)(1) to read as follows:

§ 223.11 Limitation of risk: Protective methods.

* * * * *

(b) *Reinsurance.* (1) In respect to bonds running to the United States, liability in excess of the underwriting limitation shall be reinsured within 45 days from the date of execution and delivery of the bond with one or more companies holding a certificate of authority from the Secretary of the Treasury. Such reinsurance shall not be in excess of the underwriting limitation of the reinsuring company. Where reinsurance is contemplated, Federal agencies may accept a bond from the direct writing company in satisfaction of the total bond requirement even though it may exceed the direct writing company's underwriting limitation. Within the 45 day period, the direct writing company shall furnish to the Federal agency any necessary reinsurance agreements. However, a Federal agency may, at its discretion, require that reinsurance be obtained within a lesser period than 45 days, and may require completely executed reinsurance agreements to be provided before making a final determination that any bond is acceptable. Reinsurance may protect bonds required to be furnished to the United States by the Miller Act (40 U.S.C. 3131, as amended) covering contracts for the construction, alteration, or repair of any public building or public work of the United States, as well as other types of Federal bonds. Use of reinsurance or coinsurance to protect such bonds is at the discretion of the direct writing company. Reinsurance shall be executed on reinsurance agreement forms: Standard Form 273 (Reinsurance Agreement for a Miller Act Performance Bond), Standard Form 274 (Reinsurance Agreement for a Miller Act Payment Bond), and Standard Form 275 (Reinsurance Agreement in Favor of the United States for other types of Federal bonds). These Standard Forms are available on the General Services Administration Web site at *http://www.gsa.gov.*

* * * * *

9. In § 223.12, revise paragraph (a) introductory text, paragraph (a)(5), paragraph (b) introductory text, and paragraph (c) to read as follows:

§ 223.12 Recognition as reinsurer.

(a) *Application by U.S. company.* Any company organized under the laws of the United States or of any State thereof, wishing to apply for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States, shall file the following data with the Assistant Commissioner, Management, or incumbent Treasury executive, and shall transmit therewith the fee in accordance with the provisions of § 223.22:

* * * * *

(5) Such other evidence as Treasury may determine is necessary to establish that it is solvent and able to meet the continuing obligation to carry out its contracts.

(b) *Application by a U.S. branch.* A U.S. branch of an alien company applying for such recognition shall file the following data with the Assistant Commissioner, Management, or incumbent Treasury executive, and shall transmit therewith the fee in

accordance with the provisions of § 223.22:

* * * * *

(c) *Financial reports.* Each company recognized as an admitted reinsurer shall file with the Assistant Commissioner, Management, or incumbent Treasury executive, on or before the first day of March of each year its financial statement and such additional evidence as the Secretary of the Treasury determines necessary to establish that the requirements of this section are being met. A fee shall be transmitted with the foregoing data, in accordance with the provisions of § 223.22.

10. Revise § 223.16 to read as follows:

§ 223.16 List of certificate holding companies.

A list of qualified companies is published annually as of July 1 in Department Circular No. 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, with information as to underwriting limitations, areas in which listed sureties are licensed to transact surety business and other details. If the Secretary of the Treasury shall take any exceptions to the annual financial statement submitted by a company, he or she shall, before issuing Department Circular 570, give a company due notice of such exceptions. Copies of the Circular are available at *http://www.fms.treas.gov/c570,* or from the Assistant Commissioner, Management, or incumbent Treasury executive, upon request. Bonds underwritten by certified companies on the Department Circular No. 570 list may be presented to an agency bond-approving official for acceptance. Selection of a particular qualified company from among all companies holding certificates of authority is discretionary with the principal required to furnish the bond, but the acceptance of a bond by an agency bond-approving official is subject to § 223.17.

11. Revise § 223.17 to read as follows:

§ 223.17 Acceptance and non-acceptance of bonds.

(a) *Acceptance of bonds.* A bond underwritten by a certified company on the § 223.16 Department Circular No. 570 list may be presented to an agency-bond approving official for acceptance, and such agency bond-approving official may accept such bonds.

(b) *Non-acceptance of bonds.* (1) An agency bond-approving official has the discretion not to accept bond(s) underwritten by a certified company on the § 223.16 List of certificate holding companies, Department Circular No. 570, for cause, but only if the certified surety has been given advance written notice by such agency. The advance written notice shall state:

(i) The intention of the agency to decline bond(s) underwritten by the surety;

(ii) The reasons for or cause of the proposed non-acceptance of such bond(s);

(iii) The opportunity for the surety to rebut the stated reasons or cause; and

(iv) The surety's opportunity to cure the stated reasons or cause.

(2) The agency may decline to accept bond(s) underwritten by the surety if, after consideration of any submission by the surety or failure of the surety to respond to the agency notice, the agency issues a written determination that the bond(s) should not be accepted, consistent with agency standards. The agency shall articulate its standards for exercising its discretion not to accept bonds under this paragraph in an agency rule or regulation prior to declining any bonds in specific cases. "For cause" is primarily defined to mean that a surety has not paid or satisfied an administratively final bond obligation due the agency. The articulation of this primary definition is not intended to preclude an agency from articulating additional "for cause" reasons, providing such reasons are defined in an agency rule or regulation in advance, and such additional reasons are otherwise consistent with an agency's own authorities. Existing agency rules or regulations that substantially comply with, or that are consistent with, the requirement to articulate standards in advance meet the requirements of this paragraph.

(3) Agencies that decline bonds under this paragraph are encouraged to use best efforts to ensure that persons conducting business with the agency are aware that bonds underwritten by the particular certified surety will not be accepted.

(4) The authority to decline bonds under this paragraph does not apply when the "for cause" basis, *e.g.,* the obligation of the surety to satisfy administratively final bond obligations, has been stayed or enjoined by a court of competent jurisdiction.

§§ 223.18 through 223.20 [Removed]

12. Remove §§ 223.18, 223.19, and 223.20.

§ 223.17 [Redesignated as § 223.18]

13. Redesignate § 223.17 as § 223.18.

14. Revise newly redesignated § 223.18 to read as follows:

§ 223.18 Revocation.

(a) A certified surety's certificate of authority granting the surety the opportunity to present its bonds for approval to an agency bond-approving official, *i.e.,* the surety's listing on Department Circular 570, can be revoked by Treasury in two ways:

(1) Treasury, of its own accord, under § 223.19, may initiate revocation proceedings against the surety when it has reason to believe that a company is not complying with 31 U.S.C. 9304–9308 and/or the regulations under this part, or

(2) Treasury, under § 223.20, may initiate revocation proceedings against the surety upon receipt of a complaint from an agency that the surety has not paid or satisfied an administratively final bond obligation due the agency.

(b) A revocation of a surety's certificate of authority under § 223.19 or § 223.20 precludes the surety from underwriting or reinsuring additional bonds for any agency, and therefore revokes the surety's opportunity to have its bonds presented to any agency bond-approving official for acceptance.

15. Add new § 223.19 to read as follows:

§ 223.19 Treasury initiated revocation proceedings.

Whenever Treasury has reason to believe that a surety is not complying with the requirements of 31 U.S.C. 9304–9308 and/or the regulations in this part, including but not limited to a failure to satisfy corporate and financial standards, Treasury shall:

(a) Notify the company of the facts or conduct which indicate such failure, and provide opportunity to the company to respond, and

(b) Revoke a company's certificate of authority with advice to it if:

(1) The company does not respond satisfactorily to its notification of noncompliance, or

(2) The company, provided an opportunity to demonstrate or achieve compliance, fails to do so.

16. Add new § 223.20 to read as follows:

§ 223.20 Revocation proceedings initiated by Treasury upon receipt of an agency complaint.

(a) *Agency Complaint.* If an agency determines that a surety has not promptly made full payment or fully satisfied an administratively final bond obligation naming the agency as obligee, the head of the agency, or his or her designee, may submit a complaint to the Assistant Commissioner, Management, or incumbent Treasury executive, requesting that the surety's certificate of

authority be revoked for nonperformance of administratively final bond obligations. Under such complaint, the agency shall certify that:

(1) The agency has made a determination, in accordance with applicable agency procedures and standards, that a surety owes on a bond obligation naming the agency as obligee;

(2) The agency has submitted a written demand on behalf of the agency to the surety requesting payment or satisfaction on the bond obligation;

(3) The surety was afforded the opportunity to request administrative review within the agency of the determination that the bond obligation was due, and the agency made a final administrative determination that the bond obligation was due after the completion of such administrative review, *or* the time period for the surety to request administrative review within the agency has expired, *i.e.,* the bond obligation is administratively final;

(4) The agency provided the surety the opportunity to enter into a written agreement to satisfy the obligation;

(5) The surety has not made full payment or fully satisfied the obligation, and the obligation is past due; and

(6) The surety's obligation to make payment or satisfy the obligation has not been stayed or enjoined by a court of competent jurisdiction conducting judicial review of such obligation.

(b) *Documentation of Complaint.* The agency shall include in its complaint a copy of the bond, written notice of the bond claim, pertinent administrative agency decisions supporting the final agency determination that a bond obligation is due, a copy of a written demand letter supporting the determination that payment of the bond obligation is past due, and documentation indicating the surety was afforded the opportunity to enter into a written agreement to satisfy the bond obligation.

(c) *Notice to Surety.* On receipt of a complaint meeting the requirements of paragraphs (a) and (b) of this section, Treasury will notify the surety that its certificate of authority to write additional bonds for any agency will be revoked in the absence of a satisfactory explanation. The notice will require the surety to submit a written explanatory response to Treasury within 20 business days. The notice will advise the surety of the facts and conduct referenced in the complaint. The notice will afford the company the opportunity to demonstrate its qualifications to retain its certificate of authority.

(d) *Reviewing Official and Deciding Official.* The Assistant Commissioner, Management, or incumbent Treasury executive, will appoint a Reviewing Official to conduct a paper review of the Federal agency complaint referenced in paragraphs (a) and (b) of this section, and the surety response referenced in paragraph (c) of this section, to determine whether revocation of the surety's certificate of authority is warranted. The Reviewing Official is authorized to require the submission of additional documentation from the complaining agency and the surety, to ensure appropriate consideration of relevant factual or legal issues. Upon completion of such review, the Reviewing Official shall prepare a written Recommendation Memorandum addressed to the Assistant Commissioner, Management, or incumbent Treasury executive, setting forth findings and a recommended disposition. The Assistant Commissioner, Management, or incumbent Treasury executive with executive oversight of the Treasury surety program, will be the Deciding Official who will make the final decision whether the surety's certificate of authority to write and reinsure bonds should be revoked based on the administrative record. For these purposes, the administrative record consists of the agency complaint referenced in paragraphs (a) and (b) of this section, the surety response referenced in paragraph (c) of this section, any other documentation submitted to, or considered by, the Reviewing Official, and the Reviewing Official's Recommendation Memorandum.

(e) *Final Decision.* (1) If the Deciding Official's final decision is that revocation is not warranted, the surety and the agency will be notified of the basis of this decision and the complaint against the surety will be dismissed.

(2) If the Deciding Official's final decision is that the surety's certificate of authority shall be revoked, the Deciding Official will notify the surety and the agency of the revocation decision and the basis for such decision. Except as provided in paragraph (g) of this section, the notice will afford the surety an opportunity to demonstrate or achieve compliance, *i.e.,* cure its noncompliance, by satisfying the bond obligations forming the basis of the final decision within 20 business days. If the surety cures its noncompliance within 20 business days, the complaint against the surety will be deemed moot and the surety will retain its certificate of authority to write Federal bonds. If the surety does not cure its noncompliance within 20 business days, the surety's certificate of authority shall be revoked by Treasury without further notice.

(f) *Standard of Review.* (1) In reviewing whether the revocation of the surety's certificate of authority is warranted under this section, the Reviewing Official and the Deciding Official will determine whether the agency's administratively final decision that the surety owes a past-due bond obligation:

(i) Was reasonable;

(ii) Was based on a consideration of relevant factors; and

(iii) Did not involve a clear error of judgment.

(2) The Reviewing Official and the Deciding Official will not conduct a *de novo* review of the agency determination, and will not substitute their judgment for that of the agency.

(g) *Consideration of Willful Conduct.* The surety is not entitled to an opportunity to demonstrate or achieve compliance, *i.e.,* cure its noncompliance, if its conduct in failing to carry out its contracts is willful. For purposes of this regulation, "willful" means a careless or reckless disregard of a known legal obligation to satisfy a past due bond obligation. In considering whether a surety's conduct is willful, the Deciding Official may consider whether:

(1) An agency has filed a prior complaint with Treasury requesting that the surety's certificate be revoked for a substantially similar past-due bond obligation;

(2) The surety asserted substantially similar defenses to such bond obligation;

(3) Such defenses were considered by the agency under pertinent authorities and dismissed;

(4) Treasury made a final decision that revocation of the surety's certificate was justified; and

(5) Other pertinent factors.

(h) *Informal Hearing.* (1) If a surety that is the subject of a paragraphs (a) and (b) of this section complaint believes the opportunity to make known its views, as provided for under § paragraph (c) of this section, is inadequate, it may, within 20 business days of the date of the notice required by paragraph (c), request, in writing, that an informal hearing be convened.

(2) As soon as possible after a written request for an informal hearing is received, the Reviewing Official shall convene an informal hearing, at such time and place as he or she deems appropriate, for the purpose of determining whether the surety's certificate of authority should be revoked.

(3) The surety shall be advised, in writing, of the time and place of the informal hearing and shall be directed

to bring all documents, records and other information as it may find necessary and relevant to support its position.

(4) The surety may be represented by counsel and shall have a fair opportunity to present any relevant material and to examine the administrative record.

(5) The complaining agency may be requested by the Reviewing Official to send a representative to the hearing to present any relevant material, and the agency representative may examine the administrative record.

(6) Formal rules of evidence will not apply at the informal hearing.

(7) The formal adjudication standards under the Administrative Procedures Act, 5 U.S.C. 554, 556, 557 do not apply to the informal hearing or adjudication process.

(8) Treasury may promulgate additional procedural guidance governing the conduct of informal hearings. This additional procedural guidance may be contained in the Annual Letter to Executive Heads of Surety Companies referenced in 31 CFR 223.9, the Treasury Financial Manual, or other Treasury publication or correspondence.

(9) Upon completion of the informal hearing, the Reviewing Official shall prepare a written Recommendation Memorandum addressed to the Assistant Commissioner, Management, or incumbent Treasury executive, setting forth findings and a recommended disposition. The Assistant Commissioner, Management, or incumbent Treasury executive, will be the Deciding Official who will make the final decision whether the surety's certificate of authority to write and reinsure Federal bonds should be revoked based on the administrative record. For these purposes, the administrative record consists of the Federal agency complaint referenced in paragraphs (a) and (b) of this section, the surety response referenced in paragraph (c), any other documentation submitted to, or considered by, or entered into the administrative record by the Reviewing Official, the hearing transcript, and the Reviewing Official's Recommendation Memorandum.

(10) The provisions of paragraphs (e), (f), and (g) of this section shall apply to the adjudication of the agency complaint when an informal hearing is conducted.

17. Revise § 223.21 to read as follows:

§ 223.21 Reinstatement.

If, after one year from the date of the expiration or the revocation of its certificate of authority under this part, a company can demonstrate that the basis for the non-renewal or revocation has been eliminated or effectively cured, as determined by Treasury in its discretion, and that it can comply with, and does meet, all continuing requirements for certification under 31 U.S.C. 9304–9308 and this part, the company may submit an application to Treasury for reinstatement or reissuance of a certificate of authority, which will be granted without prejudice, *provided* all such requirements are met.

18. In § 223.22, revise paragraph (c) to read as follows:

§ 223.22 Fees for services of the Treasury Department.

* * * * *

(c) Specific fee information may be obtained from the Assistant Commissioner, Management, or incumbent Treasury executive, or online at *http://www.fms.treas.gov/c570.* In addition, a notice of the amount of a fee referred to in paragraphs (a)(1) through (4) of this section will be published in the **Federal Register** as each change in such fee is made.

Dated: March 11, 2011.

Richard L. Gregg,

Fiscal Assistant Secretary.

[FR Doc. 2011–6277 Filed 3–16–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AN28

Dental Conditions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations regarding service connection of dental conditions for treatment purposes. The regulations currently state several principles governing determinations by VA's Veterans Benefits Administration (VBA) of service connection of dental conditions for the purpose of establishing eligibility for dental treatment by VA's Veterans Health Administration (VHA). We propose to clarify that those principles apply only when VHA requests information or a rating from VBA for those purposes. The amendments are to clarify existing regulatory provisions and to reflect the respective responsibilities of VHA and VBA in determinations concerning eligibility for dental treatment.

DATES: Comments must be received by VA on or before May 16, 2011.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to "RIN 2900–AN28—Dental Conditions." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Tom Kniffen, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9725. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VA's adjudication regulation regarding service connection of dental conditions for treatment purposes, 38 CFR 3.381, identifies circumstances under which dental conditions that may not qualify as disabilities for purposes of VA disability compensation may nevertheless be service connected for purposes of VA dental treatment under 38 U.S.C. 1712 and 38 CFR 17.161. Because VHA has primary responsibility for determining eligibility for dental treatment, VBA will prepare a rating decision under § 3.381 only when VHA requests such a rating or information necessary to assist in its determination. This circumstance is not clearly stated in the current regulation. Accordingly, we propose to amend § 3.381 to state this requirement.

VA's statute and regulation regarding dental conditions, 38 U.S.C. 1712 and 38 CFR 17.161, contain the eligibility requirements for dental treatment. Eligibility for dental treatment is extremely limited. VHA will provide certain dental treatment to veterans:

- Who have a service-connected compensable dental condition (i.e., those subject to service connection for compensation purposes under the 9900 diagnostic code series) (Class I)

- Who have a service-connected noncompensable dental condition (not subject to compensation) shown to have been in existence at the time of discharge or release from active service, which took place after September 30, 1981 (Class II), if:
  - The veteran served at least 180 days (or 90 days if a veteran of the Gulf War era), and
  - The veteran's DD214 does not bear certification that the veteran was provided, within 90 days immediately prior to discharge or release, a complete dental examination (including dental x-rays) and all appropriate dental treatment indicated by the examination to be needed, and
  - Application for treatment is received within 180 days of discharge, and
  - A VA dental examination is completed within six months after discharge or release, unless delayed through no fault of the veteran.
  - **Note:** Treatment under Class II is limited to a one-time correction of service-connected noncompensable dental conditions.
- Who have a service-connected noncompensable dental condition or disability adjudicated as resulting from combat wounds or service trauma (Class II(a)).
- Who are homeless or are otherwise enrolled veterans who are eligible for a one-time course of dental care under 38 U.S.C. 2062 (Class II(b)).
- Who are former prisoners of war, as determined by the concerned military service department (Class II(c)).
- Who have a nonservice-connected dental disability professionally determined to be aggravating a service-connected medical condition (Class III).
- Who are rated totally disabled due to service-connected disability (either a 100 percent schedular evaluation or entitled to individual unemployability) (Class IV).
- Who are approved for vocational rehabilitation training under 38 U.S.C. chapter 31 and who require dental treatment to participate in training (Class V).
- Who are scheduled for admission or otherwise receiving care and services under 38 U.S.C. chapter 17 if dental care is reasonably necessary to the provision of such care and services, *i.e.,* a dental condition is complicating a medical condition currently under treatment. (Examples: patients scheduled for cardiac surgery, knee, hip, joint replacement surgery, or organ transplant surgery may receive pre-bed care to eliminate dental infection prior to their surgery and help insure successful medical treatment) (Class VI).

VHA will usually be able to determine eligibility for dental treatment without referral to VBA. However, VHA shall request information or a rating from VBA in the following circumstances:

- To determine whether the veteran has a compensable service-connected disability (subject to service connection for compensation purposes).
- To determine whether the veteran has a service-connected condition for which compensation is not payable.
- To determine whether there is dental disability due to combat wounds or service trauma.
- To determine prisoner of war status.
- To determine whether the veteran is totally disabled due to service-connected disability.

VHA may submit a request for a rating for eligibility for treatment for any dental condition. However, consistent with the qualifying conditions and the limitations of eligibility under 38 CFR 3.381 and 38 CFR 17.161, VBA would deny any claim that does not qualify for VHA dental treatment, including any claim for treatment of periodontal disease or calculus, unless the condition meets regulatory eligibility criteria.

If the veteran files a claim for disability compensation that includes as an issue a compensable dental condition under the rating schedule criteria, VBA would prepare a rating and notify VHA. If a veteran has not filed a claim for disability compensation, but goes to a VHA dental clinic requesting treatment, VHA will request a determination from VBA when needed to address the issues described above affecting eligibility under Class I, Class II, Class II(a), Class II(c), or Class IV. Furthermore, VHA is responsible for notifying the veteran of their eligibility determination.

When a veteran submits a claim for dental treatment directly to a VBA regional office, VBA will not provide a rating, but instead VBA will refer the claim to the VHA outpatient clinic, which is responsible for such claims.

Therefore, we propose to redesignate paragraphs (a) through (f) as paragraphs (b) through (g) and to add a new paragraph (a) that explains the situations when VHA will refer a claim to VBA. We also propose to amend redesignated paragraph (b) to clarify what conditions will be service connected for treatment purposes. Additionally, we propose to remove the following sentence from redesignated paragraph (c): "When applicable, the rating activity will determine whether the condition is due to combat or other in-service trauma, or whether the veteran was interned as a prisoner of war." This sentence is being removed because it is repetitive of portions of proposed paragraph (a).

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would not affect any small entities. Only certain VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

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 Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and has concluded that it is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that

agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are 64.011, Veterans Dental Care; and 64.109, Veterans Compensation for Service-Connected Disability.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on March 9, 2011, for publication.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Dated: March 11, 2011.

William F. Russo,

Director of Regulations Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 3 as follows:

PART 3—ADJUDICATION

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Amend § 3.381 by:

a. Redesignating paragraphs (a) through (f) as paragraphs (b) through (g).

b. Adding new paragraph (a).

c. Revising redesignated paragraph (b).

d. Removing from redesignated paragraph (c) the following sentence: "When applicable, the rating activity will determine whether the condition is due to combat or other in-service trauma, or whether the veteran was interned as a prisoner of war."

The addition and revision read as follows:

§ 3.381 Service connection of dental conditions for treatment purposes.

(a) The Veterans Benefits Administration (VBA) will adjudicate a claim for service connection of a dental condition for treatment purposes after the Veterans Health Administration determines a veteran meets the basic eligibility requirements of § 17.161 of this chapter and requests VBA make a determination on questions that include, but are not limited to, any of the following:

(1) Former Prisoner of War status;

(2) Whether the veteran has a compensable or noncompensable service-connected dental condition or disability;

(3) Whether the dental condition or disability is a result of combat wounds;

(4) Whether the dental condition or disability is a result of service trauma; or

(5) Whether the veteran is totally disabled due to a service-connected disability.

(b) Treatable carious teeth, replaceable missing teeth, dental or alveolar abscesses, and periodontal disease are not compensable disabilities, but may nevertheless be service connected solely for the purpose of establishing eligibility for outpatient dental treatment as provided for in § 17.161 of this chapter. These conditions and other dental conditions or disabilities that are noncompensably rated under § 4.150 of this chapter may be service connected for purposes of Class II or Class II(a) dental treatment under § 17.161 of this chapter.

* * * * *

[FR Doc. 2011–6148 Filed 3–16–11; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–0775; FRL–9281–2]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Revisions To Control Volatile Organic Compound Emissions for Surface Coatings and Graphic Arts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions for control of volatile organic compounds (VOCs) adopted by Louisiana on June 20, 2009 and August 20, 2010, and submitted to EPA on August 31, 2010. EPA is also proposing to approve a SIP revision for control of emission of organic compounds which was proposed by Louisiana on January 20, 1011. EPA issued Control Techniques Guidelines (CTGs) in 2006, 2007 and 2008; Louisiana's rule revisions being proposed for approval in this action were developed in response to these CTGs. Because Louisiana has not yet finalized the January 20th revision to the VOC rules, we are proposing to approve this SIP revision in parallel with Louisiana's rulemaking activities. If the final version of the VOC rule adopted by Louisiana is changed from the proposed version which is being "parallel processed" today, EPA will withdraw this rulemaking and propose a new rulemaking with the final VOC rule adopted by Louisiana. If there are no changes to the "parallel-processed" version, EPA will proceed with final rulemaking on the version finally adopted by Louisiana and submitted to EPA. EPA is proposing to approve these revisions because they enhance the Louisiana SIP by improving VOC emission controls in Louisiana. EPA is also proposing to find that these revisions meet Reasonably Available Control Technology (RACT) requirements. These revisions meet statutory and regulatory requirements, and are consistent with EPA's guidance. This action is being taken under section 110 and part D of the Clean Air Act (CAA).

DATES: Comments must be received on or before April 18, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2010–0775, by one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special

arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2010–0775. 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 docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal, which is part of the EPA record, is also available for public inspection at the State Air Agency listed below during official business hours by appointment: Louisiana Department of Environmental Quality, 602 North Fifth Street, Baton Rouge, LA 70802.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Belk, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–2164; fax number 214–665–7263; e-mail address *belk.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" means EPA.

Outline

I. What action is EPA proposing?

EPA is proposing to approve SIP revisions for control of emission of organic compounds adopted by Louisiana on June 20, 2009, and August 20, 2010, and submitted to EPA on August 31, 2010. We are also proposing to approve, by parallel processing, a revision for control of emission of organic compounds proposed by Louisiana on January 20, 2010. The revisions submitted on August 31, 2010, are included as Appendices A and B of the LDEQ submittal entitled, "VOC RACT Control Technique Guidelines" dated August 2010. Together, these revisions include updates to the following Louisiana rules: Chapter 1 General Provisions, amendments to § 111 Definitions; Chapter 21 Control of Emission of Organic Compounds, amendments to § 2123 Organic Solvents, and § 2143 Graphic Arts (Printing) by Rotogravure, Flexographic, Offset Lithographic, Letterpress, and Flexible Package Printing Processes. Also, EPA is proposing to approve, by parallel processing, the VOC rule revision proposed January 20, 2011, which is a small wording change. In a letter to EPA dated February 7, 2011, the State of Louisiana requested "parallel processing" and a provided a schedule for final adoption of this VOC rule revision.

We are proposing to approve these revisions because they enhance the Louisiana SIP by improving control of emissions from VOC sources in Louisiana. These revisions reflect changes in response to CTGs issued in 2006, 2007 and 2008: Consumer and Commercial Products Group II: Control Techniques Guidelines in Lieu of Regulations for Flexible Packaging Printing Materials, Lithographic Printing Materials, Letterpress Printing Materials, Industrial Cleaning Solvents, and Flat Wood Paneling Coatings (71 FR 58745, October 5, 2006); Consumer and Commercial Products: Control Techniques Guidelines in Lieu of Regulations for Paper, Film, and Foil Coatings; Metal Furniture Coatings; and Large Appliance Coatings (72 FR 57215, October 9, 2007); Consumer and Commercial Products, Group IV: Control Techniques guidelines in Lieu of Regulations for Miscellaneous Metal Products Coatings, Plastic Parts Coatings, Auto and Light-Duty Truck Assembly coatings, Fiberglass Boat Manufacturing Materials, and Miscellaneous Industrial Adhesives (73 FR 58481, October 7, 2008).

In addition, we are proposing that these revisions meet RACT requirements for these source categories. These revisions meet statutory and regulatory requirements, and are consistent with EPA's guidance. EPA is proposing approval of these revisions pursuant to section 110 and part D of the CAA.

II. What is "parallel processing", and why are we using it to process a Louisiana revision?

At the request of the State of Louisiana, approval of its revision, published in the Louisiana Register January 20, 2011, is being proposed under a procedure called "parallel processing" whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations (40 CFR part 51, Appendix V, section 2.3).

Under parallel processing, EPA proposes rulemaking action concurrently with the State's proposed rulemaking. If the State's proposed revision is changed, EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no change is made, EPA will publish a final rulemaking on the revisions after responding to any submitted comments. Final rulemaking

action by EPA will occur only after the SIP revision has been fully adopted by Louisiana and submitted formally to EPA for incorporation into the SIP. In addition, any action by the State resulting in undue delay in the adoption of the rules may result in a re-proposal, altering the approvability of this SIP revision. The parallel processing of the January 20, 2011 revision is appropriate because it accommodates a minor wording change and no further change is anticipated. The State's January 20, 2011, proposed revision and their letter of February 7, 2011 are available in the docket for this action.

III. Why is EPA proposing this action?

A primary purpose of these rules is to improve control of VOC emissions in various parishes in Louisiana. Our approval of the revised Louisiana regulations will make them federally enforceable. Also, these rules satisfy the requirement to adopt VOC RACT rules for the CTG documents issued by EPA in 2006, 2007, and 2008.

These revised requirements for control of VOC emissions will help to attain and maintain the 8-hour ozone standard in Louisiana parishes. These rules satisfy in part the requirement in the Clean Air that VOC RACT rules be adopted for ozone nonattainment areas. This includes the Baton Rouge 8-hour ozone nonattainment area. Sections 172(c)(1) and 182 of the Act require areas that are classified as moderate or above for ozone nonattainment to adopt RACT requirements for sources that are subject to CTGs issued by EPA and for "major sources" of VOCs and nitrogen oxides (NO_X), which are ozone precursors. *See* 42 U.S.C. sections 7502 (c)(1) and 7511a (b) and (f). RACT is defined as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762; September 17, 1979). A CTG provides information on the available controls for a source category and provides information about RACT for the category.

As discussed previously, EPA issued new CTGs in 2006, 2007 and 2008. EPA has reviewed Louisiana's new VOC rule revisions with respect to RACT requirements and the recommendations in the new CTGs and proposes to find that these revisions meet RACT. Based on our analysis, we find that these VOC rule revisions enhance the SIP by providing clarification and additional control requirements for reducing emissions from volatile organic compounds, and also that these revisions meet RACT requirements. EPA is proposing to find that for the CTG categories included in this rule-making, Louisiana has RACT-level controls. Additional information about RACT and EPA's evaluation of Louisiana's rule revisions for RACT for this action is provided in the TSD, including TSD Appendix B.

In a related but separate rulemaking, EPA plans to evaluate the RACT/RACM submittal provided by Louisiana on August 31, 2010. This will include analysis of RACT for NO_X and also for VOC categories other than those included here, as well as RACT for non-major sources.

IV. What are the requirements of Louisiana's VOC rule revisions?

This proposed approval of Louisiana's VOC rule revisions affects Louisiana's rules in both Chapter 1 General Provisions and Chapter 21 Control of Emission of Organic Compounds, specifically Chapter 1 § 111 Definitions, Chapter 21 Subchapter B. Surface Coatings § 2123 Organic Solvents, and Subchapter H. Graphic Arts § 2143 Graphic Arts (Printing) by Rotogravure, Flexographic, Offset Lithographic, Letterpress, and Flexible Package Printing Processes. Applicability under these rules includes requirements that vary by parish, and is briefly discussed below. Louisiana's Chapter 1 definitions, and Chapter 21 controls for VOC emissions, cover many categories of sources. This rulemaking affects sources covered by the Louisiana Administrative Code (LAC) Chapters and Subchapters listed in the following table. However, to determine whether a specific facility in a Louisiana parish will be affected by one or more of the above revisions, please see Louisiana's associated rule revisions included in the docket.

LOUISIANA ADMINISTRATIVE CODE (LAC) 33: III.111, 2123, AND 2143 CHAPTERS AND SUBCHAPTERS AFFECTED BY THIS RULEMAKING

Chapter 1 General Provisions
111. Definitions
Chapter 21 Control of Emission of Organic Compounds
Subchapter B Surface Coatings
§ 2123 Organic Solvents
Subchapter H Graphic Arts
§ 2143 Graphic Arts (Printing) by Rotogravure, Flexographic, Offset Lithographic, Letterpress, and Flexible Package Printing Processes

A brief description of the Louisiana VOC rules for surface coating and for graphic arts that are proposed for approval in this action is provided below. This description contains information on applicability, control requirements and relevant EPA guidance. Compliance with these rules is required by the State no later than one year from the promulgation of the regulation revision. Additional detail regarding Louisiana's VOC regulations proposed for approval in this action is provided in the TSD.

Surface Coating Regulations

Louisiana's surface coating regulations being proposed for approval in this action include requirements for applicability, emissions limits, control techniques, and work practices. These regulations are based on and are consistent with the relevant 2006, 2007, and 2008 CTGs. For example, the requirements for applicability for the surface coating rules, specified in LAC 2123.A., apply to sources in any parish with emissions of VOCs resulting from the application of surface coatings equal to or more than 15 pounds (6.8 kilograms) per day, or an equivalent level of 2.7 tons per 12 month rolling period (LAC 2123.A.).

The categories of Louisiana's surface coating regulations being proposed for approval in this action are identified below (for more information, please see Louisiana's regulations, and the TSD in the docket for this proposal).

Flat Wood Paneling; LAC 2123. These regulations have been revised based on and consistent with EPA's 2006 Control

Techniques Guidelines for Flat Wood Paneling Coatings. Emission limits are consistent with the CTG (LAC 2123.C.13), as is the efficiency limit required if add-on controls are used (the VOC capture and abatement system shall be at least 90 percent efficient overall, LAC 2123.D.1).

Large Appliance Coatings; LAC 2123. These regulations have been revised based on and consistent with EPA's 2007 Control Techniques Guidelines for Large Appliance Coatings. Emission limits are consistent with the CTG (LAC 2123.C.1), as is the efficiency limit required if add-on controls are used (the VOC capture and abatement system shall be at least 90 percent efficient overall, LAC 2123.D.1).

Metal Furniture Coatings; LAC 2123. These regulations have been revised based on and consistent with EPA's 2007 Control Techniques Guidelines for Metal Furniture Coatings. Emission limits are consistent with the CTG (LAC 2123.C.6), as is the efficiency limit required if add-on controls are used (the VOC capture and abatement system shall be at least 90 percent efficient overall, LAC 2123.D.1).

Paper, Film, and Foil Coatings; LAC 2123. These regulations have been revised based on and consistent with EPA's 2007 Control Techniques Guidelines for Paper, Film, and Foil Coatings. Emission limits are consistent with the CTG (LAC 2123.C.15), as is the efficiency limit required if add-on controls are used (the VOC capture and abatement system shall be at least 90 percent efficient overall, LAC 2123.D.1).

Miscellaneous Metal and Plastic Parts Coatings; LAC 2123. These regulations have been revised based on and consistent with EPA's 2008 Control Techniques Guidelines for Miscellaneous Metal Products Coatings and Plastic Parts Coatings. Emission limits are consistent with the CTG (LAC 2123.C.7 and 8), as is the efficiency limit required if add-on controls are used (the VOC capture and abatement system shall be at least 90 percent efficient overall, LAC 2123.D.1).

Automobile and Light-Duty Truck Assembly Coatings; LAC 2123. These regulations have been revised based on and consistent with EPA's 2008 Control Techniques Guidelines for Auto and Light-Duty Truck Assembly Coatings. Emission limits are consistent with the CTG (LAC 2123.C.16), as is the use of EPA's revised Automobile Topcoat Protocol (LAC 2123.D.4).

Industrial Cleaning Solvents; LAC 2123. These new regulations are based on and consistent with EPA's 2006 Control Techniques Guidelines for Industrial Cleaning Solvents. Control techniques for the use of industrial cleaning solvents are consistent with the CTG (LAC 2123. D. 10), as is the efficiency limit required if add-on controls are used (the VOC capture and abatement system shall be at least 85 percent efficient overall, LAC 2123. D. 1).

Miscellaneous Industrial Adhesives; LAC 2123. These new regulations are based on and consistent with EPA's 2006 Control Techniques Guidelines for Miscellaneous Industrial Adhesives (73 FR 58481, October 7, 2008). Methods for applying adhesives are consistent with the CTG (LAC 2123. D. 13), and if add-on controls are used for industrial cleaning solvents, the VOC capture and abatement system shall be at least 85 percent efficient overall (LAC 2123. D. 1).

Fiberglass Boat Manufacturing Materials; LAC 2123. These new regulations are based on and consistent with EPA's 2008 Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials. Emission limits are consistent with the CTG (LAC 2123. C. 18), as are VOC content and vapor pressure limits applicable to cleaning activities in fiberglass boat manufacturing (LAC 2123 D. 12).

Graphic Arts

Louisiana's graphic arts regulations being proposed for approval in this action include applicability and control requirements, and are based on and are consistent with the relevant 2006 CTGs. For example, the requirements for applicability for the graphic arts rules, specified in 2143. B., apply to sources in any parish with the potential to emit, on an uncontrolled basis at full production, a combined weight of VOCs greater than 100 tons per year (tpy). In Ascension, East Baton Rouge, Iberville, Livingston, Point Coupee and West Baton Rouge parishes, the rules apply to any facility with the potential to emit a combined weight of VOCs greater than 50 tpy.

The categories of Louisiana's graphic arts regulations being proposed for approval in this action are identified below (for more information, please see Louisiana's regulations, and the TSD in the docket for this proposal).

Lithographic Printing and Letterpress Printing; LAC 2143. These new regulations are based on and consistent with EPA's 2006 Control Techniques Guidelines for Lithographic Printing Materials, and Letterpress Printing Materials.

Flexible Package Printing; LAC 2143. These regulations have been revised based on and consistent with EPA's 2006 Control Techniques Guidelines for Flexible Packaging Printing Materials.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this 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 proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country

located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 5, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–6224 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0721–201040; FRL–9282–4]

Approval and Promulgation of Implementation Plans; South Carolina; 110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State Implementation Plan (SIP) submission submitted by the State of South Carolina, through the Department of Health and Environmental Control (DHEC), to demonstrate that the State meets the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for the 1997 8-hour ozone national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA, which is commonly referred to as an "infrastructure" SIP. South Carolina certified that the South Carolina SIP contains provisions that ensure the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in South Carolina (hereafter referred to as "infrastructure submission"). South Carolina's infrastructure submission, provided to EPA on December 13, 2007, addressed all the required infrastructure elements for the 1997 8-hour ozone NAAQS.

DATES: Written comments must be received on or before April 18, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2010–0721, by one of the following methods:

1. *http://www.regulations.gov:* Follow the online instructions for submitting comments.
2. *E-mail: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9140.
4. *Mail:* "EPA–R04–OAR–2010–0721," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2010–0721. 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: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov.*

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I. Background

On July 18, 1997, EPA promulgated a new NAAQS for ozone based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. *See* 62 FR 38856. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS. Sections 110(a)(2) require states to address basic SIP requirements,

including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 1997 8-hour ozone NAAQS to EPA no later than June 2000. However, intervening litigation over the 1997 8-hour ozone NAAQS created uncertainty about how to proceed and many states did not provide the required "infrastructure" SIP submission for these newly promulgated NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the "infrastructure" requirements for the 1997 8-hour ozone NAAQS. EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS by December 15, 2007. Subsequently, EPA received an extension of the date to complete this **Federal Register** notice until March 17, 2008, based upon agreement to make the findings with respect to submissions made by January 7, 2008. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency received from each state as of January 7, 2008.

On March 27, 2008, EPA published a final rulemaking entitled, "Completeness Findings for Section 110(a) State Implementation Plans; 8-Hour Ozone NAAQS," making a finding that each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS. *See* 73 FR 16205. For those states that did receive findings, the findings of failure to submit for all or a portion of a state's implementation plan established a 24-month deadline for EPA to promulgate a Federal Implementation Plan to address the outstanding SIP elements unless, prior to that time, the affected states submitted, and EPA approved, the required SIPs.

The findings that all or portions of a state's submission are complete established a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k). South Carolina's infrastructure submission was received by EPA on December 13, 2007, and was determined to be complete on March 27, 2008. South Carolina was among other states that did not receive a finding of failure to submit because it provided a complete submission to EPA to address the infrastructure elements for the 1997 8-hour ozone NAAQS by March 1, 2008. Today's action is proposing to approve South Carolina's infrastructure submission for which EPA made the completeness determination on March 27, 2008. This action is not approving any specific rule, but rather proposing that Alabama's already approved SIP meets certain CAA requirements.

II. What elements are required under Sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for "infrastructure" SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are listed below [1] and in EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards."

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.[2]
- 110(a)(2)(D): Interstate transport.[3]
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[4]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

III. What is EPA's analysis of how South Carolina addressed the elements of the Sections 110(a)(1) and (2) "infrastructure" provisions?

The South Carolina infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

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[1] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[2] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[3] Today's proposed rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 8-hour ozone NAAQS. Interstate transport requirements were formerly addressed by South Carolina consistent with the Clean Air Interstate Rule (CAIR). On December 23, 2008, CAIR was remanded by the DC Circuit Court of Appeals, without vacatur, back to EPA. *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008). Prior to this remand, EPA took final action to approve South Carolina's SIP revision, which was submitted to comply with CAIR. *See* 72 FR 57209 (October 9, 2007). In so doing, South Carolina's CAIR SIP revision addressed the interstate transport provisions in Section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS. In response to the remand of CAIR, EPA has since proposed a new rule to address the interstate transport of NO_X and SO_X in the eastern United States. *See* 75 FR 45210 (Aug. 2, 2010) ("the Transport Rule"). However, because this rule has yet to be finalized, EPA's action on element 110(a)(2)(D)(i) will be addressed in a separate action.

[4] This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards," but as mentioned above is not relevant to today's proposed rulemaking.

1. 110(a)(2)(A): Emission limits and other control measures: South Carolina's SIP provides an overview of the provisions of the South Carolina Air Pollution Control Regulations relevant to air quality control regulations. The regulations described below have been federally approved in the South Carolina SIP and include enforceable emission limitations and other control measures. Regulation 61–62.5, Standard No. 2, *Ambient Air Quality Standards, and Regulation 61–62.1, Definitions and General Requirements,* establish emission limits for ozone and addresses the required control measures, means and techniques for compliance of the ozone NAAQS respectively. In addition, South Carolina's state-only Regulation 61–30 gives the DHEC the authority to levy fees for permits and establishes schedules for timely action on permit applications. EPA has made the preliminary determination that the provisions contained in these chapters and South Carolina's practices are adequate to protect the 1997 8-hour ozone NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing State provisions with regard to excess emissions during startup, shutdown, or malfunction (SSM) of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown" (September 20, 1999), and the Agency plans to address such state regulations in the future. In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing State rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) Ambient air quality monitoring/data system: South Carolina's SIP Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* along with the South Carolina Network Description and Ambient Air Network Monitoring Plan provides for an ambient air quality monitoring system in the State. Annually, EPA approves the ambient air monitoring network plan for the state agencies. On July 1, 2010, South Carolina submitted its plan to EPA. On September 23, 2010, EPA approved South Carolina's monitoring network plan. South Carolina's approved monitoring network plan can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2010–0721. EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 1997 8-hour ozone NAAQS.

3. 110(a)(2)(C) Program for enforcement of control measures including review of proposed new sources: Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* and Regulation 61–62.5, Standard No. 7.1, *Nonattainment New Source Review,* of South Carolina's SIP pertain to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable. On July 1, 2005, DHEC submitted a Prevention of Significant Deterioration/New Source Review (PSD/NSR) SIP revision to EPA for approval. In August 2007, EPA sent a letter to DHEC indicating that the submittal required modification. Upon commitment from South Carolina to address these changes, EPA took final action on June 2, 2008, to partially approve, disapprove, and conditionally approve revisions to the SIP originally submitted by the State on July 1, 2005. South Carolina later fulfilled the requirements of the conditional approval through a SIP revision, submitted to EPA on April 14, 2009. Further, on December 2, 2010, South Carolina submitted, for parallel processing, a SIP revision which addresses the Ozone Implementation NSR Update requirements to include nitrogen oxides (NO_X) as an ozone precursor for permitting purposes. Specifically, the Ozone Implementation NSR Update requirements include changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors. EPA is currently proposing approval of South Carolina's December 2, 2010, submission in a rulemaking separate from today's action.

On June 11, 2010, the South Carolina Governor signed an Executive Order to confirm that the State had authority to implement appropriate emission thresholds for determining which new stationary sources and modification projects become subject to PSD permitting requirements for their GHG emissions at the state level. On December 30, 2010, EPA published a final rulemaking, "Action To Ensure Authority To Implement Title V Permitting Programs Under the Greenhouse Gas Tailoring Rule" (75 FR 82254) to narrow EPA's previous approval of State title V operating permit programs that apply (or may apply) to GHG-emitting sources; this rule hereafter is referred to as the "Narrowing Rule." EPA narrowed its previous approval of certain State permitting thresholds, for GHG emissions so that only sources that equal or exceed the GHG thresholds, as established in the final Tailoring Rule, would be covered as major sources by the Federally-approved programs in the affected States. South Carolina was included in this rulemaking. On March 4, 2011, South Carolina submitted a letter withdrawing from EPA's consideration the portion of South Carolina's SIP for which EPA withdrew its previous approval in the Narrowing Rule. These provisions are no longer intended for inclusion in the SIP, and are no longer before EPA for its approval or disapproval. A copy of South Carolina's letter can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2010–0721.

In this action, EPA is proposing to approve South Carolina's infrastructure SIP for the 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. EPA is not proposing to approve or disapprove the state's existing minor NSR program itself to the extent that it is inconsistent with EPA's regulations governing this program. EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory

requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 1997 8-hour ozone NAAQS.

4. 110(a)(2)(D)(ii) Interstate and International transport provisions: In Regulation 61–62.5 Standard 7—*Prevention of Significant Deterioration,* DHEC outlines how it will notify neighboring states of potential impacts from new or modified sources. South Carolina does not have any pending obligation under section 115 and 126. Additionally, South Carolina has federally approved regulations in its SIP that satisfy the requirements for the NOx SIP Call. *See* 67 FR 43546 (June 28, 2002). EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 1997 8-hour ozone NAAQS.

5. 110(a)(2)(E) Adequate resources: DHEC is provided its legal authority to establish a SIP and implement related plants, in general, under S.C. Code Ann. Section 48, Title 1. Specifically, S.C. Code Ann. § 48–1–50(12) grants DHEC the statutory authority to "Accept, receive and administer grants or other funds or gifts for the purpose of carrying out any of the purposes of this chapter; accept, receive and receipt for Federal money given by the Federal government under any Federal law to the State of South Carolina for air or water control activities, surveys or programs." S.C. Code Ann. Section 48, Title 2 grants DHEC statutory authority to establish environmental protection funds. Additionally, Regulation 61–30, *Environmental Protection Fees,* provides DHEC with the ability to access fees for environmental permitting programs. DHEC implements the SIP in accordance with the provisions of S.C. Code Ann § 1–23–40 (the Administrative Procedures Act) and S.C. Code Ann. Section 48, Title 1. In addition, the requirements of 110(a)(2)(E)(i-iii) are met when EPA performs a completeness determination for each SIP submittal. This ensures that each submittal provides evidence that adequate personnel, funding, and legal authority under State Law has been used to carry out the state's implementation plan and related issues. This information is included in all prehearings and final SIP submittal packages for approval by EPA.

Annually, states update grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS, including the 1997 8-hour ozone NAAQS. On April 14, 2010, EPA submitted a letter to South Carolina outlining 105 grant commitments and current status of these commitments for fiscal year 2009. The letter EPA submitted to South Carolina can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2010–0721. There were no outstanding issues, therefore South Carolina's grants were finalized and closed out. EPA has made the preliminary determination that South Carolina has adequate resources for implementation of the 1997 8-hour ozone NAAQS.

6. 110(a)(2)(F) Stationary source monitoring system: Regulation 61–62.1, *Definitions and General Requirements,* Section III—*Emissions Inventory,* of the South Carolina SIP provides for an emission inventory plan that establishes reporting requirements. Specifically, the emissions inventory plan requires sources to submit an annual emission inventory including but not limited to the following:

i. Information on fuel burning equipment;

ii. Types and quantities of fuel used;

iii. Fuel analysis;

iv. Exhaust parameters;

v. Control equipment information;

vi. Raw process materials and quantities used;

vii. Design, normal and actual process rates;

viii. Hours of operation;

ix. Significant emission generating points or processes as discussed on the current form for reporting emissions data as provided by the Department;

x. Any desired information listed in 40 CFR part 51, subpart A (June 10, 2002) that is requested by the Department.

South Carolina DHEC uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements.

Additionally, the National Emissions Inventory (NEI) is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System (EIS). States report emissions data for the six criteria pollutants and the precursors that form them—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. South Carolina made its latest update to the NEI February 18, 2011. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for the stationary source monitoring systems related to the 1997 8-hour ozone NAAQS.

7. 110(a)(2)(G) Emergency power: Regulation 61–62.3, *Air Pollution Episodes,* of the South Carolina SIP identifies air pollution emergency episodes and preplanned abatement strategies. These criteria have previously been approved by EPA. EPA has made the preliminary determination that South Carolina's SIP and practices are adequate for emergency powers related to the 1997 8-hour ozone NAAQS.

8. 110(a)(2)(H) Future SIP revisions: As previously discussed, South Carolina DHEC is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS. South Carolina has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions of the years for implementation of the NAAQS. S.C. Code Ann. Section 48, Title 1 provides DHEC the statutory authority to revise the SIP to accommodate changes in the NAAQS. Specific to the 1997 8-hour ozone NAAQS, South Carolina has provided the following submissions:

- August 31, 2007, SIP Revision—Rock Hill-Fort Mill (Charlotte) 8-hr Ozone Reasonably Available Control Technology and Reasonable Further Progress;
- December 13, 2007, SIP Revision (EPA approval, 74 FR 26099, June 1, 2009, with a correcting amendment 75 FR 3870, January 25, 2010) Cherokee

County 8-hour Ozone 110(a)(1) Maintenance Plan;

• April 29, 2010, SIP Revision—Supplement and Resubmission of the 1997 8-hour Ozone Rock Hill-Fort Mill Attainment Demonstration (Charlotte)

In the Rock Hill-Fort Mill, South Carolina maintenance plans for the Charlotte-Gastonia-Rock Hill, NC–SC nonattainment area, the State commits to provide additional SIP revisions for the 1997 8-hour ozone NAAQS pursuant to 175(A)(b), and also commits to provide additional SIP revisions to implement contingency measures in the future. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 1997 8-hour ozone NAAQS when necessary.

9. 110(a)(2)(J) (121 consultation) Consultation with government officials: South Carolina Air Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* as well as the Regional Haze Implementation Plan (which allows for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding Federal Land Managers), provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. More specifically, South Carolina adopted state-wide consultation procedures for the implementation of transportation conformity which includes the consideration of the development of mobile inventories for SIP development. Required partners covered by South Carolina's consultation procedures include federal, state and local transportation and air quality agency officials. EPA approved South Carolina's consultation procedures on July 28, 2009 (*See* 74 FR 37168). EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate consultation with government officials related to the 1997 8-hour ozone NAAQS when necessary.

10. 110(a)(2)(J) (127 public notification) Public notification: DHEC has several public notice mechanisms in place to notify the public of ozone and other pollutant forecasting, including an air quality monitoring website with ground level ozone alerts. South Carolina also has an extensive outreach program to educate the public and promote voluntary emissions reduction measures including the "Take a Break from the Exhaust" alternative transit reward system. As discussed above, Regulation 61–62.3, *Air Pollution Episodes,* requires that DHEC notify the public of any air pollution episode or NAAQS violation. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 1997 8-hour ozone NAAQS when necessary.

11. 110(a)(2)(J) (PSD) PSD and visibility protection: South Carolina demonstrates its authority to regulate new and modified sources of ozone precursors volatile organic compounds (VOCs) and NO_x to assist in the protection of air quality in South Carolina's Air Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration.* On December 2, 2010, South Carolina submitted, for parallel processing, a SIP revision which addresses the Ozone Implementation NSR Update requirements to include NO_x as an ozone precursor for permitting purposes. Specifically, the Ozone Implementation NSR Update requirements include changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors. EPA is currently proposing approval of South Carolina's December 2, 2010, submission in a rulemaking separate from today's action.

With regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under Part C of the Act (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, EPA finds that there is no new visibility obligation "triggered" under section 110(a)(2)(J) when a new NAAQS becomes effective. This would be the case even in the event a secondary $PM_{2.5}$ NAAQS for visibility is established, because this NAAQS would not affect visibility requirements under part C. South Carolina has submitted SIP revisions for approval to satisfy the requirements of the CAA Section 169A, and the regional haze and best available retrofit technology rules contained in 40 CFR 51.308. These revisions are currently under review and will be acted on in a separate action. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate the State's ability to implement PSD programs and to provide for visibility protection related to the 1997 8-hour ozone NAAQS when necessary.

12. 110(a)(2)(K) Air quality and modeling/data: South Carolina Regulation 61–62.5, Standard No. 2, *Ambient Air Quality Standards,* and Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* require that air modeling be conducted to determine permit applicability. These standards demonstrate that South Carolina has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 8-hour ozone NAAQS. Additionally, South Carolina supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 1997 8-hour ozone NAAQS, for the Southeastern states. Taken as a whole, South Carolina's air quality regulations demonstrate that ADEM has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 8-hour ozone NAAQS. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 1997 8-hour ozone NAAQS when necessary.

13. 110(a)(2)(L) Permitting fees: Pursuant to S.C. Code Ann. § 48–2–50, DHEC shall charge fees for environmental programs it administers pursuant to federal and state law and regulations. Regulation 61–30, *Environmental Protection Fees,* prescribes fees applicable to applicants and holders of permits, licenses, certificates, certifications, and registrations as well as establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process for refuting fees. EPA has made the preliminary determination that South Carolina's SIP and practices adequately provide for permitting fees related to the 1997 8-hour ozone NAAQS when necessary.

14. 110(a)(2)(M) Consultation/participation by affected local entities: Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration,* of the South Carolina SIP requires that DHEC notify the public of the application, preliminary determination, degree of incremental consumption, and the opportunity for comment prior to making a final permitting decision. DHEC has worked closely with local political subdivisions when developing

its Transportation Conformity SIP, Regional Haze Implementation Plan, Early Action Compacts, and the 8-hour Ozone Attainment Demonstration for York County, South Carolina portion of the Charlotte-Gastonia-Rock Hill NC–SC nonattainment area. EPA has made the preliminary determination that South Carolina's SIP and practices adequately demonstrate consultation with affected local entities related to the 1997 8-hour ozone NAAQS when necessary.

IV. Proposed Action

As described above, DHEC has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to EPA's October 2, 2007, guidance to ensure that the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in South Carolina. EPA is proposing to approve South Carolina's infrastructure submission for the 1997 8-hour ozone NAAQS because this submission is consistent with section 110 of the CAA.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 7, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0720–201039 FRL–9282–3]

Approval and Promulgation of Implementation Plans; Alabama; 110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State Implementation Plan (SIP), submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM) as demonstrating that the State meets the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or the Act) for the 1997 8-hour ozone national ambient air quality standard (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA, which is commonly referred to as an "infrastructure" SIP. Alabama certified that the Alabama SIP contains provisions that ensure the 1997 8-hour ozone NAAQS is implemented, enforced, and maintained in Alabama (hereafter referred to as "infrastructure submission"). Alabama's infrastructure submission, provided to EPA on December 10, 2007, addressed all the required infrastructure elements for the 1997 8-hour ozone NAAQS.

DATES: Written comments must be received on or before April 18, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2010–0720, 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) 562–9140.
4. *Mail:* "EPA–R04–OAR–2010–0720," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2010–0720. 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: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

On July 18, 1997, EPA promulgated a new NAAQS for ozone based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm (*See* 62 FR 38856). By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 1997 8-hour ozone NAAQS to EPA no later than June 2000. However, intervening litigation over the 1997 8-hour ozone NAAQS created uncertainty about how to proceed and many states did not provide the required "infrastructure" SIP submission for this newly promulgated NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the "infrastructure" requirements for the 1997 8-hour ozone NAAQS. EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS by December 15, 2007. Subsequently, EPA received an extension of the date to complete this **Federal Register** notice until March 17, 2008, based upon agreement to make the findings with respect to submissions made by January 7, 2008. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency received from each state as of January 7, 2008.

On March 27, 2008, EPA published a final rulemaking entitled, "Completeness Findings for Section 110(a) State Implementation Plans; 8-Hour Ozone NAAQS," making a finding that each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS (*See* 73 FR 16205). For those states that did receive findings, the findings of failure to submit for all or a portion of a state's implementation plan established a 24-month deadline for EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding SIP elements unless, prior to that time, the affected states submitted, and EPA approved, the required SIPs.

The findings that all or portions of a state's submission are complete established a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k). Alabama's infrastructure submission was received by EPA on December 10, 2007, and was determined to be complete on March 27, 2008. Alabama was among other states that did not receive findings of failure to submit because it had provided a complete submission to EPA to address the infrastructure elements for the 1997 8-hour ozone NAAQS by March 1, 2008. Today's action is proposing to approve Alabama's infrastructure submission for which EPA made the completeness determination on March 27, 2008. This action is not approving any specific rule, but rather proposing that Alabama's already approved SIP meets certain CAA requirements.

II. What elements are required under Sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for "infrastructure" SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are listed below [1] and in EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards."

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.[2]
- 110(a)(2)(D): Interstate transport.[3]
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[4]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

III. What is EPA's analysis of how Alabama addressed the elements of Sections 110(a)(1) and (2) "infrastructure" provisions?

Alabama's infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): Emission limits and other control measures: Alabama's infrastructure submission provides an overview of the provisions of the Alabama Air Regulations relevant to air quality control regulations. The regulations described below have been federally approved in the Alabama SIP and include enforceable emission limitations and other control measures. Regulation 335–3–1-.03—*Ambient Air Quality Standards,* generally authorizes the ADEM to adopt rules for the control of air pollution in order to comply with NAAQS, including those necessary to obtain EPA approval under section 110 of the CAA. This regulation along with Regulation 335–1–.06—*Compliance Schedule,* set the schedule for compliance to be consistent with the requirements of the CAA. Regulation 335–1–.05—*Sampling and Testing Methods,* details the authority and means with which ADEM can require testing and emissions verification. EPA has made the preliminary determination that the provisions contained in these chapters and Alabama's practices are adequate to protect the 8-hour ozone NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during startup, shutdown, or malfunction (SSM) of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown" (September 20, 1999), and the Agency plans to address such state regulations in the future. In the meantime, EPA encourages any state having deficient SSM provisions to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) Ambient air quality monitoring/data system: Alabama's infrastructure submission provides information in Regulation 335–1–.04—*Monitoring, Records, and Reporting,* with regard to the requirement of sources to submit emissions monitoring reports as prescribed by the Director. These entities collect air monitoring data, quality assure the results, and report the data. Regulation 335–1–.05—*Sampling and Testing Methods,* details the authority and means with which ADEM can require testing and emissions verification. Alabama regulation 335–3–14–.04—*Air Permits Authorizing Construction in Clean Air: Prevention of Significant Deterioration Permitting (PSD),* describes the State's use of ambient air quality monitoring data for purposes of permitting new facilities and assessing major modifications to existing facilities. Annually, EPA approves the ambient air monitoring network plan for the state agencies. On July 1, 2010, Alabama submitted their plan to EPA. On October 8, 2010, EPA approved Alabama's monitoring network plan. Alabama's approved monitoring network plan can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2010–0720. EPA has made the preliminary determination that Alabama's SIP and practices are adequate for the ambient air quality monitoring and data systems related to the 1997 8-hour ozone NAAQS.

3. 110(a)(2)(C) Program for enforcement of control measures including review of proposed new sources: Regulation 335–3–14–.04—*Air Permits Authorizing Construction in Clean Air Areas: Prevention of Significant Deterioration Permitting (PSD),*—of Alabama's SIP describes the permit requirements for new major sources or major modifications of

[1] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) but does provide detail on how Alabama's SIP addresses 110(a)(2)(C).

[2] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[3] Today's proposed rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 8-hour ozone NAAQS. Interstate transport requirements were formerly addressed by Alabama consistent with the Clean Air Interstate Rule (CAIR). On December 23, 2008, CAIR was remanded by the DC Circuit Court of Appeals, without vacatur, back to EPA. *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008). Prior to this remand, EPA took final action to approve Alabama's SIP revision, which was submitted to comply with CAIR. *See* 72 FR 55659 (October 1, 2007). In so doing, Alabama's CAIR SIP revision addressed the interstate transport provisions in Section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS. In response to the remand of CAIR, EPA has since proposed a new rule to address the interstate transport of NO_x and SO_x in the eastern United States. *See* 75 FR 45210 (Aug. 2, 2010) ("the Transport Rule"). However, because this rule has yet to be finalized, EPA's action on element 110(a)(2)(D)(i) will be addressed in a separate action.

[4] This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards," but as mentioned above is not relevant to today's proposed rulemaking.

existing sources in areas classified as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA. This ensures that areas that are in attainment of the NAAQS at the time of designations prevent any significant deterioration in air quality. Regulation 335–3–14–.05—*Air Permits Authorizing Construction in or Near Nonattainment Areas,* sets the permitting requirements for areas in or around non-attainment areas, including any ozone non-attainment area. Additionally, Alabama submitted a SIP revision on June 21, 2006, which addresses the Ozone Implementation New Source Review (NSR) Update requirements to include nitrogen oxides (NO_X) as an ozone precursor for permitting purposes for PSD and nonattainment NSR. Specifically, the Ozone Implementation NSR Update requirements included changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors. EPA took final action to approve these revisions to the Alabama SIP on May 1, 2008 (73 FR 23957), and finalized a correcting amendment on June 13, 2008 (73 FR 33696).

EPA published a final action revising Alabama's greenhouse gas (GHG) regulations on December 29, 2010 (75 FR 81863). The revisions establish appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Alabama's PSD permitting requirements for their GHG emissions. This rulemaking approves changes to ADEM's Rule 335–3–14–.04—*Air Permits Authorizing Construction in Clean Air Areas: Prevention of Significant Deterioration Permitting (PSD),* which addresses the thresholds for GHG permitting applicability in Alabama. EPA has made the preliminary determination that Alabama's SIP and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 1997 8-hour ozone NAAQS.

In this action, EPA is proposing to approve Alabama's infrastructure SIP for the 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. EPA is not proposing to approve or disapprove the state's existing minor NSR program itself to the extent that it is inconsistent with EPA's regulations governing this program. EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

EPA has made the preliminary determination that Alabama's SIP and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 1997 8-hour ozone NAAQS.

4. 110(a)(2)(D)(ii) Interstate and International transport provisions: In Chapter 335–3–14.04—*Air Permits Authorizing Construction in Clean Air Areas: Prevention of Significant Deterioration Permitting (PSD),* ADEM outlines how it will notify neighboring states of potential impacts from new or modified sources. Alabama does not have any pending obligation under section 115 and 126. Additionally, Alabama has federally approved regulations in its SIP that satisfy the requirements for the NOx SIP Call. *See* 67 FR 76316 (December 12, 2002). EPA has made the preliminary determination that Alabama's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 1997 8-hour ozone NAAQS.

5. 110(a)(2)(E) Adequate resources: ADEM is responsible for adopting air quality rules, revising SIPs, developing and tracking the budget, establishing the title V fees, and other planning needs. ADEM also coordinates agreements with local air pollution control programs. Additionally, SIP submittals contain this information in the submittal cover letter. On May 6, 2010, EPA submitted a letter to Alabama outlining 105 grant commitments and current status of these commitments for fiscal year 2009. The letter EPA submitted to Alabama can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2010–0720. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related NAAQS. There were no outstanding issues, therefore the Alabama's grants were finalized and closed out. EPA has made the preliminary determination that Alabama has adequate resources for implementation of the 1997 8-hour ozone NAAQS.

6. 110(a)(2)(F) Stationary source monitoring system: The Alabama infrastructure submission describes how the major source and minor source emission inventory programs collect emission data throughout the State and ensure the quality of data. This is outlined in Chapter 335–3–1—*General Provisions* of the approved Alabama SIP. Specifically, 335–3–1–.04—*Monitoring, Records, and Reporting,* 335–3–1–.07—*Maintenance and Malfunctioning of Equipment; Reporting,* and 335–3–1-.15—*Emissions Inventory Reporting Requirements,* all address portions of this requirement.

Additionally, the National Emissions Inventory (NEI) is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System (EIS). States report emissions data for the seven criteria pollutants and the precursors that form them—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Alabama made its latest update to the NEI February 17, 2011. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that Alabama's SIP and practices are adequate for the stationary source monitoring systems related to the 1997 8-hour ozone NAAQS.

7. 110(a)(2)(G) Emergency power: The Alabama SIP provides provisions in Chapter 335–3–2—*Air Pollution Emergency* for the identification of air

pollution emergency episodes. Episode criteria and emissions reduction plans are also covered in this chapter. These criteria have previously been approved by EPA. EPA believes these criteria are adequate to address ozone emergency episodes for the 1997 8-hour ozone NAAQS. EPA has made the preliminary determination that Alabama's SIP and practices are adequate for emergency powers related to the 1997 8-hour ozone NAAQS.

8. 110(a)(2)(H) Future SIP revisions: ADEM is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS. This authority is provided by 335–3–1–.03—*Ambient Air Quality Standards,* giving Alabama the ability and authority to respond to calls for SIP revisions, and the State has provided a number of SIP revisions over the years for implementation of the NAAQS. Specific to the 1997 8-hour ozone NAAQS, Alabama has provided the following submissions:

- January 27, 2005, SIP Revision (EPA approval, *see* 71 FR 27631, January 25, 2006)—Redesignation request and 175A maintenance plan for the Birmingham, AL 8-hour Ozone Area
- June 21, 2006, SIP Revision (EPA approval, *see* 73 FR 23957, May 1, 2008; EPA correcting amendment 73 FR 33696, June 13, 2008) Clean Air Interstate Rule/New Source Review (NO_X as a precursor to ozone)
- February 6, 2008, SIP Revision (EPA approval, *see* 74 FR 37945, July 30, 2009) Birmingham 8-hour Ozone Contingency Measures

In the Birmingham, Alabama maintenance plans, the State commits to provide additional SIP revisions for the 1997 8-hour ozone NAAQS pursuant to section 175A(b), and also commits to provide additional SIP revisions to implement contingency measures should one of the areas that was redesignated to attainment violate the 1997 8-hour ozone NAAQS. EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 1997 8-hour ozone NAAQS when necessary.

9. 110(a)(2)(J) (121 consultation) Consultation with government officials: Alabama's Air Regulation 335–3–1–.03—*Ambient Air Quality Standards,* describes how the State consults with air pollution control agencies in other states whose jurisdictions might be affected by SIP development activities. Additionally, ADEM has submitted for federal approval a regional haze plan which outlines consultation practices with Federal Land Managers. EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate consultation with government officials related to the 1997 8-hour ozone NAAQS when necessary.

10. 110(a)(2)(J) (127 public notification) Public notification: The State's emergency episode provisions, discussed above, provide for notification to the public when air pollution episodes occur. Furthermore, Alabama maintains a public Web site on which daily air quality index forecasts are posted for the Birmingham, Huntsville, Mobile, and Columbus areas. This Web site can be accessed at: *http://adem.alabama.gov/programs/air/airquality.cnt.* EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 1997 8-hour ozone NAAQS when necessary.

11. 110(a)(2)(J) (PSD) PSD and visibility protection: Alabama demonstrates its authority to regulate new and modified sources of ozone precursors, volatile organic compound and nitrogen oxides (VOCs and NO_X), to assist in the protection of air quality in Alabama's Air Regulations Chapter 335–3–14–.04—*Air Permits Authorizing Construction in Clean Air Areas: Prevention of Significant Deterioration Permitting (PSD).* Alabama submitted a SIP revision on March 7, 2007, which addresses the Ozone Implementation NSR Update requirements to include NO_X as an ozone precursor for permitting purposes. Specifically, the Ozone Implementation NSR Update requirements included changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors. EPA took final action to approve these changes to the Alabama SIP on May 1, 2008 (73 FR 23957), and published a correcting amendment on June 13, 2008 (73 FR 33696).

With regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under Part C of the Act (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, EPA finds that there is no new visibility obligation "triggered" under section 110(a)(2)(J) when a new NAAQS becomes effective. This would be the case even in the event a secondary $PM_{2.5}$ NAAQS for visibility is established, because this NAAQS would not affect visibility requirements under part C. Alabama has submitted SIP revisions for approval to satisfy the requirements of the CAA section 169A, and the regional haze and best available retrofit technology rules contained in 40 CFR 51.308. These revisions are currently under review and will be acted on in a separate action. EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate the State's ability to implement PSD programs and to provide for visibility protection related to the 1997 8-hour ozone NAAQS when necessary.

12. 110(a)(2)(K) Air quality and modeling/data: Alabama has the authority to conduct air quality modeling and report the results of such modeling to EPA, as contained in Alabama Air Regulations 335–3–14–.04—*Air Permits Authorizing Construction in Clean Air Areas: Prevention of Significant Deterioration Permitting (PSD).* These regulations also show that ambient ozone monitoring is used, in conjunction with pre- and post-construction ambient air monitoring, to track local and regional scale changes in ozone concentrations. These regulations further demonstrate that Alabama has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 8-hour ozone NAAQS. Additionally, Alabama supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 1997 8-hour ozone NAAQS, for the Southeastern states. Taken as a whole, Alabama's air quality regulations demonstrate that ADEM has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 8-hour ozone NAAQS. EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 1997 8-hour NAAQS when necessary.

13. 110(a)(2)(L) Permitting fees: Alabama addresses the review of construction permits as previously discussed in 110(a)(2)(C). Permitting fees are collected through the state's title V fees program, which has been federally approved, and according to State regulations in 335–3–16–.04—

Permit Application Requirements. EPA has made the preliminary determination that Alabama's SIP and practices adequately provide for permitting fees related to the 1997 8-hour ozone NAAQS when necessary.

14. 110(a)(2)(M) Consultation/ participation by affected local entities: ADEM coordinates with local governments affected by the SIP. Alabama's SIP also includes a description of the public participation process for SIP development. Alabama has consulted with local entities for the development of transportation conformity and has worked with the Federal Land Managers as a requirement of its regional haze rule. More specifically, Alabama adopted State-wide consultation procedures for the implementation of transportation conformity which includes the consideration of the development of mobile inventories for SIP development and the requirements that link transportation planning and air quality planning in nonattainment and maintenance areas. These consultation and participation procedures have been approved in the Alabama SIP as non-regulatory provisions, "Alabama Interagency Transportation Conformity Memorandum of Agreement" and "Conformity SIP for Birmingham and Jackson County." These provisions were approved on May 11, 2000 and March 26, 2009, respectively. *See* 65 FR 30362 and 74 FR 13118. Required partners covered by Alabama's consultation procedures include federal, state and local transportation and air quality agency officials. The state and local transportation agency officials are most directly impacted by transportation conformity requirements and are required to provide public involvement for their activities including the analysis which shows how they meet transportation conformity requirements. EPA has made the preliminary determination that Alabama's SIP and practices adequately demonstrate consultation/by affected local entities related to the 1997 8-hour ozone NAAQS when necessary.

IV. Proposed Action

As described above, ADEM has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to EPA's October 2, 2007, guidance to ensure that the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in Alabama. EPA is proposing to approve Alabama's infrastructure submission for the 1997 8-hour ozone NAAQS because this submission is consistent with section 110 of the CAA.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 7, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2011–6229 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0046; FRL–9282–9]

Approval and Promulgation of Implementation Plans; State of California; Interstate Transport of Pollution; Significant Contribution to Nonattainment and Interference With Maintenance Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the State of California for the purpose of addressing the interstate transport provisions of Clean Air Act (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. EPA is proposing to approve 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 the these standards in any other state and to prohibit emissions that will interfere with maintenance of these standards by any other state.

DATES: Written comments must be received on or before April 18, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R09–OAR–2011–0046, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: mays.rory@epa.gov.*
3. *Fax:* 415–947–3579.
4. *Mail or deliver:* Rory Mays (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Deliveries are only accepted during the Regional Office's normal hours of operation.

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

Docket: The index to the docket for this action 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., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

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 [1] and fine particulate matter [2] ($PM_{2.5}$). This proposed action is in response to the promulgation of these standards (the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS). This proposed 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 EPA 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 1997 $PM_{2.5}$ standards (2006 Guidance).[3]

The transport SIP provisions in section 110(a)(2)(D)(i) (also called "good neighbor" provisions) require each state to submit a SIP that prohibits emissions that adversely affect 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 of this section. This proposed action does not apply to 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 the 2007 Transport SIP for purposes of these additional requirements of CAA section 110(a)(2)(D)(i) in separate actions.

The first element of section 110(a)(2)(D)(i) requires that a state's SIP for a new or revised NAAQS must contain adequate measures to prohibit emissions from sources within the state from "contribut[ing] significantly to nonattainment" of the NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i) requires that a state's SIP must prohibit any source or other type of emissions activity in the state from emitting pollutants that will "interfere with maintenance" of the applicable NAAQS in any other state.

The CAA does not specifically mandate how to determine significant contribution to nonattainment or interference with maintenance. Therefore, EPA has interpreted these terms in past regulatory actions, such as the 1998 NO_X SIP Call, in which EPA took action to remediate emissions of nitrogen oxides (NO_X) that significantly contributed to nonattainment of, or interfered with maintenance of, the then applicable ozone NAAQS through interstate transport of NO_X and the resulting ozone.[4] The NO_X SIP Call was the mechanism through which EPA evaluated whether or not the NO_X emissions from sources in certain states had such prohibited interstate impacts, and if they had such impacts, required the states to adopt substantive SIP revisions to eliminate the NO_X emissions, whether through participation in a regional cap and trade program or by other means.

[1] *See* 62 FR 38856. The level of the 1997 8-hour ozone NAAQS is 0.08 parts per million (ppm). 40 CFR 50.10. The 8-hour ozone standard is met when the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentrations is 0.08 ppm or less (*i.e.,* less than 0.085 ppm based on the rounding convention in 40 CFR part 50 Appendix I). This 3-year average is referred to as the "design value."

[2] *See* 62 FR 38652. The level of the 1997 $PM_{2.5}$ NAAQS are 15.0 micrograms per cubic meter ($\mu g/m^3$) (annual arithmetic mean concentration) and 65 $\mu g/m^3$ (24-hour average concentration). 40 CFR 50.7. The annual standard is met when the 3-year average of the annual mean concentrations is 15.0 $\mu g/m^3$ or less (i.e., less than 15.05 $\mu g/m^3$ based on the rounding convention in 40 CFR part 50 Appendix N Section 4.3). The 24-hour standard is met when the 3-year average annual 98th percentile of 24-hour concentrations is 65 $\mu g/m^3$ or less (i.e., less than 65.5 $\mu g/m^3$ based on the rounding convention in 40 CFR part 40 Appendix N Section 4.3). Id. These 3-year averages are referred to as the annual $PM_{2.5}$ and 24-hour $PM_{2.5}$ "design values," respectively.

[3] 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.

[4] *See* 63 FR 57356 (October 27, 1998). EPA's general approach to section 110(a)(2)(D) in the NO_X SIP Call was upheld in *Michigan* v. *EPA,* 663 (DC Cir. 2000), cert denied, 532 U.S. 904 (2001). However, EPA's approach to interference with maintenance in the NO_X SIP Call was not explicitly reviewed by the court. *See, North Carolina* v. *EPA,* 531 F.3d 896, 907–09 (DC Cir. 2008).

After promulgation of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS, EPA again recognized that regional transport was a serious concern throughout the eastern United States and therefore developed the 2005 Clean Air Interstate Rule (CAIR) to address emissions of sulfur dioxide (SO_2) and NO_X that exacerbate ambient ozone and $PM_{2.5}$ levels in many downwind areas through interstate transport.[5] Within CAIR, EPA interpreted the term "interfere with maintenance" as part of the evaluation of whether or not the emissions of sources in certain states had such impacts on areas that EPA determined would either be in violation of the NAAQS, or would be in jeopardy of violating the NAAQS, in a modeled future year unless action were taken by upwind states to reduce SO_2 and NO_X emissions. Through CAIR, EPA again required states that had such interstate impacts to adopt substantive SIP revisions to eliminate the SO_2 and NO_X emissions, whether through participation in a regional cap and trade program or by other means.

EPA's 2006 Guidance addressed CAA section 110(a)(2)(D)(i) requirements for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. For those states subject to CAIR, EPA indicated that compliance with CAIR would meet the two requirements of section 110(a)(2)(D)(i)(I) for these NAAQS. For states outside of the CAIR region, the 2006 Guidance recommended various methods by which states might evaluate whether or not their emissions significantly contribute to nonattainment of the 1997 8-hour ozone or the 1997 $PM_{2.5}$ NAAQS in another state. Among other methods, EPA recommended consideration of available EPA modeling conducted in conjunction with the CAIR, or in the absence of such EPA modeling, consideration of other information such as the amount of emissions, the geographic location of violating areas, meteorological data, or various other forms of information that would be relevant to assessing the likelihood of significant contribution to violations of the NAAQS in another state.

The assessment of significant contribution to nonattainment is not restricted to impacts upon areas that are formally designated nonattainment. Consistent with EPA's approach in CAIR and recently in the Transport Rule Proposal, as discussed further below, this impact must be evaluated with respect to monitors showing a violation of the NAAQS.[6] Furthermore, although relevant information other than modeling may be considered in assessing the likelihood of significant contribution to nonattainment of the 8-hour ozone or $PM_{2.5}$ NAAQS in another state, EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to nonattainment of the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS in another state.

As to the second element of section 110(a)(2)(D)(i), for states not within the CAIR region, EPA recommended that states evaluate whether or not emissions from their sources would "interfere with maintenance" in other states following the conceptual approach adopted by EPA in CAIR. After recommending various types of information that could be relevant for the technical analysis to support the SIP submission, such as the amount of emissions and meteorological conditions in the state, EPA further indicated that it would be appropriate for the state to assess impacts of its emissions on other states using considerations comparable to those used by EPA "in evaluating significant contribution to nonattainment in the CAIR."[7] EPA did not make specific recommendations for how states should assess interfere with maintenance separately, and discussed the first two elements of section 110(a)(2)(D)(i) together without explicitly differentiating between them.

In 2008, the U.S. Court of Appeals for the DC Circuit found that CAIR and the related CAIR federal implementation plans were unlawful.[8] Among other issues, the court held that EPA had not correctly addressed the second element of section 110(a)(2)(D)(i)(I) in CAIR and noted that "EPA gave no independent significance to the 'interfere with maintenance' prong of section 110(a)(2)(D)(i)(I) to separately identify upwind sources interfering with downwind maintenance."[9] EPA's approach, the court reasoned, would leave areas that are "barely meeting attainment" with "no recourse" to address upwind emissions sources.[10] The court therefore concluded that a plain language reading of the statute requires EPA to give independent meaning to the interfere with maintenance requirement of section 110(a)(2)(D)(i) and that the approach used by EPA in CAIR failed to do so. In addition to affecting CAIR directly, the court's decision in the *North Carolina* case indirectly affects EPA's recommendations to states in the 2006 Guidance with respect to the interfere with maintenance element of section 110(a)(2)(D)(i) because the agency's guidance suggested that states use an approach comparable to that used by EPA in CAIR.

To address the judicial remand of CAIR, EPA has recently proposed a new rule to address interstate transport of air pollution pursuant to section 110(a)(2)(D)(i), the "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" (Transport Rule Proposal).[11] As part of the Transport Rule Proposal, EPA specifically reexamined the section 110(a)(2)(D)(i)(I) requirements that emissions from sources in a state must not "contribute significantly to nonattainment" or "interfere with maintenance" of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. In the proposal, EPA developed an approach to identify areas that it predicts to be violating the 1997 8-hour ozone and $PM_{2.5}$ NAAQS, and areas that it predicts to be close to the level of these NAAQS and therefore at risk to become nonattainment unless emissions from sources in other states are appropriately controlled. This approach starts by identifying those specific geographic areas for which further evaluation is appropriate, and differentiates between areas where the concern is significant contribution to nonattainment as opposed to interference with maintenance.

As described in more detail below, 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, in order to determine which areas are predicted to be violating the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in 2012, and which areas are predicted potentially to have difficulty maintaining attainment as of that date. In essence, if an area's projected data for 2012 indicates that it would be violating the NAAQS based on the average of these three overlapping periods, then this monitor location is appropriate for comparison for purposes of the significant contribution to nonattainment element of section 110(a)(2)(D)(i). If, however, an area's projected data indicate that it would be violating the NAAQS based on the

[5] *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," at 70 FR 25162 at 25263–69 (May 12, 2005).

[6] *See* 63 FR 57371 (October 27, 1998), NO_X SIP Call; 70 FR 25172 (May 12, 2005), CAIR; and 75 FR 45210 (August 2, 2010), Transport Rule Proposal.

[7] 2006 Guidance at 5.

[8] *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Circuit 2008).

[9] 531 F.3d at 909.

[10] *Ibid.*

[11] *See* 75 FR 45210 (August 2, 2010).

highest single period, but not over the average of the three periods, then this monitor location is appropriate for comparison for purposes of the interfere with maintenance element of the statute.[12]

By this method, EPA has identified those areas with monitors that are appropriate "nonattainment receptors" or "maintenance receptors" for evaluating whether the emissions from sources in another state could significantly contribute to nonattainment in, or interfere with maintenance in, that particular area. EPA believes that this new approach for identifying areas that are predicted to be nonattainment or to have difficulty maintaining the NAAQS is appropriate to evaluate a state's submission in relation to the elements of CAA section 110(a)(2)(D)(i)(I) pertaining to significant contribution to nonattainment and interference with maintenance.[13] EPA's 2006 Guidance did not provide this specific recommendation to states, but in light of the court's decision on CAIR, EPA will itself follow this approach in acting upon the California submission.[14]

As explained in the 2006 Guidance, EPA does not believe that section 110(a)(2)(D)(i) SIP submissions from all states necessarily need to follow precisely the same analytical approach of CAIR. In the 2006 Guidance, EPA stated that: "EPA believes that the contents of the SIP submission required by section 110(a)(2)(D) may vary, depending upon the facts and circumstances related to the specific NAAQS. In particular, the data and analytical tools available at the time the state develops and submits a SIP for a new or revised NAAQS necessarily affects the contents of the required submission." [15] EPA also indicated in the 2006 Guidance that it did not anticipate that sources in states outside the geographic area covered by CAIR were significantly contributing to nonattainment, or interfering with maintenance, in other states.[16] As noted in the Transport Rule Proposal, EPA continues to believe that the more widespread and serious transport problems in the eastern United States are analytically distinct.[17] For the 1997 8-hour ozone and $PM_{2.5}$ NAAQS, EPA believes that nonattainment and maintenance problems in the western United States are relatively local in nature with only limited impacts from interstate transport. In the Transport Rule Proposal, EPA did not calculate the portion of predicted ozone or $PM_{2.5}$ concentrations in any downwind state that would result from emissions from individual western states, such as California.

Accordingly, EPA believes that section 110(a)(2)(D)(i) SIP submissions for states outside the geographic area of the Transport Rule Proposal may be evaluated using a "weight of the evidence" approach that takes into account the available relevant information, such as that recommended by EPA in the 2006 Guidance for states outside the area affected by CAIR. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may interfere with maintenance of the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in other states. These submissions can rely on modeling when acceptable modeling technical analyses are available, but EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a given situation.

II. What is the State process to submit these materials to EPA?

CAA sections 110(a)(1) and (2) and section 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, of a public hearing on the proposed revisions, a public comment period of at least 30 days, and an opportunity for a public hearing.

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).[18] Appendix C of the 2007 State Strategy, as modified by Attachment A,[19] 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). CARB's November 16, 2007 submittal includes public process documentation for the 2007 State Strategy, including the 2007 Transport SIP. In addition, the SIP revision includes documentation of a duly noticed public hearing held on September 27, 2007 on the proposed 2007 State Strategy.

We find that the process followed by CARB in adopting the 2007 Transport SIP complies with the procedural requirements for SIP revisions under CAA section 110 and EPA's implementing regulations.

III. What is EPA's evaluation of the State's submission?

A. Evaluation of Significant Contribution to Nonattainment

This proposed approval addresses the significant contribution to nonattainment element of section 110(a)(2)(D)(i)(I) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in several ways. It takes into account California's 2007 Transport SIP, in which the state explains that meteorological and other characteristics

[12] A memorandum in the docket for this action provides the information EPA used to identify monitors that are receptors for evaluation of significant contribution or interference with maintenance for certain states in the western United States. 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).

[13] To begin this analysis, EPA first identifies all monitors projected to be in nonattainment or, based on historic variability in air quality, projected to have maintenance problems in 2012. Monitors projected to be in nonattainment are those with future year design values that violate the standard, based on the projection of 5-year weighted average concentrations. Monitors projected to have maintenance problems are those at risk of not staying in attainment because the air quality data is close enough to the level of the 1997 8-hour ozone and $PM_{2.5}$ NAAQS that minor variations in weather or emissions could result in violations of the NAAQS in 2012.

[14] By letter dated January 26, 2011, CARB acknowledged that the 2008 remand of CAIR and EPA's Transport Rule Proposal would affect EPA's review of the 2007 Transport SIP. The letter states that based on EPA's findings in the Timin Memo regarding pollution transport in the western states, ARB staff concludes that pollutants from California do not contribute to nonattainment or maintenance problems in other states. *See* letter dated January 26, 2011, from Douglas Ito, Chief, Air Quality and Transportation Planning Branch, CARB to Lisa Hanf, Chief, Air Planning Office, EPA Region 9.

[15] 2006 Guidance at 4.

[16] *Ibid.* at 5.

[17] *See* Transport Rule Proposal, 75 FR 45210 at 45227 (August 2, 2010).

[18] *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).

[19] *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).

in California and in the surrounding areas reduce the likelihood that emissions from sources in California contribute significantly to nonattainment of the 1997 8-hour ozone or $PM_{2.5}$ NAAQS in any downwind state. In addition, EPA has supplemented the state's analysis with its own evaluation of the evidence to assess whether emissions sources in California contribute significantly to nonattainment of the 1997 8-hour ozone or $PM_{2.5}$ NAAQS in other states. First, EPA has evaluated the potential for ozone transport from California to specific locations identified in the Transport Rule Proposal by reviewing ozone back-trajectory analyses and other relevant information. Second, EPA has considered information in the Brian Timin Memo, which provides projected future year ozone and annual $PM_{2.5}$ design values for monitors in the western U.S. based on the air quality modeling carried out in support of the Transport Rule Proposal. Finally, EPA has reviewed recent ozone and $PM_{2.5}$ monitoring data for the states bordering California to consider whether California emissions could contribute to violations of the 1997 8-hour ozone or $PM_{2.5}$ NAAQS in those states. Based on these analyses, we propose to conclude that emissions from California do not contribute significantly to nonattainment in any other state for the 1997 8-hour ozone or $PM_{2.5}$ NAAQS, consistent with the requirements of CAA section 110(a)(2)(D)(i)(I).

1. Significant Contribution to Nonattainment Evaluation for the 1997 8-Hour Ozone NAAQS

To address whether emissions from California sources significantly contribute to nonattainment of the 1997 8-hour ozone NAAQS in another state, California argued in the 2007 Transport SIP that meteorological conditions within the State and its existing air pollution control programs support a finding that emissions from California sources "[do] not significantly affect nonattainment areas in other states."[20] Specifically, the State's submittal argues that ozone episodes in the southwestern U.S. are normally associated with meteorology that results in stagnant conditions (i.e., not conducive to ozone transport) and that, on occasion, those conditions are weakly impacted by migrating low pressure systems over the Pacific Ocean that push air high above the surface eastward.[21] Even though acknowledging the occasional possibility of ozone being transported over long distances, the State asserted in the 2007 Transport SIP that California's existing air quality programs (*e.g.,* its motor vehicle emissions control program, consumer product regulations, stationary source permit programs, and other control measures) greatly reduce the likelihood that emissions from California sources will contribute significantly to nonattainment in any downwind state.[22]

Also in support of its conclusion, the State's 2007 Transport SIP references language in the preamble to CAIR citing EPA's own statement that, given geography, meteorology, and topography in the western U.S., "$PM_{2.5}$ and 8-hour ozone nonattainment problems are not likely to be affected significantly by pollution transported across [the western] states' boundaries."[23] In sum, the State argues in the 2007 Transport SIP that EPA's statement in the CAIR rulemaking with respect to the likelihood of transport in western states, together with the meteorological and other information provided in California's submittal, support the finding that emissions from California sources do not significantly affect nonattainment areas in other states.

EPA does not agree with California's assessment in the 2007 Transport SIP that these factors alone demonstrate that emissions from California sources do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in other states. Therefore, EPA is supplementing the State's submittal with additional information in order to assess this issue more fully, and in light of more recent information. As noted above, EPA is evaluating the 2007 Transport SIP taking into account the methodologies and analyses developed in the Transport Rule Proposal in response to the judicial remand of CAIR, as well as EPA's projections of future air quality at monitors in western states in the Timin Memo and preliminary air quality data from monitors in the states bordering California.

The Transport Rule Proposal includes an approach to determining whether emissions from a state contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in other states. Specifically, EPA used existing monitoring data and modeling to project future concentrations of ozone at monitors to identify areas that are expected to be violating the 1997 8-hour ozone NAAQS in 2012, based on the 5-year weighted average design value. We call these monitors "nonattainment sites" or "nonattainment receptors." To identify the states with emissions that may contribute significantly to ozone nonattainment in other states, the Transport Rule Proposal models the states' contributions to ambient ozone levels at these nonattainment receptors.[24] Because the Transport Rule Proposal does not model the contribution of emissions from California (and other western states not fully inside the Transport Rule Proposal's modeling domain) to 8-hour ozone nonattainment receptors in other states, our assessment in this proposed action relies on a weight of evidence approach that considers relevant information from the Transport Rule Proposal pertaining to states within its modeling domain and additional material such as back-trajectory analyses, geographical and meteorological factors, EPA's projections of future air quality at monitors in western states in the Timin Memo, and EPA's Air Quality System (AQS)[25] monitoring data. Although each of the factors considered in the following analysis are not in and of themselves determinative, consideration of these factors together provides a reliable qualitative conclusion that emissions from California sources are not likely to contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS at monitors in other states.

Our analysis begins by assessing California's contribution to the closest nonattainment receptors for the 1997 8-hour ozone standard. The Transport Rule Proposal identifies, within its modeling domain (consisting of 37 states east of the Rocky Mountains, and the District of Columbia), 11 nonattainment receptors for the 1997 8-hour ozone standard. Of these, the nonattainment receptors closest to California are seven receptors in the Dallas-Fort Worth and Houston-Galveston-Brazoria 8-hour ozone nonattainment areas in eastern Texas. The remaining four nonattainment receptors for the 1997 8-hour ozone NAAQS are in Louisiana, New York, and Pennsylvania.[26]

The nonattainment receptors in Dallas-Fort Worth and Houston-Galveston-Brazoria areas are over 900 miles from the easternmost border of California, and the monitors in Louisiana, New York, and Pennsylvania

[20] 2007 State Strategy, Attachment A, page 20.

[21] *Ibid.*

[22] *Ibid.*

[23] *See ibid.* (quoting CAIR proposal, 69 FR 4566 at 4581, January 30, 2004).

[24] Transport Rule Proposal, 75 FR 45210 at 45253–45273.

[25] AQS is EPA's database repository of monitored ambient air quality data. *See http://www.epa.gov/ttn/airs/airsaqs/.*

[26] *See* Transport Rule Proposal, Table IV.C–11, 75 FR 45210 at 45252.

are significantly farther away. Although distance alone is not determinative in the analysis of potential ozone transport, with increasing distance there are greater opportunities for ozone and NO_X dispersion and/or removal from the atmosphere due to the effect of winds or chemical sink processes. Moreover, the intervening Rocky Mountains act as a natural barrier to air pollution transport. These factors together support a conclusion that California sources do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in the nearest areas with nonattainment receptors identified in the Transport Rule Proposal.

In order to evaluate the potential impact of emissions from California sources on the nonattainment receptors identified in the Transport Rule Proposal, EPA evaluated air parcel pathways from California to these monitoring sites. Specifically, EPA reviewed the analysis of ozone transport by the Texas Commission on Environmental Quality for each exceedance day in 2007, 2008, and 2009 for the seven nonattainment receptors in the Dallas-Fort Worth and Houston-Galveston-Brazoria 8-hour ozone nonattainment areas in eastern Texas.[27] Exceedance days were identified using the AQS Database. Back-trajectories [28] were run for all of the days during the 2007–2009 period when ozone concentrations at these receptors exceeded the 1997 8-hour ozone NAAQS (*i.e.,* monitored ozone concentrations were 85 parts per billion (ppb) or above). These back-trajectory maps indicate that air parcel pathways to nonattainment receptors in eastern Texas do not originate in California.

Because back-trajectory analysis results map pathways of air parcels that may or may not transport pollutants, they cannot be considered determinative as to the transport of ozone and its precursors or the absence of such transport from California emission sources. However, the fact that the air parcel trajectories do not directly connect California to the nonattainment receptors in eastern Texas strongly supports the conclusion that emissions of ozone and its precursors from California are not likely to contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS at these receptors.

To assist in the evaluation of the potential for ozone transport among western states not included in the modeling domain for the Transport Rule Proposal, EPA also developed an additional analysis in the Timin Memo identifying monitors projected to record violations of the 1997 8-hour ozone NAAQS within a modeling domain that includes the western states.[29] The Timin Memo identified numerous nonattainment sites for the 1997 8-hour ozone NAAQS in southern and central California.[30] This analysis did not, however, identify any projected nonattainment receptors for the 1997 8-hour ozone NAAQS in any other western state. EPA's analysis for western states therefore supports our proposal to conclude that California sources do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in other western states.

Finally, in addition to the information in the 2007 Transport SIP, our review of air parcel pathways to the nearest nonattainment receptors identified from the modeling analyses conducted for the Transport Rule Proposal, and EPA's projections of future air quality in the western states in the Timin Memo, EPA evaluated preliminary air quality monitoring data for the areas in states bordering California that are designated nonattainment for the 1997 8-hour ozone NAAQS. Although significant contribution must be measured not just against designated nonattainment areas but also against areas with monitors showing violations of the NAAQS, nonattainment areas are a convenient starting point for the analysis. The 2007 Transport SIP identifies two areas in states bordering California that are currently designated nonattainment for the 1997 8-hour ozone standard: The Las Vegas area in Clark County, Nevada, and the Phoenix-Mesa area in Arizona. EPA designated both of these areas as nonattainment for the 1997 8-hour ozone standard in 2004. *See* 69 FR 23858 (April 30, 2004); 40 CFR 81.303 and 81.329. Both of these areas, however, have current design values indicating attainment of the 1997 8-hour ozone NAAQS. Our review of preliminary monitoring data for the 2007–2009 period available in EPA's AQS Database indicates that the 8-hour ozone design values for Las Vegas and Phoenix-Mesa during this period were 78 ppb and 76 ppb, respectively.[31] Thus, we believe it is reasonable to conclude that California sources are not contributing significantly to nonattainment of the 1997 8-hour ozone NAAQS in either the Las Vegas, Nevada or Phoenix-Mesa, Arizona nonattainment areas. No other area in the states bordering California (Oregon, Nevada, or Arizona) is currently designated nonattainment for the 1997 8-hour ozone NAAQS.

As mentioned above, EPA considers not only significant contribution to designated nonattainment areas, but also to areas with monitor readings showing violations of the NAAQS. A review of the AQS monitoring data for adjacent states shows that it is highly unlikely that emissions from California contribute significantly to violations of the 1997 8-hour ozone NAAQS in any downwind state. Specifically, EPA's observed maximum design values at monitors in the western states during the 2003–2007 period were generally well below the 1997 ozone NAAQS (except in California), and the 2012 modeling results at these western monitors (where a future year design value could be estimated) show a downward trend in ozone.[32]

Additionally, we evaluated ozone monitoring data from the 2007–2009 period from each of the ozone monitoring sites in Oregon, Nevada, and Arizona, to determine whether the ozone levels in any of these states violate or potentially violate the 1997 8-hour ozone NAAQS.[33] The highest ozone design value at these monitoring sites during the 2007–2009 period was 78 ppb (in the Las Vegas, Nevada area), and most monitors recorded significantly lower ozone levels.[34] We have found no violations of the 1997 8-hour ozone NAAQS at any of the monitors in states bordering California, nor any indication that emissions from California sources contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in these adjacent states.

The fact that monitors in these nearby areas are not registering violations of the NAAQS does not in itself conclusively establish that emissions from California could not contribute in the aggregate to violations in any other state. But this fact combined with our evaluation of the nearest nonattainment receptors in

[27] *See* Technical Support Document, California 2007 Transport SIP, Evaluation of Significant Contribution to Nonattainment and Interference with Maintenance for the 1997 8-hour Ozone NAAQS, U.S. EPA Region 9, February 25, 2011.

[28] Trajectories for each monitor were run backwards in time for 72 hours (three days), using a trajectory height at the starting point of 1,500 meters above ground level.

[29] *See* fn. 12 above.

[30] *See* Timin Memo at Appendix B ("Base year 2003–2007 and Future Year 2012 8-Hour Average Ozone Design Values—Western States").

[31] *See* U.S. EPA AQS, "Preliminary Design Value Report," 2007–2009, for Nevada, Arizona.

[32] *See* Timin Memo at Appendix B ("Base year 2003–2007 and Future Year 2012 8-Hour Average Ozone Design Values—Western States").

[33] *See* U.S. EPA AQS, "Preliminary Design Value Report," 2007–2009, for Oregon, Nevada, Arizona.

[34] *Ibid.*

eastern Texas, taking into account distance, topographical barriers, and typical meteorological conditions, supports California's conclusion that emissions from its sources do not contribute significantly to nonattainment of the 1997 8-hour ozone NAAQS in other states, in accordance with section 110(a)(2)(D)(i)(I).

2. Significant Contribution to Nonattainment Evaluation for the 1997 $PM_{2.5}$ NAAQS

In its 2007 Transport SIP, California argues that distance to the nearest designated $PM_{2.5}$ nonattainment area, topographical features and meteorology support a finding that California sources do not significantly contribute to nonattainment of the 1997 $PM_{2.5}$ NAAQS in another state. The 2007 Transport SIP also references EPA's technical support document (TSD) for the $PM_{2.5}$ NAAQS nonattainment designations ($PM_{2.5}$ Designations TSD),[35] which identifies Libby, Montana (in Lincoln County), as the area closest to California that is designated nonattainment for the 1997 $PM_{2.5}$ standards.[36] As EPA noted in the $PM_{2.5}$ Designations TSD, $PM_{2.5}$ in Libby is predominantly local in origin (*e.g.,* residential wood-burning stoves during the winter time, when frequent and persistent temperature inversions occur, were specifically identified as a key source of particulate emissions in the area). Thus, California correctly noted that EPA concluded that $PM_{2.5}$ pollution in Libby is a localized problem.[37]

The fact that nonattainment in a given area is primarily the result of local emissions sources does not exclude the possibility of significant contribution to nonattainment from interstate transport. This fact and other evidence, however, support the conclusion that emissions from California sources are not significantly contributing to violations in Libby, Montana. That area is more than 900 miles away from California and is on the other side of the Sierra Nevada Mountains, a 400-mile-long north-south range of mountains that act as a natural barrier to air movement between California and Montana.[38] In addition, Libby is not in the predominant direction of winds from California, as transport winds generally flow from west to east, and not toward the north. Given the relatively long distance between California and Libby, Montana, the intervening mountainous topography, the localized nature of the $PM_{2.5}$ nonattainment problem in Libby, and the general west-to-east direction of transport winds across California, EPA believes it is reasonable to conclude that California sources do not contribute significantly to nonattainment of the 1997 $PM_{2.5}$ NAAQS in Libby, Montana. We note also that preliminary data available in EPA's AQS Database for the 2007–2009 period indicate that the Libby, Montana nonattainment area is currently attaining the 1997 $PM_{2.5}$ standards.[39]

EPA does not agree with California's assessment in the 2007 Transport SIP that these factors alone demonstrate that emissions from California sources do not contribute significantly to nonattainment of the 1997 $PM_{2.5}$ NAAQS in any other states. Therefore, EPA is supplementing the state's submission with additional information in order to assess this issue more fully, and in light of more recent information. As noted above, EPA is evaluating the 2007 Transport SIP taking into account the methodologies and analyses developed in the Transport Rule Proposal in response to the judicial remand of CAIR, as well as EPA's projections of future air quality at monitors in western states in the Timin Memo and preliminary air quality data from monitors in the states bordering California.

Specifically, we identified the nonattainment receptors for the 1997 annual $PM_{2.5}$ NAAQS closest to California to evaluate whether emissions from California sources contribute significantly to nonattainment of the 1997 $PM_{2.5}$ NAAQS in any other state.[40] For the 1997 annual $PM_{2.5}$ NAAQS, the nonattainment receptors closest to California that EPA identified from the modeling analyses conducted for the Transport Rule Proposal are all east of the Mississippi River.[41] Given the significant distance between California and these nonattainment receptors, and the intervening mountainous terrain, we believe it is reasonable to conclude that California sources do not contribute significantly to nonattainment of the 1997 annual $PM_{2.5}$ NAAQS in any of these areas.

To address the potential for impacts on states not included in the modeling domain for the Transport Rule Proposal, we also evaluated whether there are monitors suitable for consideration as nonattainment receptors in western states outside of the geographic area covered by the Transport Rule Proposal. We note that EPA's analysis in the Timin Memo for western states identified numerous nonattainment sites for the 1997 annual $PM_{2.5}$ NAAQS in southern and central California.[42] This analysis did not, however, identify any projected nonattainment receptors for the 1997 annual $PM_{2.5}$ NAAQS in any other western state. Thus, we believe it is reasonable to conclude that California sources do not contribute significantly to nonattainment of the 1997 $PM_{2.5}$ NAAQS in other states.

The analysis for the Transport Rule Proposal did not identify any nonattainment receptors for the 1997

[35] *See* Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations, "EPA 9–Factor Analyses for Montana for the Designation of $PM_{2.5}$ Nonattainment Areas," Chapter 6.8.1, December 17, 2004.

[36] EPA designated this area as nonattainment for the 1997 $PM_{2.5}$ NAAQS in 2005. 70 FR 944 (January 5, 2005) and 40 CFR 81.305.

[37] "Factor 6" of this 9-Factor Analysis describes the meteorology in the Libby area as follows: "Libby Montana is located in the northwestern part of the state in a narrow north-south oriented valley. The ridgetops surrounding Libby are approximately 4,000 feet higher than the town. There are no other towns or large emissions sources immediately upwind, so transport of high background concentrations into Libby is considered unlikely. The highest $PM_{2.5}$ concentrations in Libby generally occur during the months of November through February. During the summer months concentrations typically average less than half the level of the annual $PM_{2.5}$ NAAQS, while winter concentrations may double the NAAQS. The much higher concentrations in winter are related to stagnant weather conditions dominated by light winds and strong temperature inversions. These meteorological conditions may trap emissions within the valley for many days. No recent meteorological data is available for Libby, however, data from Kalispell, MT show calm wind conditions occur 35 percent of the time in the winter months and only 15 percent of the time in the spring and summer. Vertical temperature soundings at Great Falls in Western MT also show a very high frequency of surface temperature inversions in the winter.

Due to the meteorology conditions in the town and surrounding vicinity of Libby and due to the topographical features within Lincoln County and more specifically around Libby, that create stagnant weather conditions, EPA feels the adjacent counties do not impact the $PM_{2.5}$ monitor located at the Libby Courthouse Annex and that the nonattainment problem is a localized $PM_{2.5}$ problem." $PM_{2.5}$ Designations TSD at Chapter 6.8.1.

[38] *See* $PM_{2.5}$ Designations TSD at Chapter 6.8.1.

[39] This data indicates the annual $PM_{2.5}$ design value for the Libby, Montana area during the 2007–2009 period was 12.2 $\mu g/m^3$. *See* U.S. EPA AQS, "Preliminary Design Value Report," 2007–2009, for Montana.

[40] For $PM_{2.5}$, the Transport Rule Proposal identified nonattainment receptors for the 1997 annual $PM_{2.5}$ NAAQS and the 2006 24-hour $PM_{2.5}$ NAAQS. See 75 FR 45210 at 45212. Because our proposal on California's 2007 Transport SIP addresses requirements of CAA section 110(a)(2)(D)(i) only for purposes of the 1997 ozone and $PM_{2.5}$ NAAQS, for $PM_{2.5}$ purposes we consider only the nonattainment receptors for the 1997 annual $PM_{2.5}$ NAAQS identified in the Transport Rule Proposal.

[41] Specifically, the nonattainment sites for the 1997 annual $PM_{2.5}$ standard are located in Alabama, Georgia, Illinois, Indiana, Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia. See Transport Rule Proposal, 75 FR 45210 at 45247–45248 (August 2, 2010).

[42] *See* Timin Memo at Appendix A ("Base year 2003–2007 and Future Year 2012 Annual Average $PM_{2.5}$ Design Values—Western States").

24-hour $PM_{2.5}$ NAAQS in the portions of the U.S. covered by the Transport Rule Proposal modeling domain (*i.e.,* the 12 kilometer (km) grid covering the continental U.S. east of the Rockies).[43] Recent monitoring data in EPA's Air Quality System (2007–2009 design values that are under final EPA review) indicate that the highest 24-hour $PM_{2.5}$ design value in the 47 states of the continental U.S. (excluding California) is 50 μg/m³,[44] which is well below the level of the 1997 24-hour $PM_{2.5}$ NAAQS of 65 μg/m³. This data further supports our proposed finding that California sources do not contribute significantly to nonattainment of the 1997 24-hour $PM_{2.5}$ NAAQS in any other state.

Finally, EPA evaluated $PM_{2.5}$ air quality data for areas in the states bordering California to determine whether California sources might contribute significantly to violations of the 1997 $PM_{2.5}$ NAAQS in these nearby areas. No areas in Oregon, Nevada, or Arizona are currently designated nonattainment for the 1997 $PM_{2.5}$ NAAQS. As mentioned above, however, EPA considers not only significant contribution to designated nonattainment areas, but also to areas with monitoring data showing violations of the NAAQS. A review of the AQS monitoring data for adjacent states shows that it is highly unlikely that emissions from California contribute significantly to violations of the 1997 annual $PM_{2.5}$ NAAQS in any downwind state.

Specifically, we reviewed preliminary $PM_{2.5}$ monitoring data for the 2007–2009 period available in EPA's AQS Database from all $PM_{2.5}$ monitoring sites in Oregon, Nevada, and Arizona, to determine whether the $PM_{2.5}$ design values in any of these states potentially violate the 1997 annual $PM_{2.5}$ NAAQS.[45] During this period only one monitor in these adjoining states, the "Cowtown" monitor in Casa Grande, Arizona (monitor ID 04–021–3013), has a $PM_{2.5}$ design value exceeding the 1997 annual standard of 15.0 μg/m³.[46] EPA has separately determined, however, that this monitor is not suitable for determining compliance with the 1997 annual $PM_{2.5}$ standard because the monitor functions as a population-oriented microscale (*i.e.,* localized hot spot) monitor.[47] No other $PM_{2.5}$ monitor in the three states bordering California recorded a violation of the 1997 annual or 24-hour $PM_{2.5}$ NAAQS during the 2007–2009 period.[48]

The fact that monitors in these nearby areas are not registering violations of the 1997 $PM_{2.5}$ NAAQS does not in itself conclusively establish that emissions from California could not contribute in the aggregate to violations in other states. But this fact combined with our evaluation of the nearest nonattainment receptors in states east of the Mississippi River, taking into account distance, topographical barriers, and typical meteorological conditions, supports California's conclusion on $PM_{2.5}$ contribution for the 1997 NAAQS.

3. Conclusion Regarding Significant Contribution to Nonattainment

Based on the weight of evidence discussed above, including the location of the nearest projected nonattainment sites, distance to the nearest designated $PM_{2.5}$ nonattainment area, meteorology, topography, and recent air quality monitoring data, we propose to determine that California's 2007 Transport SIP is adequate to ensure that emissions from California do not significantly contribute to nonattainment in any other state for the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS, consistent with the requirements of CAA section 110(a)(2)(D)(i)(I). Thus, we propose to determine that California's SIP includes the measures necessary to prevent such prohibited interstate transport impacts for these NAAQS.

B. Evaluation of Interference With Maintenance

California's 2007 Transport SIP relies upon the recommendations in EPA's 2006 Guidance and does not provide a specific analysis of the interference with maintenance element of section 110(a)(2)(D)(i). Given the court decision on CAIR in the interim, however, EPA believes that it is necessary to evaluate the submission for section 110(a)(2)(D)(i)(I) in such a way as to assure that the interfere with maintenance element of the statute is given independent meaning and is appropriately evaluated using the types of information that EPA recommended in the 2006 Guidance. To accomplish this, in this proposed action, EPA has supplemented California's analysis with an approach comparable to that of the Transport Rule Proposal in order to adequately evaluate whether emissions from California sources interfere with maintenance of these NAAQS in other states. As with the significant contribution to nonattainment analysis, we have evaluated the potential for transport of emissions from California sources to specific locations identified in the Transport Rule Proposal, EPA's projected future year ozone and $PM_{2.5}$ design values in the Timin Memo for monitors in the western U.S., and preliminary air quality data from monitors in the states bordering California. Based on these analyses, we propose to conclude that emissions from California sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS or 1997 $PM_{2.5}$ NAAQS in any other state, consistent with the requirements of CAA section 110(a)(2)(D)(i)(I).

1. Interfere With Maintenance Evaluation for the 8-Hour Ozone NAAQS

As discussed above, in the Transport Rule Proposal, EPA projected future concentrations of ozone at monitors to identify areas that are expected to be violating the NAAQS or to have difficulty maintaining compliance with the NAAQS in 2012. For purposes of the interfere with maintenance evaluation, EPA projected future concentrations of ozone at monitors to identify areas that are expected to have a maximum design value (based on a single 3-year period) that exceeds the 1997 8-hour ozone NAAQS and by 2012. EPA anticipates that these "maintenance receptors" or "maintenance sites" will have difficulty in maintaining attainment of the NAAQS if there are adverse variations in meteorology or emissions.

To identify the states with emissions that may cause interference with attainment of the NAAQS at the maintenance receptors, the Transport Rule Proposal models the states' contributions to ambient ozone levels at these maintenance receptors.[49] Because the Transport Rule Proposal does not model the contribution of emissions

[43] 75 FR 45210 at 45249–45251 (August 2, 2010).

[44] These values were recorded at monitors in Liberty-Clairton, Pennsylvania and Provo, Utah. *See http://epa.gov/airtrends/pdfs/PM2.5%202007-2009%20design%20value%20update.pdf.* Data from EPA's Air Quality System can be viewed at *http://www.epa.gov/ttn/airs/airsaqs/.*

[45] *See* U.S. EPA AQS, "Preliminary Design Value Report," 2007–2009, for Oregon, Nevada, and Arizona.

[46] The Cowtown monitor had a $PM_{2.5}$ design value of 18.8 μg/m³. *See* U.S. EPA AQS, "Preliminary Design Value Report," 2007–2009, for Arizona.

[47] *See* 76 FR 6056 (February 3, 2011); *see* also "Technical Support Document for Determination that the Cowtown Monitor is Ineligible for Comparison with the Annual $PM_{2.5}$ NAAQS," April 26, 2010.

[48] Our review of AQS data for the 2007–2009 period in the three states bordering California indicated the highest valid annual $PM_{2.5}$ design value was 12.8 μg/m³ (monitor ID 04–023–0004 in Nogales, Arizona) and the highest valid 24-hour $PM_{2.5}$ design value was 47 μg/m³ (monitor ID 41–035–0004 in Klamath Falls, Oregon). *See* U.S. EPA AQS, "Preliminary Design Value Report," 2007–2009, for Oregon, Nevada, and Arizona.

[49] *See* Transport Rule Proposal, 75 FR 45210 at 45253–45273.

from California (and other western states not fully inside the Transport Rule Proposal's modeling domain) to 8-hour ozone maintenance receptors in other states, our assessment relies on a weight of evidence approach that considers relevant information from the Transport Rule Proposal pertaining to states within its modeling domain and additional information such as back-trajectory analyses, geographical and meteorological factors, EPA's projections of future air quality at monitors in western states in the Timin Memo, and AQS monitoring data. Although each of the factors considered in the following analysis is not in and of itself determinative, consideration of these factors together provides a reliable qualitative conclusion that emissions from California are not likely to interfere with maintenance of the 1997 8-hour ozone NAAQS at monitors in other states.

Our analysis begins by assessing California's contribution to the closest maintenance receptors for the 1997 8-hour ozone standard. The Transport Rule Proposal identifies 16 maintenance receptors for the 1997 8-hour ozone standard within its modeling domain (consisting of 37 states east of the Rocky Mountains, and the District of Columbia). Of these, the receptors closest to California are eight receptors in the Dallas-Fort Worth and Houston-Galveston-Brazoria 8-hour ozone nonattainment areas in eastern Texas. The remaining eight maintenance sites are located in Connecticut, Georgia, New York and Pennsylvania.[50]

As discussed above in section III.A.1, the Dallas-Fort Worth and Houston-Galveston-Brazoria areas are over 900 miles from the easternmost border of California. The maintenance receptor monitors located in Connecticut, Georgia, New York and Pennsylvania are significantly farther away. Although distance alone is not determinative in the analysis of potential ozone transport, with increasing distance there are greater opportunities for ozone and NO_X dispersion and/or removal from the atmosphere.

To evaluate further the potential for California emissions to interfere with maintenance at the closest maintenance receptor locations, EPA conducted an analysis of ozone transport for each exceedance day in 2005 and 2006 for the eight maintenance receptors in the Dallas-Fort Worth and Houston-Galveston-Brazoria 8-hour ozone nonattainment areas in eastern Texas.[51] Exceedance days were identified using the AQS Database, EPA's repository of monitored ambient air quality data. EPA ran back-trajectories[52] for those days during the 2005–2006 period when ozone concentrations at these receptors exceeded the 1997 8-hour ozone NAAQS (*i.e.,* monitored ozone concentrations were 85 ppb or above). These back-trajectory maps indicate that air parcel pathways to maintenance receptors in eastern Texas do not originate in California.

Because back-trajectory analysis results map pathways of air parcels that may or may not transport pollutants, they cannot be considered determinative as to the transport of ozone and its precursors or the absence of such transport from California emission sources. However, the fact that the air parcel trajectories do not connect California directly to the maintenance receptors in eastern Texas strongly supports the conclusion that emissions of ozone and its precursors from California sources are not likely to interfere with maintenance of the 1997 8-hour ozone NAAQS at these receptors. The maintenance receptors for the 1997 ozone standard identified in the Transport Rule Proposal are in similar locations relative to California as are the nonattainment receptors discussed above in section III.A.1, and the same considerations regarding distance, topography, and meteorology therefore support our proposal to determine that emissions from California sources do not interfere with maintenance at the maintenance receptor sites. Thus, EPA believes it is reasonable to conclude that California sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in any other state.

We note that EPA's analysis in the Timin Memo, for western states not included in the modeling domain for the Transport Rule Proposal, identified four maintenance sites for the 1997 8-hour ozone NAAQS in southern and central California.[53] This analysis did not, however, identify any projected maintenance receptors for the 1997 8-hour ozone NAAQS in any other western state. The absence of monitors even suitable for comparison for this purpose indicates that emissions from California sources do not have such an impact in western states. Thus, EPA's analysis for western states also supports our proposal to conclude that California sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in other states.

Finally, as discussed above in section III.A.1, EPA's observed maximum design values at monitors in the western states during the 2003–2007 period were generally well below the 1997 ozone NAAQS, and the 2012 modeling results at these western monitors (where a future year design value could be estimated) show a downward trend in ozone.[54] Additionally, we evaluated ozone monitoring data from the 2007–2009 period from each of the ozone monitoring sites in Oregon, Nevada, and Arizona, and found no violations of the 1997 8-hour ozone NAAQS at any of these monitors during this period.[55] The fact that monitors in these nearby areas are not registering violations of the NAAQS does not in itself conclusively establish that emissions from California could not interfere with maintenance of the 1997 8-hour ozone NAAQS in any other state. But this fact combined with our evaluation of the nearest maintenance receptors in eastern Texas, taking into account distance, topographical barriers, and typical meteorological conditions, in addition to the back-trajectory analyses conducted to evaluate air parcel pathways to eastern Texas, support our proposal to conclude that California sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS in any other state.

2. Interfere With Maintenance Evaluation for the 1997 $PM_{2.5}$ NAAQS

The Transport Rule Proposal identifies, within its modeling domain, 16 maintenance receptors for the 1997 annual $PM_{2.5}$ NAAQS. Of these, the closest to California is one receptor located in the Harris County $PM_{2.5}$ nonattainment area in eastern Texas. The remaining 15 maintenance receptors for the 1997 annual $PM_{2.5}$ NAAQS are all located in states east of the Mississippi River.[56]

As discussed above in section III.A.1, the Dallas-Fort Worth and Houston-

[50] *See* Transport Rule Proposal, Table IV.C–12, 75 FR 45210 at 45252–45253.

[51] *See* Technical Support Document, California 2007 Transport SIP, Evaluation of Significant Contribution to Nonattainment and Interference with Maintenance for the 1997 8-hour Ozone NAAQS, U.S. EPA Region 9, February 25, 2011.

[52] For each monitor, EPA ran the trajectories backwards in time for 72 hours (three days), using a trajectory height at the starting point of 1,500 meters above ground level.

[53] *See* Timin Memo at Appendix B ("Base year 2003–2007 and Future Year 2012 8-Hour Average Ozone Design Values—Western States").

[54] *See* Timin Memo at Appendix B ("Base year 2003–2007 and Future Year 2012 8-Hour Average Ozone Design Values—Western States").

[55] *See* U.S. EPA AQS, "Preliminary Design Value Report," 2007–2009, for Oregon, Nevada, and Arizona.

[56] Specifically, the remaining 15 maintenance sites for the 1997 annual $PM_{2.5}$ NAAQS are located in Illinois, Kentucky, New York, Ohio, Pennsylvania, and West Virginia.

Galveston-Brazoria areas are over 900 miles from the easternmost border of California, and states with maintenance receptors east of the Mississippi River are even farther away. Because the maintenance receptors for the 1997 $PM_{2.5}$ standard identified in the Transport Rule Proposal are in similar locations relative to California as are the nonattainment receptors discussed above in sections III.A.1 and A.2, the same considerations regarding distance, topography, and meteorology support our proposal to determine that emissions from California sources do not interfere with maintenance at the maintenance receptor sites. EPA therefore believes it is reasonable to conclude that California sources do not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any other state.

We note that EPA's analysis in the Timin Memo, for western states not included in the modeling domain for the Transport Rule Proposal, identified numerous maintenance sites for the 1997 annual $PM_{2.5}$ NAAQS in southern and central California.[57] This analysis did not, however, identify any projected maintenance receptors for the 1997 annual $PM_{2.5}$ NAAQS in any other western state. Thus, we believe it is reasonable to conclude that California sources do not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in other states.

Finally, as discussed above in section III.A.2, EPA reviewed $PM_{2.5}$ monitoring data for the 2007–2009 period from all $PM_{2.5}$ monitoring sites in states bordering California (Oregon, Nevada, and Arizona) and found no violations of the 1997 annual $PM_{2.5}$ standard. The fact that monitors in these nearby areas are not registering violations of the NAAQS does not in itself conclusively establish that emissions from California could not interfere with maintenance of the 1997 annual $PM_{2.5}$ NAAQS in any other state. But this fact combined with our evaluation of the nearest maintenance receptor in eastern Texas, taking into account distance, topographical barriers, and typical meteorological conditions, supports our proposal to conclude that California sources do not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any other state.

The analysis for the Transport Rule Proposal did not identify any maintenance receptors for the 1997 24-hour $PM_{2.5}$ NAAQS in the portions of the U.S. covered by the Transport Rule Proposal modeling domain.[58] Recent monitoring data in EPA's AQS Database (2007–2009 design values that are under final EPA review) indicate that the highest 24-hour $PM_{2.5}$ design value in the 47 states of the continental U.S. (excluding California) is 50 $\mu g/m^3$, which is well below the level of the 1997 24-hour $PM_{2.5}$ NAAQS of 65 $\mu g/m^3$.[59] This data further supports our proposed finding that California emission sources do not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in any other state.

3. Conclusion Regarding Interference With Maintenance

Based on the weight of evidence, including the location of the nearest projected maintenance sites, taking into account distance, meteorology, topography, and recent air quality monitoring data, as discussed above, we propose to determine that California's 2007 Transport SIP is adequate and that emissions from California do not interfere with maintenance in any other state for the 1997 8-hour ozone or 1997 $PM_{2.5}$ NAAQS, consistent with the requirements of CAA section 110(a)(2)(D)(I). Thus, we propose to determine that California's SIP includes the measures necessary to prevent such prohibited interstate transport impacts for these NAAQS.

IV. Proposed Action

Under section 110(k) of the Clean Air Act, EPA is proposing to approve 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 proposing to approve 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 propose to find that the California SIP contains provisions adequate to prevent significant contribution to nonattainment of, and interference with maintenance of, these NAAQS and does not require any additional measures for this purpose at this time. This proposed action does not apply to 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 the 2007 Transport SIP for purposes of these additional requirements of CAA section 110(a)(2)(D)(i) in separate actions.

EPA is soliciting public comments on this proposal and will accept comments until the date noted in the "DATES" section above.

V. Statutory and Executive Order Reviews

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

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

[57] *See* Timin Memo at Appendix A ("Base year 2003–2007 and Future Year 2012 Annual Average $PM_{2.5}$ Design Values—Western States").

[58] 75 FR 45210 at 45249–45251 (August 2, 2010). *See also* fn. 40 and fn. 48.

[59] Data from EPA's Air Quality System can be viewed at *http://www.epa.gov/ttn/airs/airsaqs/.*

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: March 11, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2011–6302 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0426–201030; FRL–9282–6]

Approval and Promulgation of Implementation Plans; Kentucky; 110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Division of Air Quality (DAQ) of the Kentucky Environmental and Public Protection Cabinet, now called the Energy and Environment Cabinet, as demonstrating that the Commonwealth meets the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for the 1997 8-hour ozone national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA and is commonly referred to as an "infrastructure" SIP. Kentucky certified that the Kentucky SIP contains provisions that ensure the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in Kentucky (hereafter referred to as "infrastructure submission"). Kentucky's infrastructure submission, provided to EPA on December 13, 2007, addressed all the required infrastructure elements for the 1997 8-hour ozone NAAQS.

DATES: Written comments must be received on or before April 18, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2009–0426, 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) 562–9140.
4. *Mail:* "EPA–R04–OAR–2009–0426," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2009–0426. 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 *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can also be reached via electronic mail at *ward.nacosta@epa.gov.*

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I. Background

On July 18, 1997, EPA promulgated a new NAAQS for ozone based on 8-hour

average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm (*see* 62 FR 38856). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 1997 8-hour ozone NAAQS to EPA no later than June 2000. However, intervening litigation over the 1997 8-hour ozone NAAQS created uncertainty about how to proceed and many states did not provide the required "infrastructure" SIP submission for these newly promulgated NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the "infrastructure" requirements for the 1997 8-hour ozone NAAQS. EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS by December 15, 2007. Subsequently, EPA received an extension of the date to complete this **Federal Register** notice until March 17, 2008, based upon agreement to make the findings with respect to submissions made by January 7, 2008. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency received from each state as of January 7, 2008.

On March 27, 2008, EPA published a final rulemaking entitled, "Completeness Findings for Section 110(a) State Implementation Plans; 8-Hour Ozone NAAQS," making a finding that each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS. *See* 73 FR 16205. For those states that did receive findings, the findings of failure to submit for all or a portion of a state's implementation plan established a 24-month deadline for EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding SIP elements unless, prior to that time, the affected states submitted, and EPA approved, the required SIPs.

The findings that all or portions of a state's submission are complete establish a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k). Kentucky's infrastructure submission was received by EPA on December 13, 2007, and was determined to be complete on March 27, 2008. Kentucky was among other states that did not receive findings of failure to submit because it provided a complete submission to EPA to address the infrastructure elements for the 1997 8-hour ozone NAAQS by March 1, 2008. Today's action is proposing to approve Kentucky's infrastructure submission for which EPA made the completeness determination on March 27, 2008. This action is not approving any specific rule, but rather proposing that Alabama's already approved SIP meets certain CAA requirements.

II. What elements are required under Sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for "infrastructure" SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are listed below [1] and in EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards."

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.[2]
- 110(a)(2)(D): Interstate transport.[3]
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[4]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.

[1] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title 1 of the CAA, and (2) submissions required by section 110(a)(2)(1) which pertain to the nonattainment planning requirements of part D, Title 1 of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(1) or the nonattainment planning requirements of 110(a)(2)(C).

[2] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[3] Today's proposed rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 8-hour ozone NAAQS. Interstate transport requirements were formerly addressed by Kentucky consistent with the Clean Air Interstate Rule (CAIR). On December 23, 2008, CAIR was remanded by the DC Circuit Court of Appeals, without vacatur, back to EPA. *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008). Prior to this remand, EPA took final action to approve Kentucky's SIP revision, which was submitted to comply with CAIR. *See* 72 FR 56623 (October 4, 2007). In so doing, Kentucky's CAIR SIP revision addressed the interstate transport provisions in Section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS. In response to the remand of CAIR, EPA has since proposed a new rule to address the interstate transport of NO_X and SO_X in the eastern United States. *See* 75 FR 45210 (Aug. 2, 2010) ("the Transport Rule"). However, because this rule has yet to be finalized, EPA's action on element 110(a)(2)(D)(i) will be addressed in a separate action.

[4] This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards," but as mentioned above is not relevant to today's proposed rulemaking.

- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

III. What is EPA's analysis of how Kentucky addressed the elements of Sections 110(a)(1) and (2) "infrastructure" provisions?

Kentucky's infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): Emission limits and other control measures: Kentucky's infrastructure submission provides an overview of the provisions of the Kentucky Air Regulations relevant to air quality control regulations. The regulations described below have been federally approved in the Kentucky SIP and include enforceable emission limitations and other control measures. Chapter 50—*Division for Air Quality; General Administrative Procedures* of the Kentucky Air Regulations generally authorizes the Kentucky Environmental and Public Protection Cabinet to adopt rules for the control of air pollution, including those necessary to obtain EPA approval under section 110 of the CAA. The most recent federally approved revision of this chapter was on April 21, 2010 (75 FR 20780). Chapter 51—*Attainment and Maintenance of the National Ambient Air Quality Standards* also includes references to rules adopted by Kentucky to control air pollution, including ozone precursors. The most recent federally approved revision of Chapter 51 was on April 21, 2010 (75 FR 20780). EPA has made the preliminary determination that the provisions contained in these chapters and Kentucky's practices are adequate to protect the 1997 8-hour ozone NAAQS in the Commonwealth.

In this action, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during startup, shutdown, or malfunction (SSM) of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown" (September 20, 1999), and the Agency plans to address such state regulations in the future. In the meantime, EPA encourages any state having deficient SSM provisions to take steps to correct them as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) Ambient air quality monitoring/data system: Kentucky's infrastructure submission provides information in Chapter 50:050—*Monitoring,* with regard to the organization and structure of the monitoring program that includes the local air quality programs. These entities collect air monitoring data, quality assure the results and report the data. The most recent federally approved revision of this chapter was on July 12, 1982 (47 FR 30059). Chapter 51:010—*Attainment status designations* includes information indicating Kentucky's ozone monitor locations. The most recent federally approved revision of this chapter was on July 24, 1998 (63 FR 39739). Annually, EPA approves the ambient air monitoring network plan for the state agencies. On June 30, 2010, the Commonwealth of Kentucky submitted its plan to EPA, which also included the Louisville-Jefferson County local monitoring program. On October 8, 2010, EPA approved Kentucky's monitoring network plan. Kentucky's approved monitoring network plan can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2009–0426. EPA has made the preliminary determination that Kentucky's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 1997 8-hour ozone NAAQS.

3. 110(a)(2)(C) Program for enforcement of control measures including review of proposed new sources: In Chapter 51:052—*Review of new sources in or impacting upon nonattainment areas* of Kentucky's SIP, a description of the compliance activities of the Commonwealth's regional field offices and the one local agency in Jefferson County is included. The most recent federally approved revision of this chapter was on July 11, 2006 (71 FR 38990). It also includes a description of the Commonwealth's statutory authority to enforce regulations relating to attainment and maintenance of the 1997 8-hour ozone NAAQS. Additionally, Kentucky submitted a SIP revision on February 4, 2010, which addresses the Ozone Implementation New Source Review (NSR) Update requirements to include nitrogen oxides (NO_X) as an ozone precursor for permitting purposes for prevention of significant deterioration (PSD) and nonattainment NSR. Specifically, the Ozone Implementation NSR Update requirements included changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors. EPA published a final action approving Kentucky's revisions which incorporate NO_X as an ozone precursor on September 15, 2010 (75 FR 55988). Chapter 52:030—*Federally enforceable permits for non-major sources* describes how the Commonwealth's construction permits program reviews proposed new major and minor sources of volatile organic compounds (VOCs) and NO_X for compliance with the 8-hour ozone NAAQS.

EPA published a final action revising Kentucky's greenhouse gas (GHG) regulations on December 29, 2010 (75 FR 81868). The revisions include two significant changes impacting the regulation of GHGs under Kentucky's NSR/PSD program; (1) provides the Commonwealth with authority to issue PSD permits governing GHGs, and (2) establishes appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Kentucky's PSD permitting requirements for its GHG emissions. EPA has made the preliminary determination that Kentucky's SIP and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 1997 8-hour ozone NAAQS.

In this action, EPA is proposing to approve Kentucky's infrastructure SIP for the 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. EPA is not proposing to approve or disapprove the state's existing minor NSR program itself to the extent that it is inconsistent with EPA's regulations governing this program. EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program.

The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

EPA has made the preliminary determination that Kentucky's SIP and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 1997 8-hour ozone NAAQS.

4. 110(a)(2)(D)(ii) Interstate and International transport provisions: In Chapter 51:017—*Prevention of significant deterioration of air quality,* Kentucky outlines how it will notify neighboring states of potential impacts from new or modified sources. Kentucky does not have any pending obligation under section 115 and 126. Additionally, it has federally approved regulations in its SIP that satisfy the requirements for the NO_X SIP Call. *See* 67 FR 17624 (April 11, 2002). EPA has made the preliminary determination that Kentucky's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 1997 8-hour ozone NAAQS.

5. 110(a)(2)(E) Adequate resources: The Kentucky DAQ is responsible for adopting air quality rules, revising SIPs, developing and tracking the budget, establishing the title V fees, and other planning needs. Additionally, Kentucky DAQ coordinates agreements with the local air pollution control program for Jefferson County, the Louisville Metro Air Pollution Control District. Annually, states update these grant commitments based on current SIP requirements, air quality planning and applicable requirements related NAAQS, including the 1997 8-hour ozone NAAQS. On May 6, 2010, EPA submitted a letter to the Commonwealth outlining 105 grant commitments and current status of those commitments for fiscal year 2009. The letter EPA submitted to Kentucky can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2009–0426. There were no outstanding issues, therefore the Commonwealth's grants were finalized and closed out. EPA has made the preliminary determination that Kentucky has adequate resources for implementation of the 1997 8-hour ozone NAAQS.

6. 110(a)(2)(F) Stationary source monitoring system: Kentucky's infrastructure submission describes how the major source and minor source emission inventory programs collect emission data throughout the Commonwealth (including Jefferson County) and ensure the quality of data. These programs generate data for ozone precursors (VOCs and NO_X) and summarize emissions from point, area, mobile, and biogenic (natural) sources. Kentucky DAQ uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. This is outlined in Chapter 50:050—*Monitoring* of the Kentucky Air Regulations.

Additionally, the National Emissions Inventory (NEI) is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System (EIS). States report emissions data for the six criteria pollutants and the precursors that form them—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Kentucky made its latest update to the NEI on February 17, 2011. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that Kentucky's SIP and practices are adequate for the stationary source monitoring systems related to the 1997 8-hour ozone NAAQS.

7. 110(a)(2)(G) Emergency power: Kentucky's infrastructure submission provides an overview of the Kentucky Air Regulations, specifically Chapter 55—*Emergency Episodes* which identifies air pollution emergency episodes and preplanned abatement strategies. The episode criteria specified in this chapter for ozone are based on a 1-hour average ozone level at a monitoring site. These criteria have previously been approved by EPA. EPA has made the preliminary determination that these criteria are adequate to address ozone emergency episodes for the 1997 8-hour ozone NAAQS. As a result, EPA has made the preliminary determination that Kentucky's SIP and practices are adequate for emergency powers related to the 1997 8-hour ozone NAAQS.

8. 110(a)(2)(H) Future SIP revisions: As previously discussed, Kentucky's DAQ is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS . Kentucky has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS. Specific to the 1997 8-hour ozone NAAQS, Kentucky has provided the following submissions:

- May 20, 2005, SIP Revision (EPA approval, *see* 71 FR 4047, January 25, 2006)—Redesignation request and 175A maintenance plan for the Clarksville-Hopkinsville, TN-KY Area;
- September 29, 2006, SIP revision (EPA approval, *see* 72 FR 36601, July 5, 2007)—Redesignation request and 175A maintenance plan for the Louisville Area;
- September 29, 2006, SIP revision (EPA approval, *see* 72 FR 43172, August 3, 2007)—Redesignation request and 175A maintenance plan for the Huntington-Ashland, WV-KY Area;
- May 27, 2008, SIP revision—110(a)(1) Maintenance plans for a portion of Greenup County, Lexington Area, Owensboro Area, Edmonson County and the Paducah Area (EPA approval of the Paducah Area, *see* 75 FR 52467, August 27, 2010);
- January 29, 2010, SIP revision (EPA approval, *see* 75 FR 47218, August 5, 2010)—Redesignation request and 175A maintenance plan for the Northern Kentucky portion of the Cincinnati Area; and
- February 4, 2010, SIP revision (EPA approval, *see* 75 FR 55988, September 15, 2010) NO_X as a precursor.

In all of Kentucky's 175A maintenance plans, the Commonwealth commits to provide additional SIP revisions for the 1997 8-hour ozone NAAQS pursuant to 175(A)(b), and also commits to provide additional SIP revisions to implement contingency measures should one of the areas that was redesignated to attainment violate the 1997 8-hour ozone NAAQS. EPA has made the preliminary determination that Kentucky's SIP and practices

adequately demonstrate a commitment to provide future SIP revisions related to the 1997 8-hour ozone NAAQS when necessary.

9. 110(a)(2)(J) (121 consultation) Consultation with government officials: Kentucky Air Regulations Chapter 50—*Division for Air Quality; General Administrative Procedures* of the Kentucky Air Regulations and Chapter 51—*Attainment and Maintenance of the National Ambient Air Quality Standards* provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. More specifically, Kentucky adopted state-wide consultation procedures for the implementation of transportation conformity which includes the consideration of the development of mobile inventories for SIP development. Required partners covered by Kentucky's consultation procedures include federal, state and local transportation and air quality agency officials. EPA approved Kentucky's consultation procedures on September 15, 2010 (75 FR 55988). Additionally, DAQ submitted a regional haze plan which outlines its consultation practices with Federal Land Managers. EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate consultation with government officials related to the 1997 8-hour ozone NAAQS when necessary.

10. 110(a)(2)(J) (127 public notification) Public notification: The Commonwealth's emergency episode provisions provide for notification to the public when the NAAQS, including the ozone NAAQS, are exceeded. This is also discussed above in 110(a)(2)(G). Additionally, the Commonwealth reports daily air quality information on its state Web site at: *http://air.ky.gov/Pages/AirQualityIndexMonitoring.aspx* to inform the public on the existing air quality within the Commonwealth. EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate the Commonwealth's ability to provide public notification related to the 1997 8-hour ozone NAAQS when necessary.

11. 110(a)(2)(J) (PSD) PSD and visibility protection: Kentucky demonstrates its authority to regulate new and modified sources of ozone precursors (VOCs and NO_X) to assist in the protection of air quality in Kentucky Air Regulations Chapter 51:017—*Prevention of significant deterioration of air quality.* Kentucky submitted a SIP revision on February 4, 2010, which addresses the Ozone Implementation NSR Update requirements to include NO_X as an ozone precursor for permitting purposes. Specifically, the Ozone Implementation NSR Update requirements included changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors. This SIP revision incorporates changes to Chapter 51:052—*Review of new sources in or impacting upon nonattainment areas* and Chapter 51:017—*Prevention of Significant Deterioration of air quality.* This action was proposed on April 1, 2010 (75 FR 16388). EPA published a final action approving Kentucky's revisions to incorporate changes to Chapter 51:052 and Chapter 51:017. September 15, 2010 (75 FR 55988).

With regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under Part C of the Act (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS; however, the visibility and regional haze program requirements under part C do not change. Thus, EPA finds that there is no new visibility obligation "triggered" under section 110(a)(2)(J) when a new NAAQS becomes effective. This would be the case even in the event a secondary $PM_{2.5}$ NAAQS for visibility is established, because this NAAQS would not affect visibility requirements under part C. Kentucky has submitted a SIP revision for approval to satisfy the requirements of the CAA Section 169A, and the regional haze and best available retrofit technology rules contained in 40 CFR 51.308. This SIP revision is currently under review and will be acted on in a separate action. EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate the Commonwealth's ability to implement PSD programs and to provide for visibility protection related to the 1997 8-hour ozone NAAQS when necessary.

12. 110(a)(2)(K) Air quality and modeling/data: Kentucky conducts air quality modeling and reports the results of such modeling to EPA, as set forth in Kentucky Air Regulations Chapter 50:040—*Air quality models.* This regulation shows that ambient ozone monitoring is used, in conjunction with pre- and post-construction ambient air monitoring, to track local and regional scale changes in ozone concentrations. Additionally, Kentucky supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 1997 8-hour ozone NAAQS, for the Southeastern states. Taken as a whole, the Commonwealth's air quality regulations demonstrate that DAQ has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 8-hour ozone NAAQS. EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate the Commonwealth's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 1997 8-hour ozone NAAQS when necessary.

13. 110(a)(2)(L) Permitting fees: Kentucky addresses the review of construction permits as previously discussed in 110(a)(2)(C) above. Permitting fees are collected through the Commonwealth's title V fees program, which has been federally approved. EPA has made the preliminary determination that Kentucky's SIP and practices adequately provide for permitting fees related to the 1997 8-hour ozone NAAQS when necessary.

14. 110(a)(2)(M) Consultation/participation by affected local entities: The Kentucky DAQ coordinates with local governments affected by the SIP. More specifically, Kentucky adopted state-wide consultation procedures for the implementation of transportation conformity which includes the consideration of the development of mobile inventories for SIP development and the requirements that link transportation planning and air quality planning in nonattainment and maintenance areas. EPA approved these procedures in Chapter 50:066 *Conformity of transportation plans, programs, and projects (Amendment)* on April 21, 2010 (75 FR 20180). Required partners covered by Kentucky's consultation procedures include federal, state and local transportation and air quality agency officials. The state and local transportation agency officials are most directly impacted by transportation conformity requirements and are required to provide public involvement for their activities including the analysis of how the Commonwealth meets transportation conformity requirements. Additionally, Chapter 65—*Mobile Source-Related Emissions* also discusses consultation related activities specifically related to mobile sources. EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate consultation by affected

local entities related to the 1997 8-hour ozone NAAQS when necessary.

IV. Proposed Action

As described above, the Commonwealth of Kentucky has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to EPA's October 2, 2007, guidance to ensure that the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in Kentucky. EPA is proposing to approve Kentucky's infrastructure submission for the 1997 8-hour ozone NAAQS because this submission is consistent with section 110 of the CAA.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: March 7, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2011–6260 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04OAR–2010–0722–201108; FRL–9282–5]

Approval and Promulgation of Implementation Plans; Mississippi; 110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State Implementation Plan (SIP), submitted by the State of Mississippi, through the Department of Environmental Quality (DEQ), as demonstrating that Mississippi meets the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for the 1997 8-hour ozone national ambient air quality standard (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA, which is commonly referred to as an "infrastructure" SIP. Mississippi certified that the Mississippi SIP contains provisions that ensure the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in Mississippi (hereafter referred to as "infrastructure submission"). Mississippi's infrastructure submission, provided to EPA on December 7, 2007, addressed all the required infrastructure elements for the 1997 8-hour ozone NAAQS.

DATES: Written comments must be received on or before April 18, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2010–0722, 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) 562–9140.
4. *Mail:* "EPA–R04–OAR–2010–0722," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2010–0722. 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: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can also be reached via electronic mail at *ward.nacosta@epa.gov.*

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I. Background

On July 18, 1997, EPA promulgated a new NAAQS for ozone based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. *See* 62 FR 38856. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 1997 8-hour ozone NAAQS to EPA no later than June 2000. However, intervening litigation over the 1997 8-hour ozone NAAQS created uncertainty about how to proceed and many states did not provide the required "infrastructure" SIP submission for these newly promulgated NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the "infrastructure" requirements for the 1997 8-hour ozone NAAQS. EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS by December 15, 2007. Subsequently, EPA received an extension of the date to complete this **Federal Register** notice until March 17, 2008, based upon agreement to make the findings with respect to submissions made by January 7, 2008. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency received from each state as of January 7, 2008.

On March 27, 2008, EPA published a final rulemaking entitled, "Completeness Findings for Section 110(a) State Implementation Plans; 8-Hour Ozone NAAQS," making a finding that each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS. *See* 73 FR 16205. For those states that did receive findings, the findings of failure to submit for all or a portion of a state's implementation plan established a 24-month deadline for EPA to promulgate a Federal Implementation Plan to address the outstanding SIP elements unless, prior to that time, the affected states submit, and EPA approves, the required SIPs.

The findings that all or portions of a state's submission are complete established a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k). Mississippi's infrastructure submission was received by EPA on December 7, 2007, and was determined to be complete on March 27, 2008. Mississippi was among other states that did not receive a finding of failure to submit because it provided a complete submission to EPA to address the infrastructure elements for the 1997 8-hour ozone NAAQS by March 1, 2008. Today's action is proposing to approve Mississippi's infrastructure submission for which EPA made the completeness determination on March 27, 2008. This action is not approving any specific rule, but rather proposing that Mississippi's already approved SIP meets certain CAA requirements.

II. What elements are required under Sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for "infrastructure" SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and

emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are listed below [1] and in EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards."

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.[2]
- 110(a)(2)(D): Interstate transport.[3]
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[4]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

III. What is EPA's analysis of how Mississippi addressed the elements of Sections 110(a)(1) and (2) "infrastructure" provisions?

Mississippi's infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): Emission limits and other control measures: Mississippi's infrastructure submission provides an overview of the provisions of the Mississippi Air Pollution Control (APC) Regulations relevant to air quality control. The regulations described below have been federally approved in the Mississippi SIP and include enforceable emission limitations and other control measures. Regulation APC–S–1—*Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants* and Regulation APC–S–3—*Regulations for the Prevention of Air Pollution Emergency Episodes* generally authorizes DEQ to adopt rules for the control of air pollution, including those necessary to obtain EPA approval under section 110 of the CAA. The most recent federally approved revision in this regulation was on October 3, 2007 (72 FR 56268). EPA has made the preliminary determination that the provisions contained in this chapter and Mississippi's practices are adequate to protect the 1997 8-hour ozone NAAQS.

In this action, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during startup, shutdown, or malfunction (SSM) of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown" (September 20, 1999), and the Agency plans to address such state regulations in the future. In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) Ambient air quality monitoring/data system: Mississippi's infrastructure submission provides information Regulation APC–S–1—*Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants,* with regard to the monitoring program within the State. The most recent federally approved revision in this section was on October 3, 2007 (72 FR 56268). Annually, EPA approves the ambient air monitoring network plan for the state agencies. On July 8, 2010, Mississippi submitted its plan to EPA. On December 14, 2010, EPA approved Mississippi's monitoring network plan. Mississippi's approved monitoring network plan can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2010–0722. EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 1997 8-hour ozone NAAQS.

3. 110(a)(2)(C) Program for enforcement of control measures including review of proposed new sources: In Regulation APC–S–1—*Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants* of Mississippi's SIP, a description of Mississippi's statutory authority to enforce regulations relating to attainment and maintenance of air quality is included. Additionally, Mississippi submitted a SIP revision on November 28, 2007, which addresses the Ozone Implementation New Source Review (NSR) Update requirements to include nitrogen oxides (NO_X) as an ozone precursor for permitting purposes for prevention of significant deterioration (PSD) and nonattainment NSR. Specifically, the Ozone Implementation NSR Update requirements included changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors. EPA published a final action approving Mississippi's revisions which incorporate NO_X as an ozone precursor on December 20, 2010 (75 FR 79300).

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[1] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[2] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[3] Today's proposed rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 8-hour ozone NAAQS. Interstate transport requirements were formerly addressed by Mississippi consistent with the Clean Air Interstate Rule (CAIR). On December 23, 2008, CAIR was remanded by the DC Circuit Court of Appeals, without vacatur, back to EPA. *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008). Prior to this remand, EPA took final action to approve Mississippi's SIP revision, which was submitted to comply with CAIR. *See* 72 FR 56268 (October 3, 2007). In so doing, Mississippi's CAIR SIP revision addressed the interstate transport provisions in Section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS. In response to the remand of CAIR, EPA has since proposed a new rule to address the interstate transport of NO_X and SO_X in the eastern United States. *See* 75 FR 45210 (Aug. 2, 2010) ("the Transport Rule"). However, because this rule has yet to be finalized, EPA's action on element 110(a)(2)(D)(i) will be addressed in a separate action.

[4] This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards," but as mentioned above is not relevant to today's proposed rulemaking.

In Regulation APC–S–5—*Regulations for the Prevention of Significant Deterioration for Air Quality,* Mississippi incorporates by reference the regulations found at 40 CFR 52.21 as of June 15, 2007, and 40 CFR 52.21(b)(1)(i)(a) and (b)(1)(iii)(t). These incorporated provisions include amendments to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors.

EPA published a final action revising Mississippi's greenhouse gas (GHG) regulations on December 29, 2010 (75 FR 81858). The revisions incorporate by reference the Tailoring Rule provisions at 40 CFR 52.21 (as amended June 3, 2010, and effective August 2, 2010), into the Mississippi SIP (APC–S–5—*Regulations for the Prevention of Significant Deterioration for Air Quality*) to address the thresholds for GHG permitting applicability. Additionally, they also incorporate administrative changes related to Mississippi's pre-existing exclusion of certain provisions of the federal PSD regulations from its SIP, specifically, provisions pertaining to the "reasonable possibility" standard, "clean units," and "pollution control projects." EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 1997 8-hour ozone NAAQS.

In this action, EPA is proposing to approve Mississippi's infrastructure SIP for the 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. EPA is not proposing to approve or disapprove the state's existing minor NSR program itself to the extent that it is inconsistent with EPA's regulations governing this program. EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 1997 8-hour ozone NAAQS.

4. 110(a)(2)(D)(ii) Interstate and International transport provisions: In Regulation APC–S–2—*Permit Regulations for the Construction and/or Operation of Air Emissions Equipment,* Mississippi outlines how it will notify neighboring states of potential impacts from new or modified sources. The most recent federally approved revision in this regulation was on July 10, 2006 (71 FR 38773). Mississippi does not have any pending obligation under section 115 and 126. EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 1997 8-hour ozone NAAQS.

In this action, EPA is proposing to approve Mississippi's infrastructure SIP for the 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. EPA is not proposing to approve or disapprove the state's existing minor NSR program itself to the extent that it is inconsistent with EPA's regulations governing this program. EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

5. 110(a)(2)(E) Adequate resources: DEQ is responsible for adopting air quality rules, revising SIPs, developing and tracking the budget, establishing the title V fees, and other planning needs. Annually, states update grant commitments based on current SIP requirements, air quality planning, and applicable requirements related NAAQS, including the 1997 8-hour ozone NAAQS. On April 8, 2010, EPA submitted a letter to Mississippi outlining 105 grant commitments and current status of those commitments for fiscal year 2009. The letter EPA submitted to Mississippi can be accessed at *http://www.regulations.gov* using Docket ID No. EPA–R04–OAR–2010–0722. There were no outstanding issues, therefore Mississippi's grants were finalized and closed out. EPA has made the preliminary determination that Mississippi has adequate resources for implementation of the 1997 8-hour ozone NAAQS.

6. 110(a)(2)(F) Stationary source monitoring system: Mississippi's infrastructure submission describes how to establish requirements for compliance testing by emissions sampling and analysis, and for emissions and operation monitoring to ensure the quality of data in the State. Mississippi uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. This is outlined in Regulation APC–S–2—*Permit Regulations for the Construction and/or Operation of Air Emissions Equipment* of the Mississippi air pollution control regulations.

Additionally, the National Emissions Inventory (NEI) is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System (EIS). States report emissions data for the six criteria pollutants and the precursors that form them—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many

states also voluntarily report emissions of hazardous air pollutants. Mississippi made its latest update to the NEI on November 1, 2010. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html*. EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for the stationary source monitoring systems related to the 1997 8-hour ozone NAAQS.

7. 110(a)(2)(G) Emergency power: Mississippi's infrastructure submission provides an overview of the Mississippi Air Pollution Control Regulations, specifically Regulation APC–S–3—*Regulations for the Prevention of Air Pollution Emergency Episodes.* The regulations contained in this section have been adopted to prevent the excessive build-up of air pollutants during air pollution episodes and to prevent the occurrence of an emergency due to the effects of pollutants on human health. All offices of local, county, and state governments, including authorities, joint meetings, and any other public body are notified as appropriate in this regulation. The episode criteria specified for ozone are based on a 1-hour average ozone level at a monitoring site. These criteria have previously been approved by EPA. EPA has made the preliminary determination that these criteria are adequate to address ozone emergency episodes for the 1997 8-hour ozone NAAQS, and thus, that Mississippi's SIP and practices appear adequate for emergency powers related to the 1997 8-hour ozone NAAQS.

8. 110(a)(2)(H) Future SIP revisions: As previously discussed, DEQ is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS. DEQ is responsible for the adoption, modification, repeal, promulgation of air quality rules in Mississippi. They are also responsible for the enforcement and implementation of regulations in Mississippi. Mississippi has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS. Specific to the 1997 8-hour ozone NAAQS, Mississippi has provided the following submissions:

- August 8, 2005, SIP Revision (EPA approval, see 71 FR 38773, July 10, 2006) Prevention of Significant Deterioration/New Source Review;
- November 28, 2007, SIP Revision (EPA approval, see 75 FR 79300, October 7, 2010)—110(a)(2)(D)(i) Plan (NO_X as a precursor);
- December 7, 2007, SIP revision 1997 Infrastructure 110(a)(2)—Ozone.

Mississippi has no areas designated as nonattainment for the 1997 8-hour ozone NAAQS. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 1997 8-hour ozone NAAQS when necessary.

9. 110(a)(2)(J) (121 consultation) Consultation with government officials: Mississippi Code Annotated Regulation 49–17–3 provides for cooperation with other agencies of the State, agencies of other states, and the federal government for the prevention, abatement and control of new or existing air pollution. Additionally, DEQ submitted a regional haze plan which outlines its consultation practices with Federal Land Managers. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate consultation with government officials related to the 1997 8-hour ozone NAAQS when necessary.

10. 110(a)(2)(J) (127 public notification) Public notification: DEQ's emergency episode provisions, discussed above in 110(a)(2)(G), provide for notification to the public when the NAAQS, including the ozone NAAQS, are exceeded. Additionally, during the ozone season, DEQ reports daily air quality information on its Web site at: *http://opc.deq.state.ms.us/aqi/specifically* for the Jackson Metropolitan Area, DeSoto County, and the Mississippi Gulf Coast. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 1997 8-hour ozone NAAQS when necessary.

11. 110(a)(2)(J) (PSD) PSD and visibility protection: Mississippi demonstrates its authority to regulate new and modified sources of ozone precursors, volatile organic compounds (VOCs), and NO_X, to assist in the protection of air quality in Regulation APC–S–5—*Regulations for the Prevention of Significant Deterioration for Air Quality.*

In Regulation APC–S–5—*Regulations for the Prevention of Significant Deterioration for Air Quality,* Mississippi incorporates by reference the regulations found at 40 CFR 52.21 as of June 15, 2007, and 40 CFR 52.21(b)(1)(i)(a) and (b)(1)(iii)(t). These provisions included amendments to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors.

Mississippi submitted a SIP revision on November 28, 2007, which addresses the Ozone Implementation NSR Update requirements to include NO_X as an ozone precursor for permitting purposes. Specifically, the Ozone Implementation NSR Update requirements included changes to major source thresholds for sources in certain classes of nonattainment areas, changes to offset ratios for marginal, moderate, serious, severe, and extreme ozone nonattainment areas, provisions addressing offset requirements for facilities that shut down or curtail operation, and a requirement stating that NO_X emissions are ozone precursors. Specifically, this SIP revision incorporates changes to Regulation APC–S–5—*Regulations for the Prevention of Significant Deterioration for Air Quality.* EPA published a final action approving Mississippi's rulemaking to incorporate changes to this regulation in the Mississippi SIP on December 20, 2010 (*See* 75 FR 79300).

With regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under Part C of the Act (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, EPA finds that there is no new visibility obligation "triggered" under section 110(a)(2)(J) when a new NAAQS becomes effective. This would be the case even in the event a secondary $PM_{2.5}$ NAAQS for visibility is established, because this NAAQS would not affect visibility requirements under part C. Mississippi has submitted a SIP revision for approval to satisfy the requirements of the CAA Section 169A, and the regional haze and best available retrofit technology rules contained in 40 CFR 51.308. This SIP revision is currently under review and will be acted on in a separate action. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate the State's ability to implement PSD programs and to provide for visibility protection related to the 1997 8-hour ozone NAAQS when necessary.

12. 110(a)(2)(K) Air quality and modeling/data: DEQ has authority pursuant to 40 CFR part 51.21 to conduct air quality modeling and report the results of such modeling to EPA, as incorporated by reference in the Mississippi Air Pollution Control Regulations at Regulation APC–S–5—*Regulations for the Prevention of Significant Deterioration for Air Quality.* Additionally, Mississippi supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 1997 8-hour ozone NAAQS, for the Southeastern states. This regulation demonstrates that Mississippi has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 8-hour Ozone NAAQS. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate the DEQ's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 1997 8-hour ozone NAAQS when necessary.

13. 110(a)(2)(L) Permitting fees: Mississippi addresses the review of construction permits as previously discussed in 110(a)(2)(C) above. Permitting fees are collected through the State's title V fees program, which has been federally approved. EPA has made the preliminary determination that Mississippi's SIP and practices adequately provide for permitting fees related to the 1997 8-hour ozone NAAQS when necessary.

14. 110(a)(2)(M) Consultation/participation by affected local entities: DEQ coordinates with local governments affected by the SIP. Specifically, as outlined in Section IV of Regulation APC–S–2, *Public Participation and Public Availability of Information,* Mississippi requires that State and local air pollution control agencies be notified of modifications to stationary sources or the construction of new sources within their region of jurisdiction. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate consultation and participation by affected local political subdivisions related to the 1997 8-hour ozone NAAQS when necessary.

IV. Proposed Action

As described above, Mississippi has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to EPA's October 2, 2007, guidance to ensure that the 1997 8-hour ozone NAAQS are implemented, enforced, and maintained in Mississippi. EPA is proposing to approve Mississippi's infrastructure submission for the 1997 8-hour ozone NAAQS because this submission is consistent with section 110 of the CAA.EPA is proposing today's action to satisfy the Agency's statutory obligations under section 110(k) of the CAA to act upon the state submitted plans described herein.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 7, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2011–6252 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2004–0305; FRL–9282–2]

RIN 2060–AQ42

National Emission Standards for Hazardous Air Pollutants: Primary Lead Smelting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On February 17, 2011, EPA proposed amendments to the National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting (76 FR 9410). The EPA is extending the deadline for written comments on the proposed amendments by 15 days to April 19, 2011. The EPA received a request for this extension from the Doe Run Company, the sole covered facility. Doe Run Company requested the extension in order to analyze data and review the proposed amendments. EPA finds this request to be reasonable due to the significant changes the proposal would make to the current rule.

DATES: Comments must be received on or before April 19, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0305, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

• *E-mail: a-and-r-docket@epa.gov.* Attention Docket ID Number EPA–HQ–OAR–2004–0305.

• *Fax:* (202) 566–9744. Attention Docket ID Number EPA–HQ–OAR–2004–0305.

• *Mail:* U.S. Postal Service, send comments to: EPA Docket Center (6102T), EPA West (Air Docket), Attention Docket ID Number EPA–HQ–OAR–2004–0305, U.S. Environmental Protection Agency, Mailcode 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.

• *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID Number EPA–HQ–OAR–2004–0305. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0305. 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 information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. 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.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed rule should be addressed to Mr. Nathan Topham, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Metals and Inorganic Chemicals Group (D243–02), Environmental Protection Agency, Research Triangle Park, NC 27711, *telephone number:* (919) 541–0483; *fax number:* (919) 541–3207; *e-mail address: topham.nathan@epa.gov.*

SUPPLEMENTARY INFORMATION: For the reasons noted above, the public comment period will now end on April 19, 2011.

How can I get copies of the proposed rule and other related information?

The proposed rule titled, National Emission Standards for Hazardous Air Pollutants: Primary Lead Smelting, was published February 17, 2011 (76 FR 9410). EPA has established the public docket for the proposed rulemaking under docket ID No. EPA–HQ–OAR–2004–0305, and a copy of the proposed rule is available in the docket. We note that, since the proposed rule was published, additional materials have been added to the docket. Information on how to access the docket is presented above in the **ADDRESSES** section.

Dated: March 10, 2011.

Gina McCarthy,

Assistant Administrator.

[FR Doc. 2011–6218 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1007

[OIG–1203–P]

State Medicaid Fraud Control Units; Data Mining

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends a provision in HHS regulations that prohibits State Medicaid Fraud Control Units (MFCU) from using Federal matching funds to identify fraud through screening and analyzing State Medicaid claims data, known as data mining. To support and modernize MFCU efforts to effectively pursue Medicaid provider fraud, we propose to permit Federal Financial Participation (FFP) in the costs of defined data mining activities under specified conditions. In addition, we propose that MFCUs annually report the costs and results of approved data mining activities to OIG.

DATES: To ensure consideration, public comments must be delivered to the address provided below no later than 5 p.m. on May 16, 2011.

ADDRESSES: In commenting, please refer to file code OIG–1203–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on specific recommendations and proposals through the Federal eRulemaking Portal at *http://www.regulations.gov.* (Attachments should be in Microsoft Word, if possible.)

2. *By regular, express, or overnight mail.* You may send written comments to the following address: Office of Inspector General, Department of Health and Human Services, *Attention:* OIG–1203–P, Room 5541, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201. Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver, by hand or courier, your written comments before the close of the comment period to Office of Inspector General, Department of Health and Human Services, Cohen Building,

330 Independence Avenue, SW., Washington, DC 20201. Because access to the interior of the Cohen Building is not readily available to persons without Federal Government identification, commenters are encouraged to schedule their delivery with one of our staff members at (202) 619–1343.

For information on viewing public comments, *please see* the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Richard Stern, Department of Health & Human Services, Office of Inspector General, (202) 619–0480.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the end of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. All comments will be posted on *http://www.regulations.gov* as soon as possible after they have been received. Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at Office of Inspector General, Department of Health and Human Services, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201, Monday through Friday of each week from 10 a.m. to 5 p.m. To schedule an appointment to view public comments, phone (202) 619–1368.

I. Background

In 1977, the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95–142) were enacted to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the Medicare and Medicaid programs. Section 17(a) of the statute amended section 1903(a) of the Social Security Act (the Act) to provide for Federal participation in the costs attributable to establishing and operating an MFCU. The requirements for operating an MFCU appear at section 1903(q) of the Act. Regulations implementing the MFCU authority appear at 42 CFR part 1007 and were promulgated in 1978.

Section 1903(a)(6) of the Act requires the Secretary of Health and Human Services (the Secretary) to pay FFP to a State for MFCU costs "found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan." Under the section, States receive 90 percent FFP for an initial 3 year period for the costs of establishing and operating a MFCU, including the costs of training, and 75 percent FFP thereafter. Presently, all States with MFCUs receive FFP at a 75 percent rate. General administrative costs of operating a State Medicaid program are reimbursed at a rate of 50 percent, although enhanced FFP rates are available for other activities, including those associated with Medicaid management information systems (MMIS).

To increase MFCU effectiveness in eliminating Medicaid fraud, we propose to modify an existing prohibition on the payment of FFP for activities generally known as "data mining." We discuss the reasons for this proposed modification below.

For the purposes of this proposed rule, we are using the term "data mining" to refer specifically to the practice of electronically sorting Medicaid claims through statistical models and intelligent technologies to uncover patterns and relationships contained within the Medicaid claims activity and history to identify aberrant utilization and billing practices that are potentially fraudulent.

Routine program monitoring activities, including data mining, are conducted through analysis of Medicaid data and have historically been the responsibility of each State Medicaid agency. This practice places the sole burden of identifying potentially fraudulent practices based on this type of analysis on the State Medicaid agencies and requires the MFCUs to remain highly dependent on referrals from State Medicaid agencies and other external sources.

While MFCUs may have access to Medicaid data, which currently may be used for the purposes of individual case development, they do not have the authority to claim FFP to conduct data mining to identify potential Medicaid fraud and, therefore, are limited to relying on referrals from State Medicaid agencies based on the State agencies' analysis methods, tools, and techniques. Many MFCUs work actively with a variety of State agencies and private referral sources, such as individual providers and private citizens, to identify possible fraud or cases of patient abuse and neglect and to undertake detection activities.

We believe that amending the existing regulation to permit FFP in data mining activities will be an efficient use of available resources. At the Federal level, analysis of claims data has increased OIG's effectiveness in deploying law enforcement resources and proactively identifying suspected fraud. Using data analysis, Medicare Fraud Strike Forces operated by HHS and the U.S. Department of Justice have identified seven "hot spots" based on high indicators of fraud against the Medicare program. The Strike Forces analyze Medicare data to identify unexplained high-billing levels in concentrated areas so that interagency teams can target emerging or migrating schemes along with chronic fraud. By using data mining and other law enforcement tools to efficiently focus Federal law enforcement activities, Medicare Fraud Strike Force efforts have resulted in hundreds of criminal charges, convictions and more than $355 million in court-ordered restitutions, fines and penalties for fraud against the Medicare program since 2007. We could not attribute these results directly to use of data mining and data analysis techniques alone. Moreover, we would not expect individual State MFCUs to produce results comparable to the combined efforts of HHS and DOJ in a high priority national Medicare investigative and prosecutorial effort. However, we anticipate that data mining by MFCUs at the State level could enhance the MFCU's ability to counter new and existing fraud schemes by more effectively identifying early fraud indicators. In addition, data mining would equip MFCUs with more modern tools that have been shown at the Federal level to help increase the numbers of credible investigative leads, pursue recoveries, and detect emerging fraud and abuse schemes and trends.

The 1978 publication of the final rule now codified in 42 CFR part 1007 addressed in some detail the relationship between the MFCUs and the State Medicaid agency. In response to a comment that MFCUs should be responsible for the "investigation of non-fraudulent program abuse," the preamble to the final rule noted that functions such as "claims processing, utilization control and other reviews or analysis" are already subject to incentive funding as part of the mechanized claims processing systems operated by the State Medicaid agency (43 FR 32078, 32080–32081 (July 24, 1978)). The preamble stated that "there is no indication that Congress intended an overlap of funding for such matters" (43 FR 32081). Data mining is one such function that may be conducted as part of the State Medicaid agency's mechanized claims processing system and is subject to Federal reimbursement received by State Medicaid agencies.

Since issuance of the 1978 rule, tools and methods for identifying aberrant patterns in claims data have advanced significantly and become more widely available. At the same time, health care

fraud schemes have become more sophisticated. Use of data mining technology is a strategy that is routinely used by law enforcement agencies to identify billing patterns and provider linkages that may have been previously undetected with traditional methods of claims review. We believe that allowing MFCUs the ability to receive funding for use of sophisticated data mining technology would allow them to marshal their resources more effectively and take full advantage of their expertise in detecting and investigating Medicaid fraud. It would also allow the MFCUs to operate without relying solely on individual case referrals from a Medicaid program integrity unit or from other sources.

"Review contractors" selected by the CMS Medicaid Integrity Group also may perform data mining as part of their activities. Therefore, MFCUs that receive approval to conduct data mining as part of their respective memorandums of understanding would need to coordinate their activities both with State Medicaid agencies and the review contractors. All review contractors already operate under a "Joint Operating Agreement" with each of the States in which they are operating. Review contractors are also required to share with MFCUs, as well as with other interested law enforcement or oversight agencies, the algorithms they are using and the identity of any targets that are identified as a result of their data mining activities.

A 2007 OIG study identified variability among States in the level of cooperation in identifying cases of potential fraud and in the number and quality of referrals from State Medicaid agencies to MFCUs (*Suspected Medicaid Fraud Referrals,* OEI–07–04–00181, January 2007). Based on the variability found in this study, we believe that allowing MFCUs to claim FFP to conduct data mining, performed in cooperation with the State Medicaid agencies, would reduce such variability and increase the level of referrals in some States.

We believe that three elements are critical to ensuring the effective use of data mining by MFCUs. First, we believe that MFCUs and State Medicaid agencies must fully coordinate the MFCUs' use of data mining and the identification of possible provider fraud. For example, MFCUs should not pursue fraud investigations without determining whether the State Medicaid agency is considering an overpayment or other administrative action for the same provider. Second, programmatic changes (for example, changes in billing codes) may result in certain data appearing aberrant when in fact they are not. In such situations, MFCU staff conducting data mining would need to rely on the programmatic knowledge of State Medicaid agency staff to appropriately identify possible instances of fraud. Third, we believe that MFCU staff would need to be properly trained in data mining techniques.

For these reasons, we are proposing to include additional language in 42 CFR section 1007.20 that establishes the following conditions under which an MFCU may claim FFP in costs of data mining: (1) The MFCU describes the duration of the data mining activity and the amount of staff time to be expended; (2) the MFCU identifies the methods of cooperation between the MFCU and Medicaid agency, and between the MFCU and review contractors selected by the CMS Medicaid Integrity Group; and (3) MFCU employees engaged in data mining receive specialized training in data mining techniques. We are also proposing that the agreement between the MFCU and Medicaid agency, required under section 1007.9(d) of the regulations, describe how the MFCU will satisfy these conditions and that OIG, as the oversight agency for the MFCUs, must approve this part of the agreement. OIG would review and approve proposed agreements in consultation with CMS. FFP will only be available to those States that satisfy the conditions at section 1007.20 and receive approval from OIG.

Including the terms of an MFCU's data mining in the existing agreement with the Medicaid agency would be logical and efficient. Data mining has been the traditional province of State Medicaid agencies and depends upon access to data maintained by the Medicaid agencies. Thus, data mining requires unique coordination of the resources and expertise of both an MFCU and a State Medicaid agency to avoid duplication and to leverage each agency's resources. We do not intend that this coordination, as part of the agreement between the agencies, interfere with an MFCU's independence or its separate and distinct identity. As before, a Medicaid agency may not provide ongoing scrutiny or review of an MFCU's data mining activities and under no circumstances would a State Medicaid agency be able to prevent or prohibit an MFCU from initiating, carrying out or completing an investigation or prosecution that may result from data mining.

We are also proposing to add a provision that requires those MFCUs approved to claim FFP and engage in data mining to include the following information in their annual report: Costs associated with expenditures attributed to data mining activities; the number of cases generated from those data mining activities; the outcome and status of those cases; and monetary recoveries resulting from those activities. This information will be used by OIG in conducting its oversight and monitoring of the MFCUs.

II. Provisions of the Proposed Regulation

Federal regulations at 42 CFR 1007.19(e)(2) specify that State MFCUs are prohibited from using Federal matching funds to conduct "efforts to identify situations in which a question of fraud may exist, including the screening of claims, analysis of patterns of practice, or routine verification with recipients of whether services billed by providers were actually received." The prohibition on Federal matching for "screening of claims [and] analysis of patterns of practice" is commonly interpreted as a prohibition on Federal matching for the costs of data mining by MFCUs. We propose to amend section 1007.19(e) to provide for an exception to this general prohibition on FFP under conditions described in new section 1007.20.

We propose to add a new section 1007.20 that would describe the conditions under which the Federal share of data mining costs would be available to MFCUs. We would also amend section 1007.1 (Definitions) by adding a definition of data mining for the purposes of this rule. Finally, the proposed rule would amend 42 CFR section 1007.17 (Annual Report) to include additional reporting requirements by MFCUs to capture costs associated with expenditures attributed to data mining activities; the number of cases generated from those data mining activities; the outcome and status of those cases; and monetary recoveries resulting from those activities.

III. Regulatory Impact Statement

A. Regulatory Analysis

We have examined the impacts of this proposed rule as required by Executive Order 12866, the Unfunded Mandates Reform Act of 1995, and the Regulatory Flexibility Act of 1980 (RFA) (Pub. L. 96–354).

Executive Order 12866

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 effects; distributive impacts; and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any given year). Since this proposed regulation will not have a significant effect on program expenditures and as there are no additional substantive costs to implement the resulting provision, we do not consider this to be a major rule.

The proposed rule would allow MFCUs to obtain Federal matching funds to conduct data mining in efforts to detect potential fraudulent activity. We believe that the aggregate economic impact of this rule will be minimal and will have no significant effect on the economy or on Federal or State expenditures. However, since MFCUs have until this year not conducted data mining, we have only limited information about costs and benefits at the State level. One State MFCU, Florida, received approval from the Secretary of Health and Human Services to conduct data mining as a demonstration project under section 1115 of the Social Security Act that commenced on August 1, 2010.

Any economic impact from reimbursing State MFCU data mining activities will likely result in savings of both State and Federal dollars. For the MFCU community as a whole, the return on investment from MFCU activities (calculated from the ratio of total reported dollar value of civil and criminal recoveries to the total dollar value of Federal and State expenditures for all MFCUs) exceeded 6.0 for the last 3 available years, Federal Fiscal Years (FYs) 2007, 2008, and 2009. This ratio does not reflect the considerable output of the MFCUs related to their criminal prosecutions that do not result in monetary recoveries, including more than 1,200 criminal convictions for each of FYs 2007, 2008, and 2009.

We anticipate that the return on investment from data mining activities by the MFCUs will enhance the ability of MFCUs to effectively target and deploy existing enforcement resources, which is expected to result in increased numbers of enforcement actions and recoveries. To the extent that there is any economic impact, that impact will likely result in savings of Federal and State dollars.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under UMRA, before issuing any rule that may result in costs greater than $110 million to State, local, or tribal governments, in the aggregate, or to the private sector, agencies must assess the rule's anticipated costs and benefits. This proposed rule does not impose any Federal mandates on any State, local, or tribal government or the private sector within the meaning of UMRA, and thus, a full analysis under UMRA is not necessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. For the purposes of RFA, small entities include small businesses, certain nonprofit organizations, and small government jurisdictions. Individuals and States are not included in this definition of a small entity. This proposed rule would revise regulations that prohibit State MFCUs from using Federal matching funds to conduct "efforts to identify situations in which a question of fraud may exist, including the screening of claims, analysis of patterns of practice, or routine verification with recipients of whether services billed by a provider were actually received." These revisions impose no significant economic impact on a substantial number of small entities. Therefore, the undersigned certifies that this rule will not have a significant impact on a substantial number of small entities.

Executive Order 13132

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act (PRA) of 1995, before a collection-of-information requirement is submitted to Office of Management and Budget (OMB) for review and approval, we are required to provide a 60-day notice in the **Federal Register** and solicit public comment. We propose to require that MFCUs report annually on the costs of data mining and the outcomes of cases identified, including monetary recoveries. In order to evaluate fairly whether this information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency;
- The accuracy of our estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Under the PRA, the time, effort, and financial resources necessary to meet the information collection requirements referenced in this section are to be considered. We explicitly seek, and will consider, public comment on our assumptions as they relate to the PRA requirements summarized in this section. Comments on these information collection activities should be sent to the following address within 60 days following the **Federal Register** publication of this proposed rule: OIG Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, 725 17th Street, NW., Washington, DC 20053.

IV. Public Inspection of Comments and Response to Comments

Comments will be available for public inspection beginning May 16, 2011, in Room 5541, Office of External Affairs, Office of Inspector General, at 330 Independence Avenue, SW., Washington, DC 20201, from Monday through Friday of each week (Federal holidays excepted) between the hours of 10 a.m. and 5 p.m., (202) 619–1368.

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and will respond to the comments in the preamble of the final rule.

List of Subjects in 42 CFR Part 1007

Administrative practice and procedure, Fraud, Grant programs—health, Medicaid, Reporting and recordkeeping requirements.

Accordingly, 42 CFR part 1007 is proposed to be amended as set forth below:

PART 1007—[AMENDED]

1. Revise the authority citation to part 1007 to read as follows:

Authority: 42 U.S.C. 1396b(a)(6), 1396b(b)(3), 1396b(q), and 1302.

2. In § 1007.1, add in alphabetical order the definition for "data mining" to read as follows:

§ 1007.1 Definitions.

* * * * *

Data mining is defined as the practice of electronically sorting Medicaid claims through statistical models and intelligent technologies to uncover patterns and relationships contained within the Medicaid claims activity and history to identify aberrant utilization and billing practices that are potentially fraudulent.

* * * * *

3. In § 1007.17, add paragraph (i) to read as follows:

§ 1007.17 Annual report.

* * * * *

(i) All costs expended that year attributed to data mining activities under § 1007.20; the number of cases generated from those data mining activities; the outcome and status of those cases, including the expected and actual monetary recoveries (both Federal and non-Federal share); and any other relevant indicia of return on investment from such activities.

* * * * *

4. In § 1007.19, revise paragraph (e)(2) to read as follows:

§ 1007.19 Federal financial participation (FFP).

* * * * *

(e) * * *

(2) Routine verification with recipients of whether services billed by providers were actually received, or, except as provided in section 1007.20, efforts to identify situations in which a question of fraud may exist, including the screening of claims and analysis of patterns of practice that involve data mining as defined in section 1007.1;

* * * * *

5. Add § 1007.20 to read as follows:

§ 1007.20 Conditions under which data mining is permissible and approval by HHS Office of Inspector General.

(a) Notwithstanding § 1007.19(e)(2), a unit may engage in data mining and receive Federal Financial Participation only under the three following conditions:

(1) The activity has a defined duration and staff time devoted to the activity is described;

(2) The MFCU identifies the methods of cooperation between the MFCU and State Medicaid agency as well as a primary point of contact for data mining at the two agencies; and

(3) MFCU employees engaged in data mining receive specialized training in data mining techniques.

(b) The MFCU shall describe how it will comply with each of the conditions described in paragraph (a) of this section as part of the agreement required by § 1007.9(d).

(c) The Office of Inspector General, Department of Health and Human Services, in consultation with the Centers for Medicare & Medicaid Services, approves in advance the provisions of the agreement as defined in paragraph (b) of this section.

Dated: May 14, 2010.

Daniel R. Levinson,

Inspector General.

Dated: October 15, 2010.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

Editorial Note: This document was received in the Office of the Federal Register on March 10, 2011.

[FR Doc. 2011–6012 Filed 3–16–11; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 209 and 252

Defense Federal Acquisition Regulation Supplement; Identification of Critical Safety Items (DFARS Case 2010–D022)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add a contract clause that clearly identifies any items being purchased that are critical safety items so that the proper risk-based surveillance can be performed.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before May 16, 2011, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2010–D022, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by inputting "DFARS Case 2010–D022" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2010–D022." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2010–D022" on your attached document.

- *E-mail: dfars@osd.mil.* Include DFARS Case 2010–D022 in the subject line of the message.
- *Fax:* 703–602–0350.
- *Mail:* Defense Acquisition Regulations System, Attn: Meredith Murphy, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Meredith Murphy, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 703–602–1302; facsimile 703–602–0350.

SUPPLEMENTARY INFORMATION:

I. Background

This DFARS case was initiated at the request of the Defense Contract Management Agency so that when DoD requiring activities identify procurements involving critical safety items, the buying activities will include a clause in the solicitation and resulting contract that identifies specific items in the procurement that are critical safety items.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136), section 802, entitled "Quality Control in Procurement of Aviation Critical Safety Items and Related

Services," defined "aviation critical safety item" to mean a part, assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system which, if it failed, could cause catastrophic damage, unacceptable risk of personal injury, or loss of life. Implementing regulations established processes for designated design control activities to identify aviation critical safety items. Similar definitions and requirements have been applied to ship critical safety items to implement section 130 of the National Defense Authorization Act for Fiscal Year 2007. When design control activities identify such items to the contracting activity, the latter will contract only with sources approved by the design control activity for the procurement, modification, repair, or overhaul of critical safety items. Using the clause in this proposed rule will enable contract administration activities to identify and apply additional risk-based surveillance to comply with joint agency instructions, such as Management of Aviation Critical Safety Items (dated January 25, 2006).

DoD is proposing to amend DFARS subpart 209.2, Qualifications Requirements, to add a new contract clause. Specifically, DoD proposes to add a clause prescription at DFARS 209.270–5, Contract clause, and a new clause at 252.209–700X, Critical Safety Items. The requirement to identify critical safety items, procure such items only from sources designated by the design control activity, and apply enhanced risk-based surveillance has been in effect for a number of years. However, there was no single DoD-wide means of complying with this requirement.

II. Executive Order 12866

This is a significant regulatory action and, therefore, was subject to review under Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Executive Order 13563

In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, DoD has determined that this rule is not excessively burdensome to the public. It is consistent with the intent of the National Defense Authorization Acts for Fiscal Years 2004 and 2007 and joint agency instructions, such as Management of Aviation Critical Safety Items (dated January 25, 2006), to identify and apply additional risk-based surveillance to items identified as critical safety items.

IV. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule does not impose new requirements on small entities. Its purpose is to alert Government quality-assurance activities to existing heightened surveillance requirements that are imposed by DoD requiring activities. The process for identifying an item as a critical safety item occurs entirely outside the procurement process, as does the process of approving a source for production of a critical safety item. Therefore, an initial regulatory flexibility analysis has not been prepared.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2010–D022) in correspondence.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 209 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 209 and 252 are proposed to be amended as follows:

1. The authority citation for 48 CFR parts 209 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 209—CONTRACTOR QUALIFICATIONS

2. Add section 209.270–5 to read as follows:

209.270–5 Contract clause.

The contracting officer shall insert the clause at 252.209–700X, Critical Safety Items, in solicitations and contracts when the acquisition includes one or more items designated by the design control activity as critical safety items.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Add section 252.209–700X to read as follows:

252.209–700X Critical Safety Items.

As prescribed in 209.270–5, use the following clause:

Critical Safety Items (Date)

(a) *Definitions.*

Aviation critical safety item means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic, any failure, malfunction, or absence of which could cause—

(1) A catastrophic or critical failure resulting in the loss of, or serious damage to, the aircraft or weapon system;

(2) An unacceptable risk of personal injury or loss of life; or

(3) An uncommanded engine shutdown that jeopardizes safety.

Design control activity—

(1) With respect to an aviation critical safety item, means the systems command of a military department that is specifically responsible for ensuring the airworthiness of an aviation system or equipment, in which an aviation critical safety item is to be used; and

(2) With respect to a ship critical safety item, means the systems command of a military department that is specifically responsible for ensuring the seaworthiness of a ship or ship equipment, in which a ship critical safety item is to be used.

Ship critical safety item means any ship part, assembly, or support equipment containing a characteristic, the failure, malfunction, or absence of which could cause—

(1) A catastrophic or critical failure resulting in loss of, or serious damage to, the ship; or

(2) An unacceptable risk of personal injury or loss of life.

(b) *Identification of critical safety items.* One or more of the items being acquired under this contract is an aviation or ship critical safety item. The following items have been designated aviation critical safety items or ship critical safety items by the designated design control activity:

_____

_____

_____

_____

(insert additional lines, as necessary)

(c) *Heightened quality assurance surveillance.* Items designated in paragraph (b) of this clause are subject to heightened, risk-based surveillance by the designated quality assurance representative.

(End of clause)

[FR Doc. 2011–6231 Filed 3–16–11; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 173

[Docket Number PHMSA–2009–0303 (HM–213D)]

RIN 2137–AE53

Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: PHMSA is notifying the public of our intent to extend the comment period by 30 days for a notice of proposed rulemaking published on January 27, 2011.

DATES: The comment period for the NPRM closing on March 28, 2011, is extended until April 27, 2011.

ADDRESSES: You may submit comments identified by the docket number (PHMSA–2009–0303) by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number for this notice at the beginning of the comment. Note that all comments received will be posted without change to the docket management system, including any personal information provided.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov,* or DOT's Docket Operations Office (*see* **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Dirk Der Kinderen, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, telephone (202) 366–8553; or Leonard Majors, Engineering and Research Division, Pipeline and Hazardous Materials Safety Administration, telephone (202) 366–4545.

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 27, 2011, PHMSA published a notice of proposed rulemaking (NPRM) (HM–213D; 76 FR 4847) seeking public comment on a proposal to prohibit the transportation of flammable liquids in exposed external product piping (wetlines) on a cargo tank motor vehicle (CTMV) unless the CTMV is equipped with bottom damage protection that conforms to the requirements of § 178.337–10 or § 178.345–8(b)(1), as appropriate. We also invited comment on a number of provisions associated with this proposed prohibition such as the residue performance standard relating to applicability of the proposed prohibition as well as conditional exceptions and the proposed transition period and compliance dates. See the January 27, 2011 NPRM for background and a complete discussion of the proposals.

II. Comment Period Extension

We received comments from the American Trucking Associations, Inc. (ATA), the Commercial Vehicle Safety Alliance, the National Tank Truck Carriers, Inc., and the Tank Truck Manufacturers Association requesting an extension of the comment period. These member organizations represent carriers, manufacturers, and officials affected by the NPRM. They state their primary basis for extension is to allow for thorough review and analysis of the HM–213D docket materials. For example, the ATA notes in their comment that the regulatory evaluation for this NPRM contains numerous new assumptions and revised economic analyses that warrant extensive evaluation by industry experts and outside consultants. They indicate that the evaluation will require a review of (1) The wetlines incidents cited by PHMSA; (2) the use and retrofit requirements associated with a manual purging system; and (3) the feasibility of alternatives available to comply with the proposed prohibition. The associations also indicate the need for time to convene with members at meetings scheduled to occur in April and May of 2011 to present findings and to obtain feedback. Additionally, the comment period for this NPRM overlaps with numerous other regulatory initiatives within DOT and other Federal agencies, such as the Environmental Protection Agency, the Occupational Safety and Health Administration, and the U.S. Customs and Border Protection that impact their members. Finally, they note that the trucking industry is dominated by small businesses that do not have the resources to understand and meaningfully participate in the rulemaking process of so many concurrent rulemaking actions. In light of the significance of this rulemaking to their members and for the reasons summarized above, the associations request that PHMSA grant an extension to the HM–213D NPRM comment period ranging from sixty days to six months.

Although PHMSA continues to believe that the initial 60-day comment period provides enough time to review and respond to the rulemaking proposals and supporting material, PHMSA is consenting to the commenter requests to extend the comment period to ensure sufficient time for public review. However, we do not consider a lengthy extension (e.g., 120 days) to be warranted. Accordingly, in the interest of moving this rulemaking action forward in a timely manner, we believe, in addition to the time that remains in the current comment period, extending the comment period by 30 days would be sufficient to relieve the burdens of conducting an extensive evaluation, overlapping rulemaking actions, and needing time to meet with respective trucking industry members for feedback. Thus, the comment period for the HM–213D NPRM is extended from March 28, 2011 until April 27, 2011.

Issued in Washington, DC, on March 11, 2011 under authority delegated in 49 CFR part 106.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 2011–6175 Filed 3–16–11; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 110303179–1178–02]

RIN 0648–XA163

Fisheries of the Northeastern United States; Proposed 2011 Specifications for the Spiny Dogfish Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the spiny dogfish fishery for the 2011 fishing year (FY) (May 1, 2011, through April 30, 2012). The implementing regulations for the Spiny Dogfish Fishery Management Plan (FMP) require NMFS to publish specifications for up to a period of 5 years, and to provide an opportunity for public comment on those specifications. The intent of this rulemaking is to specify the commercial quota and other management measures for FY 2011 only. Specifically, for FY 2011, NMFS proposes that the annual quota be set at 20 million lb (9,071.85 mt), and that the possession limit for dogfish remain 3,000 lb (1.36 mt). These proposed specifications and management measures are consistent with the FMP and promote the utilization and conservation of the spiny dogfish resource.

DATES: Public comments must be received no later than 5 p.m. eastern standard time on April 18, 2011.

ADDRESSES: You may submit comments, identified by RIN 0648–XA163, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Fax:* 978–281–9135, *Attn:* Lindsey Feldman.
- *Mail:* Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on 2011 Dogfish Specifications."

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.

Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (MAFMC), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State St., Dover, DE 19901. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Lindsey Feldman, Fishery Management Specialist, *phone:* 978–675–2179, *fax:* 978–281–9135.

SUPPLEMENTARY INFORMATION: Spiny dogfish were declared overfished by NMFS on April 3, 1998, and added to the list of overfished stocks in the *Report on the Status of the Fisheries of the United States,* prepared pursuant to section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Consequently, the Magnuson-Stevens Act required NMFS to prepare measures to end overfishing and rebuild the spiny dogfish stock. During 1998 and 1999, the Mid-Atlantic Fishery Management Council (MAFMC) and the New England Fishery Management Council (NEFMC) developed a joint FMP, with the MAFMC designated as the administrative lead.

The regulations implementing the FMP at 50 CFR part 648, subpart L, outline the process for specifying the commercial quota and other management measures (*e.g.,* minimum or maximum fish sizes, seasons, mesh size restrictions, possession limits, and other gear restrictions) necessary to ensure that the target fishing mortality rate (target F) specified in the FMP will not be exceeded in any fishing year (May 1–April 30), for a period of 1–5 FYs. The annual quota is allocated to two semi-annual quota periods, as follows: Period 1, May 1 through October 31 (57.9 percent); and Period 2, November 1 through April 30 (42.1 percent).

The Spiny Dogfish Monitoring Committee (MC), which is comprised of representatives from states; MAFMC staff; NEFMC staff; NMFS staff; academia; and two non-voting, ex-officio industry representatives (one each from the MAFMC and NEFMC regions), is required to review the best available information and to recommend a commercial quota and other management measures necessary to achieve the target F for 1–5 FYs. The Council's Joint Spiny Dogfish Committee (Joint Committee) considers the MC's recommendations and any public comment in making its recommendation to the two Councils. The MAFMC and the NEFMC then review the recommendations of the MC and Joint Committee and make their recommendations to NMFS. NMFS reviews those recommendations, and may modify them if necessary to assure that the target F will not be exceeded. NMFS then publishes proposed measures for public comment.

Spiny Dogfish Stock Status Update

NMFS declared the spiny dogfish stock rebuilt on June 22, 2010, based on an analysis of biological reference points presented at the Transboundary Resource Assessment Committee (TRAC) meeting in January 2010. A group of peer reviewers, using information from the TRAC analysis, accepted a newly defined spiny dogfish biomass target (159,288 mt), F_{target} (0.207), and $F_{threshold}$ (0.325). The 2009 stochastic estimate of spawning stock biomass (SSB) (163,256 mt) was shown to exceed the newly defined biomass target, which was consistent with a rebuilt stock. Based on the recommendation of the MC and TRAC analysis showing the spiny dogfish stock was rebuilt, NMFS set the FY 2010 spiny dogfish specifications at 15 million lb (5,443.11 mt) (75 FR 36012, June 24, 2010).

In the fall of 2010, the NMFS Northeast Fisheries Science Center (NEFSC) updated the spiny dogfish stock status using the population modeling approach from the 43rd Stock Assessment Workshop (43rd SAW, 2006), 2009 catch data, and results from the 2010 spring bottom trawl survey. The update specified that the female spawning stock biomass (SSB) for 2010 is 164,066 mt (362 million lb), about 3 percent above the maximum spawning

stock biomass, SSB_{max} (159,288 mt), the maximum sustainable yield biomass (B_{msy}) proxy.

The NEFSC stock status update confirmed that overfishing of spiny dogfish is not occurring, the stock is not overfished, and the stock is rebuilt. The NEFSC stock status update also revised fishing mortality reference points, as the fishery is no longer held to the rebuilding F_{target} of 0.11. The updated target and threshold Fs are 0.207 and 0.325, respectively.

The updated stock assessment noted that there are still a number of concerns about the condition of the stock. Although recruitment to the fishery increased in 2010, a decline in SSB is expected when small 1997–2003 year-classes recruit to the SSB (in approximately 2015), due to estimated low pup production from 1997–2003 implicated by survey catches of pups and low survey catches of the sizes categories for these year classes. In addition, rates of pup production may be lower than historic levels due to a skewed male-to-female sex ratio of approximately 3:1.

Technical Recommendations

The MAFMC's Scientific and Statistical Committee (SSC) met September 21–22, 2010, to develop an acceptable biological catch (ABC) recommendation for spiny dogfish for FY 2011, based on the NEFSC stock status update. The development of the proposed 2011 spiny dogfish specifications was consistent with the Mid-Atlantic Omnibus Amendment (also Amendment 2 to the FMP), which will implement annual catch limits (ACLs) and accountability measures (AMs) for the spiny dogfish fishery. Consistent with the SSC's risk policy for an 'typical' stock, in which the species' life history makes it vulnerable to overfishing, the SSC categorized the updated spiny dogfish assessment as a Level 3 assessment, due to uncertainty in calculating the overfishing limit (OFL). The designation of the spiny dogfish fishery as a Level 3 assessment dictates that the SSC recommend the OFL for spiny dogfish equal 75 percent of F_{target} (20,267 mt), and that the ABC be set as a reduction from OFL based on a probability of overfishing of 35 percent. The ABC that corresponds to a probability of overfishing of 35 percent was calculated to be 75 percent of the OFL, and is equal to 15,200 mt.

Subsequently, on September 24, 2010, the MC met to recommend the appropriate quota and possession limits for spiny dogfish in FY 2011, based on the SSC's ABC recommendation. To set the appropriate commercial quota, the MC deducted all other sources of fishing mortality for the spiny dogfish stock (U.S. commercial dead discards, recreational landings and discards, and Canadian commercial landings). Due to a dramatic decrease in Canadian spiny dogfish landings and potential changes in trawl effort in 2009, the MC decided to reduce the ABC by actual 2009 removals. Excluding U.S. commercial landings, removals (U.S. commercial dead discards, recreational landings and discards, and Canadian commercial landings) in 2009 were approximately 6,043.66 mt (13.324 M lb). The commercial quota that is available after deducting the removals from the SSC's ABC recommendation is 20.186 million lb (15,200 mt minus 6,043.66 mt; 9,156.34 mt). The MC recommended a commercial quota of 20.0 million lb (9,071.85 mt), in order to build in an additional buffer for other assorted sources of uncertainty. The MC also recommended maintaining possession limits at 3,000 lb (1.36 mt), unchanged from 2010.

Council Recommendations

At an October 13–14, 2010 meeting, the MAFMC and the Spiny Dogfish Joint Committee approved the FY 2011 commercial quota for spiny dogfish of 20 million lb (9,071.85 mt), and the possession limit of 3,000 lb (1.36 mt), as recommended by the MC. The NEFMC met on November 18, 2010, and concurred with recommendations of the Joint Committee. While management measures may subsequently be established for up to 5 years, the Councils are currently recommending specifications and management measures for FY 2011 only, to account for new information on the stock that may become available, as well as for the implementation of ACLs and AMs that will be enacted for spiny dogfish as a part of the Mid-Atlantic Omnibus Amendment (also Amendment 2 to the FMP).

Proposed Measures

NMFS reviewed both Councils' recommendation and concluded that the quota recommendations would adequately allow utilization and conservation of the spiny dogfish resource. Therefore, NMFS proposes the measures recommended by both Councils for FY 2011: Setting the commercial spiny dogfish quota at 20.0 million lb (9,071.85 mt); and maintaining the current possession limit of 3,000 lb (1.36 mt). As specified in the FMP, quota Period 1 (May 1 through October 31) would be allocated 57.9 percent of the quota (11,580,000 lb (5,252.6 mt)), and quota Period 2 (November 1 through April 30) would be allocated 42.1 percent of the quota (8,420,000 lb (3,819.25 mt)).

The proposed 2011 spiny dogfish commercial quota is consistent with the commercial quota adopted by the Atlantic States Marine Fisheries Commission (Commission). On November 12, 2010, the Commission approved a FY 2011 quota for spiny dogfish of 20 million lb (9,071.85 mt), and a maximum possession limit of 3,000 lb (1.36 mt). The Commission allocates the commercial quota by region: The Northern region is allocated 58 percent of the quota, the Southern region is allocated 26 percent of the quota, and North Carolina is allocated 16 percent of the quota. While the Federal fishery is closed when the commercial quota is projected to be harvested, it is the responsibility of the individual states to close their fishery at the recommendation of the Commission when the regional allocation is projected to be harvested. Implementing a commercial quota of 20 million lb (9,071.85 mt) ensures consistency with the Commission. However, there are still inconsistencies in the quota allocation scenario between the state and Federal FMPs, which is sometimes confusing for fishermen and creates administrative burden. The issue of quota allocation will be reconsidered by the Councils in upcoming Amendment 3 to the FMP, and is not the subject of this rulemaking.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the proposed rule is consistent with the Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, 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 Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The 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. A copy of this analysis is available from the Council (*see* **ADDRESSES**). A summary of the analysis follows:

Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to this proposed rule and is not repeated here.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

According to NMFS permit file data, 3,020 vessels were issued Federal spiny dogfish permits in FY 2009, while 398 of these vessels contributed to overall landings. All of the potentially affected businesses are considered small entities under the standards described in NMFS guidelines because they have gross receipts that do not exceed $4 million annually. Information from FY 2009 was used to evaluate impacts of this action, as that is the most recent year for which data are complete.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Minimizing Significant Economic Impacts on Small Entities

The IRFA considered three distinct alternatives. The proposed action (Alternative 2) specifies a commercial quota for spiny dogfish of 20.0 million lb (9,071.85 mt), and maintains the current possession limit of 3,000 lb (1.36 mt) for FY 2011. The proposed commercial quota is higher than the Status Quo (Alternative 1) option, which would maintain the FY 2011 commercial quota for spiny dogfish at 15 million lb (5,443.11 mt). Alternative 3 would specify a commercial quota of 31.4 million lb (14,242.8 mt), a level set to achieve the existing F_{target} of 0.207. None of the alternatives propose to modify the current 3,000-lb (1.36-mt) possession limit.

If implemented, and assuming that the quota is fully attained, the proposed action would be expected to increase revenue levels for affected businesses, thereby having a positive economic impact on small entities. By contrast, Alternative 1 (status quo) would maintain the current revenue levels, and Alternative 3 would be expected to increase revenue from dogfish landings. Total spiny dogfish revenue from the last complete FY (2009) was reported as $2.360 million. Using the average FY 2009 price/lb ($0.22), landing the full FY 2010 quota of 15 million lb (5,443.11 mt), (and also the FY 2011 quota under Alternative 1) would yield $3.300 million in fleet revenue. Using the same approach, revenue would be expected to increase to $4.400 million under the proposed action (Alternative 2) and $6.898 million under Alternative 3. The quota level of the proposed action allows the highest level of harvest of spiny dogfish while taking into account scientific uncertainty about the stock's population. Additionally, although the level of increased revenue for small entities is expected to be less than under Alternative 3, the proposed action is more likely to prevent overfishing of the spiny dogfish resource and promote a more stable stream of commercial landings and revenues over the long term.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 11, 2011.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2011–6264 Filed 3–16–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 76, No. 52
Thursday, March 17, 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

Sabine National Forest Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of Public Meeting, Sabine National Forest Resource Advisory Committee.

SUMMARY: In accordance with the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393), [as reauthorized as part of Pub. L. 110–343] and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of Agriculture, Forest Service, Sabine National Forest Resource Advisory Committee (RAC) meeting will meet as indicated below.

DATES: The Sabine National Forest RAC meeting will be held on Wednesday, April 6, 2011.

ADDRESSES: The Sabine National Forest RAC meeting will be held at the Sabine Ranger Station located on State Highway 21 East, approximately 5 miles East of Milam in Sabine County, Texas. The meeting will begin at 3:30 p.m. and adjourn at approximately 5:30 p.m. A public comment period will begin at 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: William E. Taylor, Jr., Designated Federal Officer, Sabine National Forest, 5050 State Hwy. 21 E., Hemphill, TX 75948: Telephone: 409–625–1940 or e-mail at: *etaylor@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The Sabine National Forest RAC proposes projects and funding to the Secretary of Agriculture under Section 203 of the Secure Rural Schools and Community Self Determination Act of 2000, (as reauthorized as part of Pub. L. 110–343). The purpose of the April 6, 2011 meeting is the first Sabine Committee Meeting to elect a Chairperson and discuss new Title II projects. These meetings are open to the public. The public may present written comments to the RAC. Each formal RAC meeting will also have time, as identified above, for persons wishing to comment. The time for individual oral comments may be limited.

William E. Taylor, Jr.,

Designated Federal Officer, Sabine National Forest RAC.

[FR Doc. 2011–5927 Filed 3–16–11; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; 2012 Economic Census Covering the Mining Sector

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before May 16, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Julius Smith, Jr., U.S. Census Bureau, Manufacturing and Construction Division, Room 7K055, 4600 Silver Hill Road, Washington, DC 20233, telephone (301) 763–7662, (or via the Internet at *julius.smith.jr@census.gov).*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is the preeminent collector and provider of timely, relevant and quality data about the people and economy of the United States. Economic data are the Census Bureau's primary program commitment during non-decennial census years. The economic census, conducted under authority of Title 13, United States Code, is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business and the general public. The 2012 Economic Census covering the Mining Sector (as defined by the North American Industry Classification System (NAICS) will measure the economic activity of almost 26,000 mineral establishments.

The information collected from establishments in this sector of the economic census will produce basic statistics for a number of establishments, shipments, payroll, employment, detailed supplies and fuels consumed, depreciable assets, inventories, and capital expenditures. It also will yield a variety of subject statistics, including shipments by product line, type of operation, size of establishments and other industry-specific measures.

Primary strategies for reducing burden in Census Bureau economic data collections are to increase electronic reporting through broader use of computerized self-administered census questionnaires, on-line questionnaires and other electronic data collection.

II. Method of Collection

Establishments included in this collection will be selected from a frame given by the Census Bureau's Business Register. To be eligible for selection, an establishment will be required to satisfy the following conditions: (i) It must be classified in the mining sector; (ii) it must be an active operating establishment of a multi-establishment firm (including operations under exploration and development), or it must be a single-establishment firm with payroll; and (iii) it must be located in one of the 50 states, offshore areas, or the District of Columbia. Mail selection procedures will distinguish the following groups of establishments:

A. Establishments of Multi-Establishment Firms

Selection procedures will assign all active mineral establishments of multi-establishment firms to the mail component of the universe, except for those in industries classified in the Support Activities for Mining subsector. In these selected industries, where activities are not easily attributable to individual locations or establishments, firms will be asked to report their basic data for several establishments at a nation-wide level on a consolidated report form. Approximately seven percent of establishments of multi-establishment firms will not be required to file separate reports because they will be included in consolidated company reports. We estimate that the census mail canvass for 2012 will include approximately 8,000 establishments of multi-establishment firms.

B. Single-Establishment Firms With Payroll

As an initial step in the selection process, we will analyze the universe for mining. The analysis will produce a set of industry-specific payroll cutoffs that we will use to distinguish large versus small single-establishment firms within each industry. This payroll size distinction will affect selection as follows:

1. Large Single-Establishment Firms

Selection procedures will assign large single-establishment firms having annualized payroll (from Federal administrative records) that equals or exceeds the cut off for their industry to the mail component of the universe. We estimate that the census mail canvass for 2012 will include approximately 7,100 firms in this category. These firms will receive a standard form.

2. Small Single-Establishment Firms

Small single-establishment firms in the crushed stone, sand and gravel, and crude petroleum and natural gas industries, where application of the cutoff for non-mail establishments results in a larger number of small establishments included in the mail canvass, will receive a short form. The short form will collect basic statistics and other essential information that is not available from administrative records.

The short form will be mailed to approximately 1,200 single-establishment firms in these industries which are larger than the non-mail cutoff for their industry, but which have an annual payroll under a certain criteria.

The approximately 9,600 remaining single-establishment firms with payroll will be represented in the census by data from Federal administrative records.

III. Data

OMB Control Number: 0607–0939.

Form Number: The forms used to collect information from businesses in this sector of the economic census are tailored to specific business practices and are too numerous to list separately in this notice. You can obtain information on the proposed content at this Web site: *http://www.census.gov/mcd/clearance/census.*

Type of Review: Regular submission.

Affected Public: Business or Other for Profit, Not-for-Profit institutions, and Small Businesses or Organizations.

Estimated Number of Respondents: Standard Form—15,100.
Short Form—1,200.
Total—16,300.

Estimated Time per Response: Standard Form—5.1 hours.
Short Form—2.5 hours.

Estimated Total Annual Burden Hours: 80,010.

Estimated Total Annual Cost: $2,593,924.

Respondents Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 131 and 224.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 14, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–6207 Filed 3–16–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[2/23/2011 through 3/10/2011]

Firm name	Address	Date accepted for investigation	Products
Allcraft Mold, Inc	529 W. Morse Avenue, Schaumburg, IL 60193.	01–Mar-11	The firm manufactures molds and dies used by plastic injection molders.
Arctic Hunter, LLC.	7216 Interlaaken Drive, SW., Lakewood, WA 98499.	01–Mar-11	The fishery sells crabs caught in Alaskan waters.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE—Continued

[2/23/2011 through 3/10/2011]

Firm name	Address	Date accepted for investigation	Products
Brekkaa Fisheries, Inc.	17403 5th Ave West, Bothell, WA 98102.	11–Feb-11	The fishery sells crabs caught in Alaskan waters.
Brooks Machine Products, Ltd.	4 Martin Brook Street, Unadilla, NY 13849.	08–Mar-11	The firm manufactures high precision stampings and forming parts merged with drilling, milling and turning.
Checkerboard, Ltd.	216 West Boylston Street, W. Boylston, MA 01583.	08–Mar-11	The firm produces custom fine stationery products, including wedding invitations, bar/bat mitzvah invitations, birth announcements, party invitations and personalized holiday cards.
Ironwood Manufacturing, Inc.	1700 Turner Street; PO Box 1420, Missoula, MT 59806.	01–Mar-11	The firm manufactures wooden school and office furniture.
Rommesmo Companies, Inc.	4401 Main Avenue, Fargo, ND 58107.	08–Mar-11	The firm manufactures steel fabrications.
The Henry Perkins Company.	180 Broad Street, Bridgewater, MA 02324.	08–Mar-11	The firm manufactures raw castings of all grades of iron.
West Coast Fab, Inc.	700 S. 32nd Street, Richmond, CA 94804.	08–Mar-11	The firm manufactures products made from steel, aluminum, and stainless.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: March 10, 2011.

Bryan Borlik,

Director.

[FR Doc. 2011–6174 Filed 3–16–11; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Certain Circular Welded Non-Alloy Steel Pipe From Mexico: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–6312 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 15, 2010, the Department of Commerce (the Department) published the preliminary results of administrative review of certain circular welded non-alloy steel pipe from Mexico for the November 1, 2008, through October 31, 2009, period of review. *See Certain Circular Welded Non-Alloy Steel Pipe From Mexico: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 78216 (December 15, 2010). The final results for this administrative review are currently due no later than April 14, 2011.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the final results of an administrative review within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 120 day time period for the final results to 180 days.

The Department has determined it is not practicable to complete this review within the statutory time limit because of significant issues that require additional time to evaluate. These issues include complicated questions involving various cost accounting issues, use of multiple unaffiliated suppliers' costs, and proper application of facts available. Accordingly, the Department is extending the time limit for completion of the final results of this administrative review until no later than June 13, 2011, which is 180 days after the date on which the preliminary results of review were published.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: March 10, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–6246 Filed 3–16–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* March 17, 2011.

FOR FURTHER INFORMATION CONTACT: Gayle Longest, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, *telephone:* (202) 482–3338.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) ("the Act") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign

government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish an annual list and quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the period October 1, 2010, through December 31, 2010. The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act and 19 CFR 351.601.

Dated: March 11, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross[1] Subsidy ($/lb)	Net[2] Subsidy ($/lb)
27 European Union Member States[3].	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.35	0.35
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	*0.00*	*0.00*
	Total	0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2011–6247 Filed 3–16–11; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA299

Endangered Species; Permit No. 13330–01

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

ACTION: Notice; receipt of modification request.

SUMMARY: Notice is hereby given the following applicant has applied in due form for a modification to a permit (Permit No. 13330) taking smalltooth sawfish for purposes of scientific research: NMFS Southeast Fisheries Center (SEFSC) Bonnie Ponwith, PhD, Responsible Party; 75 Virginia Beach Drive, Miami, FL 33149.

DATES: Written, telefaxed, or e-mail comments must be received on or before April 18, 2011.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov/,* and then selecting File No. 13330–01 from the list of available applications.

These documents are 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
- Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727) 824–5312; fax (727) 824–5309.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division.

- By e-mail to *NMFS.Pr1Comments@noaa.gov* (include the File No. in the subject line),
- By facsimile to (301) 713–0376, or
- At the address listed above.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Colette Cairns, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The primary objective of the proposed research would remain unchanged from the original permit: to collect data on the biology, distribution and abundance of the endangered smalltooth sawfish to facilitate recovery of the species. Sampling with the goal of taking 45 smalltooth sawfish per year is currently authorized by longline, gillnet, seine net, drum (set) lines, or rod and reel throughout Florida's coastal waters, but primarily in the region of the Florida coast from Naples to Key West, encompassing the Ten Thousand Islands. All captured sawfish are also authorized to be handled, measured, tagged, sampled, and released alive. Tagging methods include rototags (fin

tags), plastic headed dart tags, umbrella dart tags, Passive Integrated Transponder (PIT) tags, acoustic tags (transmitters), Pop-Up Archival transmitting (PAT) tags, and Smart Position Only Transmitting (SPOT) tags. Sampling also includes a small genetic tissue fin clip and blood sample. Finally, dead sawfish acquired through strandings or from law enforcement confiscations are also measured and sampled for scientific purposes.

To increase tag retention and provide less invasive tagging techniques, the applicant is now requesting to replace plastic rototags, used to secure VEMCO acoustic transmitters, with neoprene clasp tags; and nylon umbrella darts, used to secure PAT tags, with dorsal fin harnesses. SPOT tags would also be excluded as a tagging method. Better data collection could provide increased insight into habitat usage pattern and accomplish actions items identified in the recovery plan for the species.

Dated: March 11, 2011.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–6261 Filed 3–16–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Stellwagen Bank National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The ONMS is seeking applicants for the following seats on the Stellwagen Bank National Marine Sanctuary Advisory Council: (1) Research Member seat and (2) Conservation Alternate seats. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve 3-year terms, pursuant to the Council's Charter. The Council consists also of three state and three federal non-voting ex-officio seats.

DATES: Applications are due by 21 April 2011.

ADDRESSES: Application kits may be obtained from *Elizabeth.Stokes@noaa.gov,* Stellwagen Bank National Marine Sanctuary, 175 Edward Foster Road, Scituate, MA 02066. Telephone 781–545–8026, ext. 201. Completed applications should be sent to the same address or e-mail, or faxed to 781–545–8036.

FOR FURTHER INFORMATION CONTACT: *Nathalie.Ward@noaa.gov,* External Affairs Coordinator, *telephone:* 781–545–8026, ext. 206.

SUPPLEMENTARY INFORMATION: The Council was established in March 2001 to assure continued public participation in the management of the Sanctuary. The Council's 23 members represent a variety of local user groups, as well as the general public, plus seven local, state and federal government agencies. Since its establishment, the Council has played a vital role in advising NOAA on critical issues and is currently focused on the sanctuary's final five-year Management Plan.

The Stellwagen Bank National Marine Sanctuary encompasses 842 square miles of ocean, stretching between Cape Ann and Cape Cod. Renowned for its scenic beauty and remarkable productivity, the sanctuary supports a rich diversity of marine life including 22 species of marine mammals, more than 30 species of seabirds, over 60 species of fishes, and hundreds of marine invertebrates and plants.

Authority: 16 U.S.C. Sections 1431, *et seq.* (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 3, 2011.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2011–5889 Filed 3–16–11; 8:45 am]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

The following notice of scheduled meetings is published pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, 5 U.S.C. 552b.

AGENCY HOLDING THE MEETINGS: Commodity Futures Trading Commission.

TIMES AND DATES: The Commission has scheduled two meetings for the following dates:
March 30, 2011 at 9:30 a.m.
April 7, 2011 at 9:30 a.m.

PLACE: Three Lafayette Center, 1155 21st St., NW., Washington, DC, Lobby Level Hearing Room (Room 1000).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has scheduled these meetings to consider various rulemaking matters, including the issuance of proposed rules and the approval of final rules. The Commission may also consider and vote on dates and times for future meetings. Agendas for each of the scheduled meetings will be made available to the public and posted on the Commission's Web site at *http://www.cftc.gov* at least seven (7) days prior to the meeting. In the event that the times or dates of the meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's website.

CONTACT PERSON FOR MORE INFORMATION: David A. Stawick, Secretary of the Commission, 202–418–5071.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2011–6381 Filed 3–15–11; 4:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12757–003]

BOST4 Hydroelectric Company, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* P–12757–003.

c. *Date filed:* February 24, 2011.

d. *Applicant:* BOST4 Hydroelectric Company, LLC (BOST4).

e. *Name of Project:* Red River Lock & Dam No. 4 Hydroelectric Project.

f. *Location:* The proposed project would be located at the existing Army Corps of Engineer's (Corps) Red River Lock & Dam No. 4 on the Red River, in Red River Parish near the City of Coushatta, Louisiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. Douglas A. Spalding, BOST4 Hydroelectric Company, LLC, 8441 Wayzata Blvd., Suite 101, Golden Valley, MN 55426; (952) 544–8133.

i. *FERC Contact:* Jeanne Edwards (202) 502–6181 or by e-mail at *Jeanne.edwards@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* April 25, 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/ferconline.asp*) under the "e-Filing" link. For a simpler method of submitting text only comments, click on "eComment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

m. The application is not ready for environmental analysis at this time.

n. The proposed project would utilize the existing U.S. Army Corps of Engineers (Corps) Red River Lock and Dam No. 4, and operate consistent with the Corps current operation policy. The proposed project consists of: (1) An excavated 385-foot-long headrace channel to convey water from the upstream Pool No. 4 of the Red River to a 301-foot-long by 90-foot-wide concrete powerhouse located southwest of the end of the existing overflow weir; (2) an excavated 477-foot-long tailrace channel to discharge water from the powerhouse to the downstream Pool No. 3 of the Red River; (3) one 28.1-megawatt (MW) horizontal Kaplan bulb turbine/generator unit; (4) one 3.0 mile-long, 34.5-kilovolt (kV) overhead transmission line leading from a project substation located at the project's powerhouse and connecting to Central Louisiana Electric Company's existing 34.5-kV transmission line; and (5) appurtenant facilities. The proposed project would generate about 128,532 megawatt-hours (MWh) annually which would be sold to a local utility.

o. A copy of the application is available for review at the Commission in the Public Reference Room, or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. 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.

p. With this notice, we are initiating consultation with the Louisiana State Historic Preservation Officer (SHPO), as required by 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR, at 800.4.

q. Procedural schedule: The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter	May 2011.
Issue Acceptance Letter	September 2011.
Issue Scoping Document 1 for comments	October 2011.
Request Additional Information (if necessary)	December 2011.
Notice of application is ready for environmental analysis	April 2012.
Notice of the availability of the EA	April 2013.

Dated: March 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–6195 Filed 3–16–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–124–000]

Port Barre Investments, L.L.C.; Notice of Application

Take notice that on March 4, 2011, Port Barre Investments, L.L.C. (Bobcat) filed in Docket No. CP11–124–000 an application pursuant to section 7(c) of the Natural Gas Act and Part 157 the Commission's Rules and Regulations for all the necessary authorizations required to amend the certificate of public convenience and necessity issued in Docket No. CP09–19–000 [1], as amended by the certificate issued in Docket No. CP10–30–000.[2] In these proceedings, the Commission authorized Bobcat to expand its storage facility through the construction and operation of three new salt dome natural gas storage caverns, additional compression, and new pipeline facilities.

In this application, Bobcat proposes to relocate the surface and bottom hole locations of Cavern Well 4, an injection/withdrawal well related to Cavern No. 4, and to reconfigure certain well casing and hanging string components. The activities requested will not alter the previously approved capacities, deliverability or injection rates of the Bobcat Storage Facility. The details of the request are more fully set forth in the application, which is on file with the Commission and open to public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link.

[1] *Port Barre Investments, L.L.C.,* 126 FERC ¶ 61,240 (2009).

[2] *Port Barre Investments, L.L.C.,* 130 FERC ¶ 62,272 (2010).

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 TTY, (202) 502–8659.

Any questions regarding this application should be directed to Lisa A. Connolly, General Manager, Rates and Certificates, Bobcat Gas Storage, P.O. Box 1642, Houston, TX 77251–1642, phone (713) 627–4102, e-mail *laconnolly@spectraenergy.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date: March 24, 2011.

Dated: March 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–6197 Filed 3–16–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12756–003]

BOST3 Hydroelectric Company, LLC (BOST3); Notice of Application Accepted for Filing and Soliciting 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. *Type of Application:* Original Major License.

b. *Project No.:* P–12756–003.

c. *Date filed:* July 26, 2010.

d. *Applicant:* BOST3 Hydroelectric Company, LLC (BOST3).

e. *Name of Project:* Red River Lock & Dam No. 3 Hydroelectric Project.

f. *Location:* The proposed project would be located at the existing Army Corps of Engineer's (Corps) Red River Lock & Dam No. 3 on the Red River, in Natchitoches Parish near the City of Colfax, Louisiana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Douglas A. Spalding, BOST3 Hydroelectric Company, LLC, 8441 Wayzata Blvd., Suite 101, Golden Valley, MN 55426; (952) 544–8133.

i. *FERC Contact:* Jeanne Edwards (202) 502–6181, or by e-mail at *Jeanne.edwards@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of that document on each person 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. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. The proposed project would utilize the Corps' existing Red River Lock and Dam No. 3, and be operated consistent with the Corps' current operating manual. The proposed project consists of: (1) An excavated headrace channel to convey water from the upstream Pool No. 3 of the Red River into the powerhouse; (2) an excavated tailrace channel to discharge water from the powerhouse to the downstream Pool No. 2 of the Red River; (3) a 301-foot-long by 90-foot-wide concrete powerhouse located on the right (west) abutment of the Corps' Lock and Dam No. 3; (4) one 36.2-megawatt (MW) horizontal Kaplan bulb turbine/generator unit; (5) one 2,300-foot-long, 13.2-kilovolt (kV) overhead transmission line which crosses the river and connects to a Central Louisiana Electric Company substation located on the opposite side of the river; and (6) appurtenant facilities. The proposed project would generate about 172,779 megawatt-hours (MWh) annually, which would be sold to a local utility.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION;" (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. 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.

Dated: March 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–6198 Filed 3–16–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP11–1745–001]

UGI Storage Company; Notice of Filing

Take notice that on March 9, 2011, UGI Storage Company (UGI) submitted an amendment to its January 31, 2011, filing.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before 5 p.m. Eastern time on the specified comment date. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest 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 Wednesday, March 16, 2011.

Dated: March 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–6199 Filed 3–16–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–111–000]

Gulfstream Natural Gas System, L.L.C. Notice of Request Under Blanket Authorization

Take notice that on March 1, 2011, Gulfstream Natural Gas System, L.L.C. (Gulfstream) filed a prior notice request pursuant to sections 157.205, 157.208, and 157.212 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act, and Gulfstream's blanket certificate issued in Docket No. CP00–8, *et al.,* for authorization to construct, own, operate and maintain a new receipt point on Gulfstream's existing system to receive natural gas from Gulf LNG Pipeline, LLC in Jackson County, Mississippi. Specifically, Gulfstream proposes to design and construct, one 30-inch tie-in assembly connecting the outlet of the Gulf LNG Pipeline facilities to Gulfstream's 36-inch diameter Line No. 060, electronic gas measurement equipment, and chromatograph and other gas analyzers at the receipt point, which Gulfstream will own, all as more fully set forth in the application, which is open to the public for inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this prior notice should be directed to Lisa A. Connolly, General Manager, Rates and Certificates, Gulfstream Natural Gas System, L.L.C., 5400 Westheimer Court, P.O. Box 1642, Houston, TX 77251–1642, telephone No. (713) 627–4102, and e-mail: *laconnolly@spectraenergy.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days

after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

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 commenter's 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 he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, 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 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.

Dated: March 10, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–6196 Filed 3–16–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2010–0497; FRL–9281–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: *Correction of Misreported Chemical Substances on the TSCA Inventory;* EPA ICR No. 1741.06, OMB No. 2070–0145. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

DATES: Additional comments may be submitted on or before April 18, 2011.

ADDRESSES: Submit your comments, referencing docket ID Number EPA–HQ–OPPT–2010–0497 to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7407T, 1200 Pennsylvania Ave., NW., Washington, D.C. 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Pamela Myrick, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408–M, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On August 6, 2010 (75 FR 47589), EPA sought comments on this renewal ICR pursuant to 5 CFR 1320.8(d). EPA received one comment during the comment period, which is addressed in the Supporting Statement. Any additional comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA EPA–HQ–OPPT–2010–0497, which is available for online viewing at *http://www.regulations.gov,* or in person inspection at the OPPT Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Pollution Prevention and Toxics Docket is 202–566–0280. Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in *http://www.regulations.gov.* The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in *http://www.regulations.gov.* For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Correction of Misreported Chemical Substances on the TSCA Inventory; EPA ICR No. 1741.06, OMB No. 2070–0145.

ICR Status: This is a request to renew an existing approved collection that is scheduled to expire on April 30, 2011. Under 5 CFR 1320.10, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: Section 8(b) of the Toxic Substances Control Act (TSCA) requires EPA to compile and keep current an Inventory of Chemical Substances in Commerce, which is a listing of chemical substances manufactured, imported, and processed for commercial purposes in the United States. The purpose of the Inventory is to define, for the purpose of TSCA, what chemical substances exist in U.S. commerce. Since the Inventory thereby performs a regulatory function by distinguishing between existing chemicals and new chemicals, which TSCA regulates in different ways, it is imperative that the Inventory be accurate.

However, from time to time, EPA or respondents discover that substances have been incorrectly described by the original reporting company. Reported substances have been unintentionally misidentified as a result of simple typographical errors, the misidentification of substances, or the lack of sufficient technical or analytical capabilities to characterize fully the exact chemical substances. EPA has developed guidelines (45 FR 50544, July 29, 1980) under which incorrectly described substances listed in the

Inventory can be corrected. The correction mechanism ensures the accuracy of the Inventory without imposing an unreasonable burden on the chemical industry. Without the Inventory correction mechanism, a company that submitted incorrect information would have to file a premanufacture notification (PMN) under TSCA section 5 to place the correct chemical substance on the Inventory whenever the previously reported substance is found to be misidentified. This would impose a much greater burden on both EPA and the submitter than the existing correction mechanism. This information collection applies to reporting and recordkeeping activities associated with the correction of misreported chemical substances found on the TSCA Inventory.

Responses to the collection of information are voluntary. Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average about 2.25 hours per response. Burden is defined in 5 CFR 1320.3(b).

Respondents/Affected Entities: Entities potentially affected by this action are manufacturers or importers of chemical substances, mixtures or categories listed on the TSCA Inventory and regulated under TSCA section 8, who had reported to the initial effort to establish the TSCA Inventory in 1979, and who need to make a correction to that submission.

Frequency of Collection: On occasion.

Estimated average number of responses for each respondent: 1.

Estimated Number of Respondents: 9.

Estimated Total Annual Burden on Respondents: 20 hours.

Estimated Total Annual Costs: $1,174.

Changes in Burden Estimates: This request reflects no change in the total estimated respondent burden from that currently in the OMB inventory.

Dated: March 11, 2011.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2011–6236 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2010–0834, FRL–9283–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before April 18, 2011.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2010–0834, to (1) EPA, either online using *http://www.regulations.gov* (our preferred method), or by e-mail to *rcra-docket@epa.gov,* or by mail to: RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and (2) OMB, by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Norma Abdul-Malik, Office of Solid Waste (5303P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–8753; fax number: 703–308–8617; e-mail address: *abdul-malik.norma@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 26, 2010 (75 FR 65625), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one comment during the comment period, which is addressed in the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2010–0834, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types (Renewal).

ICR numbers: EPA ICR No. 1572.10, OMB Control No. 2050–0050.

ICR Status: This ICR is scheduled to expire on March 31, 2011. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR provides a discussion of all of the information collection requirements associated with specific unit standards applicable to owners and operators of facilities that treat, store, or dispose of hazardous wastes as defined by 40 CFR part 261. It includes a detailed description of the data items and respondent activities associated with each requirement and with each hazardous waste management unit at a facility. The specific units and processes included in this ICR are: Tank systems, Surface impoundments, Waste piles, Land treatment, Landfills, Incinerators, Thermal treatment, Chemical, physical, and biological treatment, Miscellaneous (subpart X), Drip pads, Process vents, Equipment leaks, Containment buildings, Recovery/recycling.

With each information collection covered in this ICR, EPA is aiding the goal of complying with its statutory mandate under RCRA to develop standards for hazardous waste treatment, storage, and disposal facilities, to protect human health and the environment. Without the information collection, the agency cannot assure that the facilities are designed and operated properly.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 112 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Facilities that treat, store, or dispose of hazardous wastes and State, Local, or Tribal governments.

Estimated Number of Respondents: 5,452.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 1,032,373.

Estimated Total Annual Cost: $43,154,199, which includes $36,316,003 annualized labor costs and $6,838,196 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 405,897 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to an increase in the number of respondents from 3,326 to 5,452, as well as a change in accounting methods.

Dated: March 14, 2011.

Richard T. Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 2011–6305 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2010–0356; FRL–9281–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Asphalt Processing and Roofing Manufacture (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 18, 2011.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2010–0356, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia A. Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone number:* (202) 564–7021 *fax number:* (202) 564–0050; *e-mail address: marshall.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 2, 2010 (75 FR 30813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2010–0356 which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NSPS for Asphalt Processing and Roofing Manufacture (Renewal).

ICR Numbers: EPA ICR Number 0661.10, OMB Control Number 2060–0002.

ICR Status: This ICR is scheduled to expire on April 30, 2011. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of

information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The New Source Performance Standards (NSPS) for Asphalt Processing and Roofing Manufacture (40 CFR part 60, subpart UU) were proposed on November 18, 1980, and promulgated on May 26, 1981. These standards apply to each saturator and each asphalt storage facility at asphalt roofing plants; and to each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants. New facilities include those that commenced construction, modification, or reconstruction after the date of proposal. This information will be used by enforcement agencies to verify that sources subject to the standard are meeting the emission reductions mandated by the Clean Air Act.

Owners/operators of asphalt processing and roofing manufacture are required to submit one-time only notification of construction/reconstruction, actual startup, initial performance test, physical or operational changes, and demonstration of a continuous monitoring system. Records must be maintained of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications reports, and records are essential in determining compliance; and, in general, are required of all sources subject to NSPS.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 60, subpart UU, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 113 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Asphalt processing and roofing manufacturers.

Estimated Number of Respondents: 144.

Frequency of Response: Initially, and semiannually.

Estimated Total Annual Hour Burden: 33,912.

Estimated Total Annual Cost: $8,686,825, which includes $200,000 in annualized Capital/Startup costs, $5,040,000 in annualized Operating and Maintenance (O&M) costs, and $3,446,825 in annualized labor costs.

Changes in the Estimates: There is no change in the labor hours or cost to the respondents in this ICR compared to the previous ICR. This is due to two considerations: (1) the regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the respondents is very low, negative, or non-existent. Therefore, the labor hours and cost figures in the previous ICR reflect the current burden to the respondents and are reiterated in this ICR.

Dated: March 11, 2011.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2011–6230 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2010–0351; FRL–9281–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; National Emission Standards for Hazardous Air Pollutants (NESHAP) for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 18, 2011.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2010–0351, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia A. Williams, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7021; fax: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 2, 2010 (75 FR 30813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2010–0351, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources (Renewal).

ICR Numbers: EPA ICR Number 2268.03, OMB Control Number 2060–0607.

ICR Status: This ICR is scheduled to expire on April 30, 2011. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes or additions to the Provisions specified at 40 CFR part 63, subpart HHHHHH.

Owners or operators of the affected facilities must submit a one-time-only report of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of paint stripping and miscellaneous surface coating operations area sources.

Estimated Number of Respondents: 39,812.

Frequency of Response: Initially, annually and on-occasion.

Estimated Total Annual Hour Burden: 124,527 hours.

Estimated Total Annual Cost: $11,423,194, which includes $11,280,974 in labor costs, no capital/startup costs, and $142,220 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is a net decrease in labor hours and a net increase in cost to the Respondents in this ICR compared to the previous ICR. A decrease in hour burden to respondents occurs because the burden estimates for the previous ICR were based on requirements applicable during the first three years after promulgation of the rule. The burden presented in this ICR is based on estimates of burden to industry after the initial three-year period. This ICR uses the most recent labor rates to estimate the cost burden to the industry, which reflect a higher cost per hour.

There is an increase in O&M cost to the Respondents in this ICR compared to the previous ICR. The increase is due to updates in the O&M estimates using information that applies after the first three-year period of the regulation.

There is an increase in the total number of responses in this ICR compared to the previous ICR. This increase occurs because the estimate of total number of responses for the previous ICR was based on requirements applicable during the first three years after promulgation of the final rule. Additionally, new sources each year become subject to recordkeeping and reporting requirements. The estimate of total number of responses presented in this ICR is based on burden to industry after the initial three-year period.

Dated: March 11, 2011.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2011–6312 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R07–SFUND–2011–0285; FRL–9281–3]

Proposed CERCLA Administrative "Cost Recovery" Settlement; The Goldfield Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past and projected future response costs concerning the Newton County Mine Tailings Superfund Site in Newton County, Missouri with the following settling party: The Goldfield Corporation. The settlement requires the settling party to pay $76,630, to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling party pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all

comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at: Granby City Hall, 302 North Main Street, Granby, Missouri 64844; Neosho Public Library, 201 West Spring Street, Neosho, Missouri 64850; and Environmental Protection Agency, Region VII Docket Room, 901 North Fifth Street, Kansas City, KS 66101.

DATES: Comments must be submitted on or before April 18, 2011.

ADDRESSES: The proposed settlement is available for public inspection at the Environmental Protection Agency, Region VII Docket Room, 901 North Fifth Street, Kansas City, KS 66101. A copy of the proposed settlement may be obtained from Kathy Robinson, Regional Hearing Clerk, Environmental Protection Agency, Region VII, 901 North Fifth Street, Kansas City, KS 66101, 913–551–7567. Comments should reference the Newton County Mine Tailings Superfund Site, Newton County, Missouri, and EPA Docket No. CERCLA–07–2011–0002, and should be addressed to Kathy Robinson, Regional Hearing Clerk, Environmental Protection Agency, Region VII, 901 North Fifth Street, Kansas City, KS 66101.

FOR FURTHER INFORMATION CONTACT: D. Mark Doolan, Remedial Project Manager, Superfund Division, Environmental Protection Agency, Region VII, 901 North Fifth Street, Kansas City, KS 66101, *doolan.mark@epa.gov;* or at 913–551–7169.

Dated: March 8, 2011.

Cecilia Tapia,

Director, Superfund Division, Region 7.

[FR Doc. 2011–6226 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2002–0033; FRL–9281–1]

Public Comment on the Development of Final Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway From Contaminated Groundwater and Soils (Subsurface Vapor Intrusion Guidance)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency ("EPA") is announcing an opportunity for public comment on the development of a final guidance entitled: *Evaluating Vapor Intrusion to Indoor Air Pathway from Contaminated Groundwater and Soil (Subsurface Vapor Intrusion Guidance).* A draft of the Subsurface Vapor Intrusion Guidance was released for public comment in November 2002. EPA is planning to issue the final guidance by November 30, 2012 and is seeking public comment for consideration during the development of this document. EPA also intends to make another draft of the guidance available for public comment in the spring of 2012.

DATES: Comments received by May 14, 2011 will be considered in the development of the final Subsurface Vapor Intrusion Guidance.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2002–0033, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to: *rcra-docket@epa.gov,* Attention Docket ID No. EPA–HQ–RCRA–2002–0033.
- *Fax:* Comments may be faxed to 202–566–9744, Attention Docket ID No. EPA–HQ–RCRA–2002–0033.
- *Mail:* U.S. Environmental Protection Agency; EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–RCRA–2002–0033. Please include two copies of your submission.
- *Hand Delivery:* Deliver two copies of your submission to Docket ID No. EPA–HQ–RCRA–2002–0033, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, D.C. 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.
- *Listening Session:* Oral and written comments will be accepted at an internet and telephone-accessible public listening session to be held on April 11, 2011 at EPA's First Floor Conference Center in the Potomac Yard South Building located at: 2777 Crystal Drive, Arlington, VA 22202. The listening session will begin at 9:00 a.m. and end at approximately 5 p.m. Advanced registration is requested for those wishing to attend the listening session. Additional details, including instructions for registering and attending via the internet, is under Listening Session and available at: *http://www.epa.gov/oswer/vaporintrusion.* To participate by telephone only (and not internet) use 1–866–299–3188, access code 7036039924#.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2002–0033. EPA's policy is that all submissions 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 submission includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. 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 comments. If you send an e-mail directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the submission that is placed in the public docket and made available on the Internet. If you submit an electronic document, EPA recommends that you include your name and other contact information in the body of your submission and with any disk or CD–ROM you submit. If EPA cannot read your submission 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 *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the RCRA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and

the telephone number for the RCRA Docket is (202) 566–0270.

FOR FURTHER INFORMATION CONTACT: Stiven Foster, Policy Analysis & Regulatory Management Staff, Office of Program Management, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Mail Code 5103T, Washington, DC. 20460; *telephone:* (202) 566–1911; *fax number;* 202–566–1934; *e-mail address: foster.stiven@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

This notice is directed to the public in general, and may be of interest to a wide range of stakeholders, including private citizens, federal, tribal, state and local governments, environmental consulting firms, industry representatives, environmental organizations and other public interest groups. Since others may also be interested, the Agency has not attempted to describe all the specific entities that may have interest in this notice. If you have any questions regarding the applicability of this action to a particular entity, consult the EPA personnel listed under **FOR FURTHER INFORMATION CONTACT**.

EPA is inviting the public to provide comments on the development of final guidance for *Evaluating Vapor Intrusion to Indoor Air Pathway from Contaminated Groundwater and Soil (Subsurface Vapor Intrusion Guidance).* A draft version of the Subsurface Vapor Intrusion Guidance was released in November 2002 (67 FR 71169), and a docket was established for public comments: Docket ID No. EPA–HQ–RCRA–2002–0033. The 2002 draft is available from the docket (*http://www.regulations.gov*) and at: *http://www.epa.gov/epawaste/hazard/correctiveaction/eis/vapor.htm.*

EPA is planning to issue the final Subsurface Vapor Intrusion Guidance by November 30, 2012 and has re-opened the docket for public comment. Comments previously provided to the docket on the 2002 draft of the Subsurface Vapor Intrusion Guidance, and any comment provided to the docket before May 14, 2011, will be considered in the development of the final document. The public will also be given an opportunity to provide comments on a new draft of the guidance in the spring of 2012. Details on how to provide new comments to the docket are provided under **ADDRESSES**.

EPA has prepared a document entitled *Review of the Draft 2002 Subsurface Vapor Intrusion Guidance,* which summarizes EPA's current understanding of the portions of the 2002 *Draft Subsurface Vapor Intrusion Guidance* that remain valid and those that may need to be updated. In addition to updating portions of the 2002 draft, EPA plans to incorporate the following information at the recommendation of its Inspector General (Report No. 10–P–042):

- Updated toxicity values;
- A recommendation(s) to use multiple lines of evidence in evaluating and making decisions about risk from vapor intrusion;
- How risk from petroleum hydrocarbons should be addressed;
- How the guidance applies to Superfund Five-Year reviews;
- When or whether preemptive mitigation is appropriate;
- Operations and maintenance of mitigation systems, the termination of the systems, and when institutional controls and deed restrictions are appropriate.

The public may want to provide comments on the 2002 draft Subsurface Vapor Intrusion Guidance, the information that the Inspector General has suggested incorporating into the final guidance, or other information that EPA should consider when developing the final version of the guidance.

II. Background

Vapor intrusion can occur when there is migration of volatile chemicals from contaminated groundwater or soil into a building. Volatile chemicals may include volatile organic compounds, select semi-volatile organic compounds, and under certain conditions some inorganic compounds, such as elemental mercury, radon, and hydrogen sulfide. Additional information about vapor intrusion can be found at *http://www.epa.gov/oswer/vaporintrusion.*

III. Listening Session

In addition to seeking written comments, an internet and telephone-accessible public listening session will be held on April 11, 2011. The listening session will be held at the conference center in EPA's Potomac Yard South Building located at: 2777 Crystal Drive, Arlington, VA 22202. The listening session will begin at 9 a.m. and end at approximately 5 p.m.

The purpose of the listening session will be to allow all interested parties to provide comments on the development on the final Subsurface Vapor Intrusion Guidance. Advanced registration is requested for those wishing to attend the listening session. Registration can be by internet at *http://www.epa.gov/oswer/vaporintrusion,* by e-mail at *foster.stiven@epa.gov,* by phone *202–566–1911,* or by faxing a registration request to *202–566–1934.* In your registration, please reference the "Vapor Intrusion Guidance Listening Session," your name, title, affiliation, full address and contact information. When you register, please indicate if you would like to make oral comments at the session. In general, each oral comment should be no more than 15 minutes in length. If, however, there are more requests for oral comments than the allotted time allows, the time limit for comments will be adjusted. Written comments will also be accepted at the listening sessions. A copy of the agenda for the listening session will be available at the meeting. If no speakers have registered by five calendar days prior to the listening session, it will be cancelled, and EPA will notify those registered of the cancellation. Additional details about the listening session, including instructions attending via the internet, are available at: *http://www.epa.gov/oswer/vaporintrusion.* To participate by telephone only (and not internet) use 1–866–299–3188, access code 7036039924#.

Dated: March 11, 2011.

Renee P. Wynn,

Director, Office of Program Management, Office of Solid Waste and Emergency Response.

[FR Doc. 2011–6217 Filed 3–16–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

March 10, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance

the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 18, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via e-mail to *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.* To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1111.

Title: Section 225 and 255 Interconnected Voice of Internet-Protocol Services (VoIP).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 2,301 respondents and 30,841 responses.

Estimated Time per Response: .25 to 25 hours.

Frequency of Response: Annual, on occasion, and one-time reporting requirements; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements is contained in Section 225 of the Communications Act of 1934, as amended (Act) [47 U.S.C. 225], Telecommunications Services for Hearing-Impaired and Speech-Impaired Individuals; the Americans with Disabilities Act of 1990, Public Law 101–336, 104 stat. 327, 336–69, enacted on July 26, 1990; Section 255 [47 U.S.C. 255] Access By Persons with Disabilities, Public Law 104–104, 110 Stat. 56, added to the Act by the Telecommunications Act of 1996; and section 4(i) of the Act, 154(i).

Total Annual Burden: 33,200 hours.

Total Annual Cost: $3,171,000.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB–1, "Informal Complaints and Inquiries." As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–1 "Informal Complaints and Inquiries," in the **Federal Register** on December 15, 2009 (74 FR 66356) which became effective on January 25, 2010.

Privacy Impact Assessment: Yes. The Privacy Impact Assessment (PIA) was completed on June 28, 2007. It may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions made to the SORN.

Needs and Uses: On June 15, 2007, the Commission released a Report and Order, *IP-Enabled Services; Implementation of Sections 225 and 251(a)(2) of the Communications Act of 1934, as enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; the Use of N11 Codes and Other Abbreviated Dialing Arrangements,* FCC 07–110, published at 72 FR 43546, August 6, 2007. FCC 07–110 extends the disability access requirements that apply to telecommunications service providers and equipment manufacturers under section 255 of the Act, to providers of "interconnected voice over Internet Protocol (VoIP) services," as defined by the Commission, and to manufacturers of specially designed equipment used to provide those services. In addition, the Commission extends the Telecommunications Relay Services requirements contained in its regulations, pursuant to section 225 of the Act, to interconnected VoIP providers. As applied to interconnected VoIP providers and to manufacturers of specialized VoIP equipment, several requirements adopted in FCC 07–110 contain information collection requirements. In particular, the following rules, as applied to interconnected VoIP providers and to manufacturers of specialized VoIP equipment and customer premises equipment, contain information collection requirements: 47 CFR 6.11(a), 6.11(b), 6.18(b), 6.19, 64.604(a)(5), 64.604(c)(1)(i), 64.604(c)(1)(ii), 64.604(c)(2), 64.604(c)(3), 64.604(c)(5)(iii)(C), 64.604(c)(5)(iii)(E), 64.604(c)(5)(iii)(G), 64.604(c)(6)(v)(A)(3), 64.604(c)(6)(v)(G), 64.604(c)(7), and 64.607(b).

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–6201 Filed 3–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 8, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's

burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 16, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0463.

Title: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Declaratory Ruling, CG Docket No. 03–123, FCC 07–186.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; State, Local and Tribal Government.

Number of Respondents and Responses: 5,045 respondents and 5,210 responses.

Estimated Time per Response: 10–15 hours.

Frequency of Response: Annual reporting requirement; Recordkeeping requirement; Third Party Disclosure.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority can be found at section 225 of the Communications Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, as Title IV of the Americans with Disabilities Act of 1990, Public Law 101–336, 104 Stat. 327.

Total Annual Burden: 25,397 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impacts(s).

Needs and Uses: On November 19, 2007, the Commission released the *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Report and Order and Declaratory Ruling (*2007 TRS Cost Recovery Order),* CG Docket No. 03–123, FCC 07–186, adopting (1) A new cost recovery methodology for interstate traditional Telecommunications Relay Services (TRS) and interstate Speech-to-Speech (STS) based on the Multi-state Average Rate Structure (MARS) plan proposed by Hamilton Relay, Inc., (2) a new cost recovery methodology for interstate captioned telephone service (CTS) and interstate and intrastate Internet-Protocol (IP) Captioned Telephone Service (IP CTS) based on the MARS plan, (3) a cost recovery methodology for IP Relay based on price caps, and (4) a cost recovery methodology for Video Relay Services (VRS) that adopts tiered rates based on call volume. The *2007 TRS Cost Recovery Order* also clarifies the nature and extent that certain categories of costs are compensable from the Interstate TRS Fund (Fund), and addresses certain issues concerning the management and oversight of the Fund, including financial incentives offered to consumers to make relay calls and the role of the Interstate TRS Fund Advisory Council.

The *2007 TRS Cost Recovery Order* establishes reporting requirements associated with the MARS plan cost recovery methodology for compensation from the Fund. Specifically, TRS providers must submit to the Fund administrator the following information annually, on a per-state basis, regarding the previous calendar year: (1) The per-minute compensation rate(s) for intrastate traditional TRS, STS and CTS, (2) whether the rate applies to session minutes or conversation minutes, (3) the number of intrastate session minutes for traditional TRS, STS and CTS, and (4) the number of intrastate conversation minutes for traditional TRS, STS, and CTS. Also, STS providers must file a report annually with the Fund administrator and the Commission on their specific outreach efforts directly attributable to the additional compensation approved by the Commission for STS outreach.

In the *2007 TRS Cost Recovery Order,* the Commission has assessed the effects of imposing the submission of rate data, and has found that there is no increased administrative burden on businesses with fewer than 25 employees. The Commission recognizes that the required rate data is presently available with the states and the providers of interstate traditional TRS, interstate STS, and interstate CTS, thereby no additional step is required to produce such data.

The Commission therefore believes that the submission of the rate data does not increase an administrative burden on businesses.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–6204 Filed 3–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 11, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that

does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 16, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or e-mail *judith-b.herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0734.

Title: Sections 53.209, 53.211, and 53.213, Accounting Safeguards and Sections 260 and 271–276 of the Communications Act of 1934, as amended.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 3 respondents; 1,551 responses.

Estimated Time per Response: 0.5 hours–4,593 hours.

Frequency of Response: On occasion and biennial reporting requirements, third party disclosure requirement, and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i), 154(j), 201–205, 218, 220, 260, 271–276, 303(r), and 403.

Total Annual Burden: 72,495 hours.

Total Annual Cost: $1,500,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting that the respondent submit confidential information to the FCC. Respondents may, however, request confidential treatment of such information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full, three year clearance from them. The Commission is requesting OMB approval for an extension (there is no change in the reporting, recordkeeping and/or third party disclosure requirements). There is no change in the Commission's burden estimates.

A Bell Operating Company (BOC) may choose from among three regulatory regimes in its provision of in-region, interstate, interLATA (Local Access and Transport Area) telecommunications services. One of these regimes is the regime set forth in section 272 of the Communications Act of 1934, as amended and the Commission's implementing rules, 47 CFR 272. Under this regime, a BOC and its section 272 affiliate may not jointly own transmission and switching equipment. The separate section 272 affiliate must maintain separate books of account and have separate officers and directors. The separate section 272 affiliate may not obtain credit under arrangements that would permit the creditor to look to the assets of the BOC. The section 272 affiliate must conduct all transactions with the BOC on an arm's length basis, pursuant to the Commission's affiliate transaction rules, with the terms and conditions of such transactions reduced to writing and available for pubic inspection on the Internet. Section 272(d) states that companies required to maintain a separate affiliate "shall obtain and pay for a Federal/State audit every two years conducted by an independent auditor to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under section 272(b)." These information collection requirements are intended to prevent discrimination, cost misallocation and other anti-competitive conduct by the BOCs.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–6205 Filed 3–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 11, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 16, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or e-mail *judith-b.herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, Third Report and Order, PS Docket No. 06–229, WT Docket No. 06–150, and WP Docket No. 07–100, FCC 11–6.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit and state, local or tribal government.

Number of Respondents and Responses: 100 respondents; 100 responses.

Estimated Time per Response: 5 hours.

Frequency of Response: One time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151,154(i), 301, 303, 332 and 337.

Total Annual Burden: 500 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality. However, petitioners may request confidential treatment of their information pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission adopted a *Third Report and Order,* PS Docket No. 06–229, FCC 11–6 that requires OMB approval for a new information collection that requires public safety broadband networks to employ the Long Term Evolution (LTE) broadband standard, specifically at least 3GPP Standard E–UTRA Release 8 and associated Evolved Packet Core (EPC). The *Third Report and Order* further requires that these networks support certain LTE interfaces. These requirements were designed to ensure that networks operated in this spectrum band are interoperable with one another.

The *Third Report and Order* also requires each operator of a 700 MHz public safety broadband network to submit a certification to the Commission's Public Safety and Homeland Security Bureau (Bureau), prior to network deployment, that its network will support the required LTE interfaces. This requirement will enable the Bureau to monitor network deployment and ensure that networks are supporting the interfaces necessary to achieve interoperability.

The Commission is seeking OMB approval for this new information collection which requires operators of public safety broadband networks to submit a certification to the Commission.

Accurate maintenance of this data is vital in developing a regulatory framework for this network. Since such a network is vital for public safety and homeland security, its proper operation must be assured.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–6206 Filed 3–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 11, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 16, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or e-mail *judith-b.herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0715.

Title: Telecommunications Carriers' Use of Customer Proprietary Network Information (CPNI) and Other Customer Information, CC Docket No. 96–115.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 6,017 respondents; 137,256,175 responses.

Estimated Time per Response: .002 hours–50 hours.

Frequency of Response: On occasion, one time, annual and biennial reporting requirements, recordkeeping requirement, and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 201–205, 208, 222, 303(r), and 403.

Total Annual Burden: 350,704 hours.

Total Annual Cost: $3,000,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information. Any respondent who submits information to the Commission, which the respondent believes is confidential, may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to the Office of Management and Budget (OMB) to obtain the three year clearance from them. There is no change in the number of respondents, burden hours and annual costs. The number of responses increased by 50 due to recalculations of the various estimates in item 12 of the supporting statement. There is no change to the reporting, recordkeeping and/or third party disclosure requirements.

This information collection implements the statutory obligations of section 222 of the Communications Act of 1934, as amended. These regulations impose safeguards to protect customers' CPNI against unauthorized access and disclosure. In March 2007, the Commission adopted rules, which focused on the efforts of communications service providers to prevent pretexting. These rules require providers of communications services to adopt additional privacy safeguards that, the Commission believes, will sharply limit pretexters' ability to obtain unauthorized access to the type of personal customer information from carriers that the Commission regulates. In addition, the Commission's rules help ensure that law enforcement will

have the necessary tools to investigate and enforce prohibitions on illegal access to customers records.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–6203 Filed 3–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

March 15, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 18, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov.* To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information or copies of the information collection(s), contact Judith B. Herman, OMD, 202–418–0214 or e-mail *judith-b.herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0004.

Title: Sections 1.1307 and 1.1311, Guidelines for Evaluating the Environmental Effects of Radiofrequency, Second Memorandum Opinion and Order, ET Docket No. 93–62.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions and state, local or tribal government.

Number of Respondents and Responses: 190,905 respondents; 190,905 responses.

Estimated Time per Response: .36 hours (average).

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154, 302, 303, and 307.

Total Annual Burden: 69,463 hours.

Total Annual Cost: $10,355,260.

Privacy Act Impact Assessment: Yes. The Commission has a System of Records, FCC/WTB–1, "Wireless Services Licensing Records," which covers the personally identifiable information (PII) that individual applicants may include in their submission for licenses or grants of equipment authorization. At such time as the Commission revises this System of Records Notice (SORN), the Commission will conduct a Privacy Impact Assessment (PIA) and publish the revised SORN in the **Federal Register**. In addition, the Commission will post a copy of both the PIA and the SORN on the FCC's Privacy Web page.

Nature and Extent of Confidentiality: There is minimal exemption from the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4), and 47 CFR 0.459 of the Commission's rules, that is granted for trade secrets, which may be submitted to the Commission as part of the documentation of test results. No other assurances of confidentiality are provided to respondents.

Needs and Uses: The Commission will submit this expiring information collection during this comment period to the Office of Management and Budget (OMB) to obtain the full, three year clearance from them. The Commission is requesting approval for an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements). The Commission is reporting a 94,469 hour and a $18,336,443 reduction adjustment in burden. This reduction is due to fewer responses than the last time this collection was submitted to OMB for review and approval.

This information collection is a result of responsibility placed on the FCC by the National Environmental Policy Act (NEPA) of 1969. NEPA requires that each federal agency evaluate the impact of "major actions significantly affecting the quality of the human environment." It is the FCC's opinion that this is the most efficient and reasonable method of complying with NEPA with regard to the environmental issue of radiofrequency radiation from FCC-regulated transmitters.

The Commission requires applicants to submit limited information during the licensing and authorization process. In many services, the Commission simply requires licensees to provide reliable service to specific geographic areas, but does not require licensees to file site-specific information. It does not appear that the FCC's present licensing methods can provide public notification of site-specific information without imposing new and significant additional burden to the Commission's applicants. However, we note that applicants with the greatest potential to exceed the Commission's exposure limits are required to perform an environmental evaluation as part of the licensing and authorization process.

The Commission advises concerned members of the public, seeking site-specific information, to contact the FCC for the name and telephone number of the service providers in the concerned party's area. The Commission encourages all service providers to provide site-specific, technical information and environmental evaluation documentation upon public request. In addition, we note alternative sources of information may be state and local governments, which may collect some site-specific information as part of the zoning process.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–6202 Filed 3–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it is submitting to the Office of Management and Budget (OMB) a request for OMB review and approval of revisions to the survey collection instruments for its second *National Survey of Banks' Efforts to Serve the Unbanked and Underbanked* ("Bank Survey"), currently approved under OMB Control No. 3064–0158, scheduled to be conducted in mid-2011. On December 23, 2010 (75 FR 71437), the FDIC issued a request for comment on possible revisions to the Bank Survey. No comments were received.

The collection is mandated by section 7 of the Federal Deposit Insurance Reform Conforming Amendments Act of 2005 ("Reform Act") (Pub. L. 109–173), which calls for the FDIC to conduct ongoing surveys on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the 'unbanked') into the conventional finance system. In addition to gathering information on the efforts of FDIC-insured depository institutions to bring unbanked individuals and families into the conventional finance system, the Bank Survey collects information on their efforts to serve underbanked populations. Underbanked populations include individuals who have an account with an insured depository but also rely on nonbank alternative financial service providers for transaction services or high cost credit products.

DATES: Comments must be submitted on or before April 18, 2011.

ADDRESSES: Interested parties are invited to submit written comments by any of the following methods. All comments should refer to the "National Survey on Banks' Efforts to Serve the Unbanked and Underbanked": *http://www.FDIC.gov/regulations/laws/federal/.*

E-mail: comments@fdic.gov. Please include the name and number of the collection (i.e., National Survey on Banks' Efforts to Serve the Unbanked and Underbanked, OMB No. 3064–0158) in the subject line of the message.

Mail: Leneta Gregorie (202–898–3719), Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Interested members of the public may obtain additional information about the collection, including a copy of the proposed collection and related instructions, without charge, by contacting Leneta Gregorie at the address identified above, or by calling (202) 898–3719. Copies of the survey instruments may also be accessed on-line, at *http://www.fdic.gov/regulations/laws/federal/index.html,* directly beneath the link to this **Federal Register** notice.

SUPPLEMENTARY INFORMATION: The *National Survey on Banks' Efforts to Serve the Unbanked and Underbanked* (Bank Survey) collection of information consists of two related survey instruments: (1) A survey of insured depository institution headquarters offices regarding corporate business strategies for serving the unbanked and underbanked, including bank product and services available to these households; and (2) a survey of branches of insured depository institutions regarding specific methods used to reach the underserved and specific products and services offered at each location. The estimated burden for the surveys is as follows:

1. Headquarters Survey

OMB Number: 3064–0158.

Frequency of Response: once.

Affected Public: FDIC-insured depository institutions headquarters offices.

Estimated Number of Respondents: 469.

Estimated Time per Response: 30 minutes per respondent.

Estimated Burden: 0.5 hours × 469 respondents = 234.5 hours.

2. Branch Office Survey

OMB Number: 3064–0158.

Frequency of Response: Once.

Affected Public: FDIC-insured depository institutions branch offices.

Estimated Number of Respondents: 1,300.

Estimated Time per Response: 30 minutes per respondent.

Estimated Burden: 0.5 hours × 1,300 respondents = 650 hours.

Total estimated burden for this collection: 234.5 hours + 650 hours = 884.5 hours.

General Description of Collection

The FDIC has a number of initiatives underway to encourage practical solutions to ensure that all consumers have reasonable access to full service banking and other financial services. The FDIC believes that insured depositories can provide a path into the financial mainstream for those who need these financial services, and that depository institutions can create an array of affordable transactional, savings, and lending services to meet the needs of all their customers. Currently, a significant segment of the population relies on a mix of non-bank financial service providers for their needs. The FDIC has undertaken a series of investigations in this area, including the Bank Survey. The survey is mandated by section 7 of the Reform Act, which calls for the FDIC to conduct ongoing surveys "on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the 'unbanked') into the conventional finance system." The Reform Act specifically mandates that the FDIC consider the following factors and questions in conducting the survey:

"(A) To what extent do insured depository institutions promote

financial education and financial literacy outreach?"

"(B) Which financial education efforts appear to be the most effective in bringing 'unbanked' individuals and families into the conventional finance system?"

"(C) What efforts are insured institutions making at converting 'unbanked' money order, wire transfer, and international remittance customers into conventional account holders?"

"(D) What cultural, language and identification issues as well as transaction costs appear to most prevent 'unbanked' individuals from establishing conventional accounts?"

"(E) What is a fair estimate of the size and worth of the 'unbanked' market in the United States?"

In connection with these mandated objectives, the FDIC seeks to identify and quantify the extent to which institutions serve the needs of the unbanked and underbanked; identify the characteristics of institutions that are reaching out to and serving the unbanked and underbanked; identify efforts (for example, practices, programs, alliances) of institutions to serve the unbanked and underbanked; and identify potential barriers that affect the ability of institutions to serve the unbanked and underbanked.

In its inaugural survey effort, the first of its kind to be conducted at the national level, the FDIC conducted a two-pronged survey—a sample survey of FDIC-insured depository institutions and a limited number of case studies of FDIC-insured depository institutions that were employing innovative methods to serve unbanked and underbanked populations. The results of the initial survey effort, which were released in February 2009, showed that while most banks were aware of significant unbanked and underbanked populations in their areas, more could be done to reach out to these important markets. A copy of the survey findings can be accessed at the following link: *http://www.fdic.gov/unbankedsurveys/.* In this second Bank Survey, the FDIC proposes to survey FDIC-insured depository institutions at the headquarters and branch office level on their efforts to meet the needs of underserved populations. By so doing, the survey will provide insights into relevant headquarter strategies as well as offerings at the branch level. This approach will also enable the FDIC to analyze survey results by bank size class as well as by geographic location, including the potential to identify differentiated efforts of branch offices located in low to-moderate income areas.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. The FDIC will consider all comments to determine the extent to which the proposed information collection should be modified prior to submission to OMB for review and approval. After the comment period closes, comments will be summarized or included in the FDIC's request to OMB for approval of the collection. All comments will become a matter of public record.

Dated at Washington, DC, this 11th day of March 2011.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

[FR Doc. 2011–6173 Filed 3–16–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:28 a.m. on Tuesday, March 15, 2011, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision, corporate and resolution activities.

In calling the meeting, the Board determined, on motion of Director Thomas J. Curry (Appointive), seconded by Director John G. Walsh (Acting Comptroller of the Currency), concurred in by Director John E. Bowman (Acting Director, Office of Thrift Supervision), Vice Chairman Martin J. Gruenberg, and Chairman Sheila C. Bair, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: March 15, 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–6464 Filed 3–15–11; 4:15 pm]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, April 8, 2011, from 8:30 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Eisenberg Conference Center, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland, 20850, (301) 427–1456. For press-related information, please contact Karen Migdail at (301) 427–1855.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact the Food and Drug Administration (FDA) Office of Equal Employment Opportunity and Diversity Management on (301) 827–4840, no later than March 25, 2011. The agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland, 20850. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality is authorized by Section 941 of the Public Health Service Act, 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to AHRQ's conduct of its mission including providing guidance on (A) priorities for health care research, (B) the field of health care research including training needs and information dissemination on health care quality and (C) the role of the Agency in light of private sector activity and opportunities for public private partnerships. The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members specified in the authorizing legislation.

II. Agenda

On Friday, April 8, there will be a subcommittee meeting for the National Healthcare Quality and Disparities Report scheduled to begin at 7:30 a.m. The Council meeting will convene at 8:30 a.m., with the call to order by the Council Chair and approval of previous Council summary notes. The AHRQ Director will present her update on current research, programs, and initiatives. The final agenda will be available on the AHRQ Web site at *http://www.ahrq.gov* no later than April 1, 2011.

Dated: March 4, 2011.

Carolyn M. Clancy,

Director.

[FR Doc. 2011–5891 Filed 3–16–11; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; CMS Computer Match No. 2011–02; HHS Computer Match No. 1007

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of computer matching program.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice establishes a computer matching agreement between CMS and the Department of Defense (DoD). We have provided background information about the proposed matching program in the **SUPPLEMENTARY INFORMATION** section below. The Privacy Act requires that CMS provide an opportunity for interested persons to comment on the proposed matching program. We may defer implementation of this matching program if we receive comments that persuade us to defer implementation. *See* "Effective Dates" section below for comment period.

DATES: *Effective Dates:* CMS filed a report of the Computer Matching Program (CMP) with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on March 10, 2011. We will not disclose any information under a matching agreement until 40 days after filing a report to OMB and Congress or 30 days after publication, whichever is later.

ADDRESSES: The public should address comments to: Walter Stone, CMS Privacy Officer, Division of Information Security & Privacy Management (DISPM), Enterprise Architecture and Strategy Group (EASG), Office of Information Services (OIS), CMS, Mail stop N1–24–08, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.—3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Walter Stone, CMS Privacy Officer, Division of Information Security & Privacy Management (DISPM), Enterprise Architecture and Strategy Group (EASG), Office of Information Services (OIS), CMS, Mail stop N1–24–08, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

SUPPLEMENTARY INFORMATION:

I. Description of the Matching Program

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits.

Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;
2. Obtain the Data Integrity Board approval of the match agreements;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. CMS Computer Matches Subject to the Privacy Act

CMS has taken action to ensure that all CMPs that this Agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Dated: March 10, 2011.

Michelle Snyder,

Deputy Chief Operating Officer, Centers for Medicare & Medicaid Services.

CMS Computer Match No. 2011–02
HHS Computer Match No. 1007

NAME:

"Disclosure of Enrollment and Eligibility Information for Military Health System Beneficiaries Who are Medicare Eligible."

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

PARTICIPATING AGENCIES:

The Centers for Medicare & Medicaid Services (CMS); and Department of Defense (DoD), Manpower Data Center (DMDC), Defense Enrollment and Eligibility Reporting System Office (DEERS), and the Office of the Assistant Secretary of Defense (Health Affairs)/ TRICARE Management Activity (TMA).

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

This CMA is executed to comply with the Privacy Act of 1974 (Title 5 United States Code (U.S.C.) 552a), as amended, (as amended by Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988), the Office of Management and Budget (OMB) Circular A–130, titled "Management of Federal Information Resources" at 61

Federal Register (FR) 6435 (February 20, 1996), and OMB guidelines pertaining to computer matching at 54 FR 25818 (June 19, 1989).

Prior to 1991, CHAMPUS entitlement terminated when any individual became eligible for Medicare Part A on a non-premium basis. The National Defense Authorization Act(s) (NDAA) for Fiscal Years (FY) 1992 and 1993 (Pub. L. 102–190) § 704, provide for reinstatement of CHAMPUS as second payer for beneficiaries entitled to Medicare on the basis of disability/End Stage Renal Disease (ESRD) only if they also enroll in Part B.

This agreement implements the information matching provisions of the NDAA, FY 2001 (Pub. L. 106–398) Sections 711 and 712; the NDAA, FY 1993 (Pub. L. 102–484) Section 705; and the NDAA, FY 1992 (Pub. L. 102–190) Sections 704 and 713.

Section 732 of the FY 1996 NDAA (Pub. L. 104–106), directed the administering Secretaries to develop a mechanism for notifying beneficiaries of their ineligibility for CHAMPUS when loss of eligibility is due to disability status.

PURPOSE (S) OF THE MATCHING PROGRAM:

The purpose of this agreement is to establish the conditions, safeguards and procedures under which CMS will disclose Medicare enrollment information to the DoD, DMDC, DEERS, and Health Affairs/TMA. The disclosure by CMS will provide TMA with the information necessary to determine if Military Health System (MHS) beneficiaries (other than dependents of active duty personnel), who are Medicare eligible, are eligible to receive continued military health care benefits. This disclosure will provide TMA with the information necessary to meet the Congressional mandate outlined in legislative provisions in the NDAA listed above.

Current law requires TMA to discontinue military health care benefits to MHS beneficiaries who are Medicare eligible and under the age of 65 when they become eligible for Medicare Part A because of disability/ESRD unless they are enrolled in Medicare Part B. Current law also requires TMA to provide health care and medical benefits to MHS beneficiaries who are Medicare eligible (commonly referred to as the dual eligible population) over the age of 65 who are enrolled in the supplementary medical insurance program under Part B of the Medicare program. This CMA will combine both groups of the MHS beneficiary population described above into one single database to more effectively carry out this matching program. In order for TMA to meet the requirements of current law, CMS agrees to disclose certain Part A and Part B enrollment data on this dual eligible population, which will be used to determine a beneficiary's eligibility for care under CHAMPUS/TRICARE. DEERS will receive the results of the computer match and provide the information to TMA for use in its matching program.

This computer matching agreement supersedes all existing data exchange agreements between CMS and DMDC applicable to the exchange of personal data for purposes of disclosing enrollment and eligibility information for MHS beneficiaries who are Medicare eligible.

CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCH:

DEERS will furnish CMS with an electronic file on a monthly basis extracted from the DEERS' systems of records containing social security numbers (SSN) for all MHS beneficiaries who may also be eligible for Medicare benefits. CMS will match the DEERS finder file against its "Medicare Beneficiary Database" system of records (System No. 09–70–0536), and will validate the identification of the beneficiary and provide the Health Insurance Claim Number that matches against the SSN and date of birth provided by DEERS, and also provide the Medicare Part A entitlement status and Part B enrollment status of the beneficiary. CMS's data will help TMA to determine a beneficiary's eligibility for continued care under TRICARE. DEERS will receive the results of the computer match and provide the information provided to TMA for use in its program.

DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM:

DoD will use the SOR identified as DMDC 02 DoD, entitled "Defense Enrollment Eligibility Reporting System," at 74 **Federal Register** (FR) 39657 (August 7, 2009). SSNs of DoD beneficiaries will be released to CMS pursuant to the routine use set forth in the system notice, which provides that data may be released to HHS "for support of the DEERS enrollment process and to identify individuals not entitled to health care."

Identification and Medicare status of DoD eligible beneficiaries will be provided to TMA to implement the statutory program. Therefore, eligibility information may also be maintained in the SOR identified as DHA 07, entitled "Military Health Information System (MHIS)," at 71 FR 16127 (March 30, 2006).

The release of the data for CMS is covered under the "Enrollment Database," System No. 09–70–0502 published in the **Federal Register** at 73 FR 10249 (February 26, 2008). Matched data will be released to DEERS pursuant to the routine use number 2 as set forth in the system notice.

INCLUSIVE DATES OF THE MATCH:

The Matching Program shall become effective no sooner than 40 days after the report of the Matching Program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, which ever is later. The matching program will continue for 18 months from the effective date and may be renewed for an additional 12 month period as long as the statutory language for the match exists and other conditions are met.

[FR Doc. 2011–6273 Filed 3–16–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Affordable Care Act Tribal Maternal, Infant, and Early Childhood Home Visiting Program Needs Assessment and Plan for Responding to Identified Needs.

OMB No.: New Collection.

Description: Section 511(h)(2)(A) of Title V of the Social Security Act, as added by Section 2951 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148, Affordable Care Act or ACA), authorizes the Secretary of HHS to award grants to Indian Tribes (or a consortium of Indian Tribes), Tribal Organizations, or Urban Indian Organizations to conduct an early childhood home visiting program. The legislation sets aside 3 percent of the total ACA Maternal, Infant, and Early Childhood Home Visiting Program appropriation (authorized in Section 511(j)) for grants to Tribal entities and requires that the Tribal grants, to the greatest extent practicable, be consistent with the requirements of the Maternal, Infant, and Early Childhood Home Visiting Program grants to States and territories (authorized in Section 511(c)), and include conducting a needs assessment and establishing benchmarks.

The Administration for Children and Families, Office of Child Care, in

collaboration with the Health Resources and Services Administration, Maternal and Child Health Bureau, recently awarded grants for the Tribal Maternal, Infant, and Early Childhood Home Visiting Program (Tribal Home Visiting). The Tribal Home Visiting grant awards will support 5-year cooperative agreements to conduct community needs assessments, plan for and implement high-quality, culturally-relevant, evidence-based home visiting programs in at-risk Tribal communities, and participate in research and evaluation activities to build the knowledge base on home visiting among Native populations.

In Phase 1 (Year 1) of the cooperative agreement, grantees must (1) conduct a comprehensive community needs assessment and (2) develop a plan and begin to build capacity to respond to identified needs. Grantees will be expected to submit the needs assessment and plan for responding to identified needs through an evidence-based home visiting program within 10 months of the Year 1 award date. Grantees may engage in needs assessment, planning, and capacity-building activities during Phase 1, but will not fully implement their plan and/or begin serving children and families through high-quality, evidence-based home visiting programs. Pending successful Phase 1 activities and submission (within 10 months of Year 1 award date) of a non-competing continuation application that includes a needs assessment and approvable plan for responding to identified needs, funds will be provided for Phase 2 (Implementation Phase, Years 2–5)

Respondents: Affordable Care Act Tribal Maternal, Infant, andEarly Childhood Home Visiting Year 1 Grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Needs Assessment and Plan	18	1	100	1,800

Estimated Total Annual Burden Hours: 1,800.

Additional Information:

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. *E-mail address: infocollection@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:* 202–395–7285, *E-mail: OIRA_SUBMISSION@OMB.EOP.GOV, Attn:* Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–6068 Filed 3–16–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–E–0405]

Determination of Regulatory Review Period for Purposes of Patent Extension; ISTODAX

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ISTODAX and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*. Submit written petitions along with three copies and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product ISTODAX (romidepsin). ISTODAX is indicated for treatment of cutaneous T-cell lymphoma in patients who have received at least one prior systemic therapy. Subsequent

to this approval, the Patent and Trademark Office received a patent term restoration application for ISTODAX (U.S. Patent No. 4,977,138) from Gloucester Pharmaceuticals, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 30, 2010, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of ISTODAX represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ISTODAX is 2,717 days. Of this time, 2,419 days occurred during the testing phase of the regulatory review period, while 298 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* May 31, 2002. The applicant claims April 30, 2002, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was May 31, 2002, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* January 12, 2009. FDA has verified the applicant's claim that the new drug application (NDA) for ISTODAX (NDA 22–393) was initially submitted on January 12, 2009.

3. *The date the application was approved:* November 5, 2009. FDA has verified the applicant's claim that NDA 22–393 was approved on November 5, 2009.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,523 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (*see* **ADDRESSES**) either electronic or written comments and ask for a redetermination by May 16, 2011. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 13, 2011. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (*See* H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (*see* **ADDRESSES**) electronic or written comments and written petitions. It is only necessary to send one set of comments. It is no longer necessary to send three copies of mailed comments. However, if you submit a written petition, you must submit three copies of the petition. Identify comments with the docket number found in brackets in the heading of this document.

Comments and petitions that have not been made publicly available on regulations.gov may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 14, 2011.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 2011–6162 Filed 3–16–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Eureka Applications.

Date: April 7–8, 2011.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3AN18, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lisa A. Dunbar, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12, Bethesda, MD 20892, 301–594–2849, *dunbarl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 11, 2011.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6262 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR09–247 Ancillary Clinical Studies: Nephropathy and Urinary Incontinence.

Date: April 4, 2011.

Time: 1 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A. Jerkins, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR09–247 Ancillary Clinical Studies: Genetic Susceptibility to Disease.

Date: April 7, 2011.

Time: 1 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A. Jerkins, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6265 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; IPCP Microbicides.

Date: April 11–13, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Ellen S. Buczko, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2676, *ebuczko1@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: *March 11, 2011.*

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6269 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center on Minority and Health Disparities; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center on Minority Health and Health Disparities Special Emphasis Panel; 2011 LRP Panel 3.

Date: April 13, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maryline Laude-Sharp, PhD, Scientific Review Officer, National Institute on Minority Health and Health Disparities, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892, (301) 451–9536, *mlaudesharp@mail.nih.gov.*

Dated: *March 11, 2011.*

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6274 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Children's Study Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Registration is required since space is limited and will begin at 9 a.m. Please visit the conference website for information on meeting logistics and to register for the meeting *http://www.circlesolutions.com/ncs/ncsac/index.cfm.* Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Children's Study Advisory Committee.

Date: April 19, 2011.

Time: 10 a.m. to 5 p.m.

Agenda: The major topic to be discussed will be the Alternate Recruitment Strategies and Retention for the Vanguard Phases of the National Children's Study.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Kate Winseck, MSW, Executive Secretary, National Children's Study, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5C01, Bethesda, MD 20892, (703) 902–1339, *ncs@circlesolutions.com.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. For additional information about the Federal Advisory Committee meeting, please contact Circle Solutions at *ncs@circlesolutions.com.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6275 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Emergency Medicine Career Development.

Date: April 8, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Charles Joyce, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Fibroproliferative Lung Disease.

Date: April 11, 2011.

Time: 6:30 p.m. to 11 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: William J Johnson, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, 301–435–0725, *johnsonwj@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Therapeutic Demonstration and Dissemination Research Projects.

Date: April 12, 2011.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Rockledge Two, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Holly K Krull, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0280, *krullh@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6278 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Review of Research Career Enhancement Awards.

Date: April 1, 2011.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Christopher Moore, PhD, Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd, Rm 400C, Bethesda, MD 20892–7180, 301–402–3587, *moorechristopher@nidcd.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6281 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Behavioral, Neuroendocrine and Viral Disorders.

Date: March 24–25, 2011.

Time: 7 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting)

Contact Person: Brian Hoshaw, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7844, Bethesda, MD 20892, 301–435–1033, *hoshawb@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neuropharmacology.

Date: March 30, 2011.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: Peter B. Guthrie, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142,

MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Gastrointestinal Pathophysiology-3.

Date: April 6, 2011.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: Patricia Greenwel, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6285 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cellular and Tissue Biology.

Date: May 16–18, 2011.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville Hotel and Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Shakeel Ahmad, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8137, Bethesda, MD 20892–8328, (301) 594–0114, *ahmads@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Discovery, Imaging, and Therapeutics.

Date: May 23–25, 2011.

Time: 5 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville Hotel and Executive Meeting Center; 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Peter J. Wirth, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8129, Bethesda, MD 20892–8328, 301–496–7565, *pw2q@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Molecular Mechanism and Targeted Therapies.

Date: May 23–25, 2011.

Time: 5 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville Hotel and Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: David G. Ransom, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd, Rm 8133, Bethesda, MD 20892–8328, 301–451–4757, *david.ransom@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Therapeutic Strategies for Cancer.

Date: June 13–15, 2011.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville Hotel and Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Majed M. Hamawy, M.B.A., PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8135, Bethesda, MD 20852, 301–594–5659, *mh101v@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6259 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; IMAT.

Date: April 6, 2011.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 706, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Thomas M Vollberg, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7142, Bethesda, MD 20892, 301–594–9582, *vollbert@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6258 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular AIDS and Related Research Topics.

Date: April 4, 2011.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Robert Freund, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3200, MSC 7848, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

Name of Commitee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cellular Cognitive Neuroscience.

Date: April 7, 2011.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Laurent Taupenot, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4811, MSC 7850, Bethesda, MD 20892, 301–435–1203, *taupenol@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: *March 10, 2011.*

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6304 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Services Subcommittee of the Interagency Autism Coordinating Committee (IACC).

The IACC Services Subcommittee will hold a meeting on Tuesday, March 29, 2011. The purpose of the meeting is for the subcommittee to discuss issues related to services and supports for individuals with autism spectrum disorder (ASD) and their families. This meeting will be open to the public and will be accessible by conference call and Webinar.

Name of Committee: Interagency Autism Coordinating Committee (IACC).

Type of meeting: Services Subcommittee.

Date: March 29, 2011.

Time: 2 p.m. to 4:30 p.m. Eastern Time.

Agenda: The subcommittee will discuss issues related to services and supports for individuals with autism spectrum disorder (ASD) and their families.

Place: The Neuroscience Center (NSC), 6001 Executive Boulevard, Room 8120, Rockville, MD 20852.

Webinar: https://www2.gotomeeting.com/register/169578426.

Registration: http://www.acclaroresearch.com/oarc/3-29-11. Pre-registration is recommended to expedite check-in. Seating in the meeting room is limited to room capacity and on a first come, first served basis.

Conference Call Access: Dial: 888–456–0356. Access code: 1427016.

Contact Person: Ms. Lina Perez, Office of Autism Research Coordination, National Institute of Mental Health, NIH, 6001 Executive Boulevard, NSC, 8185a, Rockville, MD 20852, Phone: 301–443–6040, E-mail: *IACCPublicInquiries@mail.nih.gov.*

Please Note: This meeting will be open to the public and through a conference call and Webinar. Members of the public who participate using the conference call phone number will be able to listen to the discussion but will not be heard. If you experience any technical problems with the conference call, please e-mail *IACCTechSupport@acclaroresearch.com* or call the IACC Technical Support Help Line at 443–680–0098.

If you experience any technical problems with the Web presentation tool, please contact GoToWebinar at (800) 263–6317. To access the Web presentation tool on the Internet the following computer capabilities are required: (A) Internet Explorer 5.0 or later, Netscape Navigator 6.0 or later or Mozilla Firefox 1.0 or later; (B) Windows® 2000, XP Home, XP Pro, 2003 Server or Vista; (C) Stable 56k, cable modem, ISDN, DSL or better Internet connection; (D) Minimum of Pentium 400 with 256 MB of RAM (Recommended); (E) Java Virtual Machine enabled (Recommended).

Individuals who participate in person or by using these electronic services and who need special assistance, such as captioning of the conference call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least 7 days prior to the meeting.

As a part of security procedures, attendees should be prepared to present a photo ID at the meeting registration desk during the check-in process. Pre-registration is recommended. Seating will be limited to the room capacity and seats will be on a first come, first served basis, with expedited check-in for those who are pre-registered. Please note: Online pre-registration will close by 5 p.m. the day before the meeting. After that time, registration will have to be done onsite the day of the meeting.

This notice is being published less than 15 days prior to the meeting due to the urgent need to discuss issues related to services and supports for individuals with autism spectrum disorder (ASD) and their families prior to the next IACC full committee meeting, which will take place on April 11, 2011.

Meeting schedule subject to change.

Information about the IACC and a registration link for this meeting are available on the Web site: *http://www.iacc.hhs.gov.*

Dated: *March 10, 2011.*

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6303 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Ancillary Study (R01).

Date: April 1, 2011.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy

Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Cognitive Function in Chronic Diseases.

Date: April 6, 2011.

Time: 10:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38z@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6299 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of meetings of the Board of Regents of the National Library of Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Regents of the National Library of Medicine; Working Group on Disaster Health Management Research Center.

Date: May 2, 2011.

Open: 08:30 a.m. to 4 p.m.

Agenda: Review the current activities of NLM's Disaster Information Management Research Center.

Place: National Library of Medicine, Building 38, 2nd Floor, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20892, 301–496–6221, *lindberg@mail.nih.gov*.

Name of Committee: Board of Regents of the National Library of Medicine EP Subcommittee.

Date: May 2, 2011.

Closed: 4 p.m. to 5:30 p.m.

Agenda: Grant Applications.

Place: National Library of Medicine, Building 38, 2nd Floor, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20892, 301–496–6221, *lindberg@mail.nih.gov*.

Name of Committee: Board of Regents of the National Library of Medicine Subcommittee on Outreach and Public Information.

Date: May 3, 2011.

Open: 7:30 a.m. to 8:45 a.m.

Agenda: Outreach Activities.

Place: National Library of Medicine, Building 38, 2nd Floor, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20892, 301–496–6221, *lindberg@mail.nih.gov*.

Name of Committee: Board of Regents of the National Library of Medicine.

Date: May 3–4, 2011.

Open: May 3, 2011, 9 a.m. to 4:30 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: May 3, 2011, 4:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Open: May 4, 2011, 9 a.m. to 12 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20892, 301–496–6221, *lindberg@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nlm.nih.gov/od/bor/bor.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: March 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–6280 Filed 3–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2010–0023]

General Meeting Registration and Evaluation

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 60-Day notice and request for comments; New Information Collection Request: 1670—NEW.

SUMMARY: The Department of Homeland Security (DHS), National Protection and Programs Directorate (NPPD), Office of Cybersecurity and Communications (CS&C), Office of Emergency Communications (OEC) will submit the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). DHS is soliciting comments concerning New Information Collection Request, General Meeting Registration and Evaluation.

DATES: Comments are encouraged and will be accepted until May 16, 2011. This process is conducted in accordance with 5 CFR part 1320.

ADDRESSES: Written comments and questions about this Information Collection Request should be forwarded

to DHS/NPPD/CS&C/OEC, *Attn.:* Richard Reed, 202–343–1666, *Richard.E.Reed@dhs.gov.* Written comments should reach the contact person listed no later than May 16, 2011. Comments must be identified by "DHS–2010–0023" and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *E-mail: Richard.E.Reed@dhs.gov.*

Include the docket number in the subject line of the message.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

SUPPLEMENTARY INFORMATION: OEC was formed under Title XVIII of the Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.,* as amended, to fulfill its statutory responsibility of conducting nationwide outreach through hosted events, including conferences, meetings, workshops, etc. The general registration form, general pre-meeting form, and general evaluation form will be used to gather information to support these events and for follow-up with stakeholders that attend such events. The registration, pre-meeting, and evaluation forms may be submitted electronically or in paper form.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate.

Title: General Meeting Registration and Evaluation.

OMB Number: 1670—NEW.

General Registration Form

Frequency: On occasion.

Affected Public: State, local, or tribal government.

Number of Respondents: 5,000.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 850 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $20,757.

Pre-Meeting Survey

Frequency: On occasion.

Affected Public: State, local, or tribal government.

Number of Respondents: 5,000.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 850 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $20,757.

Post-Meeting/Workshop/Training Evaluation

Frequency: On occasion.

Affected Public: State, local, or tribal government.

Number of Respondents: 5,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 1,250 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $30,525.

Dated: March 3, 2011.

David Epperson,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2011–6037 Filed 3–16–11; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2010–0004]

Communications Unit Leader Prerequisite and Evaluation

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 30-day notice and request for comments; New Information Collection Request: 1670—NEW.

SUMMARY: The Department of Homeland Security (DHS), National Protection and Programs Directorate (NPPD), Cybersecurity and Communications (CS&C), Office of Emergency Communications (OEC) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). DHS is soliciting comments concerning New Information Collection Request, Communications Unit Leader (COML) Prerequisite and Evaluation. DHS previously published this information collection request in the **Federal Register** on February 3, 2010, at 75 FR 5608–5609, for a 60-day public comment period. DHS received no comments. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until April 18, 2011. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the OMB Office of Information and Regulatory Affairs. Comments should be addressed to the OMB Desk Officer, Department of Homeland Security, Office of Civil Rights and Civil Liberties. Comments must be identified by DHS–2010–0004 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *E-mail: oira_submission@omb.eop.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 395–5806

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

FOR FURTHER INFORMATION CONTACT: If additional information is required contact: DHS/NPPD/CS&C/OEC, Richard Reed, (202) 343–1666, *Richard.E.Reed@dhs.gov.*

SUPPLEMENTARY INFORMATION: OEC, formed under Title XVIII of the Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.,* as amended, is responsible for conducting nationwide outreach and providing technical assistance to foster the development of interoperable emergency communications capabilities for state, regional, local, and tribal governments. OEC is addressing these responsibilities, in part, by offering an All Hazards Type III Communications Unit Leader (COML) training course for state, regional, local, and tribal emergency response stakeholders. Participation in these courses requires satisfaction of several prerequisites, the completion of which will be verified using a certification form. In addition, to evaluate course delivery for quality assurance and improvement purposes, evaluation data will be collected in an evaluation form. OEC will use the evaluation form to identify course attendees, verify satisfaction of course prerequisites, and to evaluate course delivery for quality and improvement purposes. The collection of information is mostly electronic, but can also be received in paper form, to facilitate ease of registration and evaluation of OEC events. Evaluation forms will be available in hard copy at each training session, and time will be provided to complete the evaluation at the conclusion of the course.

The information provided in the "Analysis" section of the 60-day notice dated February 3, 2010, at 75 FR 5608–5609, has been updated below to reflect the correct burden hours/costs per instrument versus the total burden hours/costs for the entire information collection request with the Total Burden Cost (operating/maintaining) for the entire collection increasing from the initial reported cost of $48,840 to $49,084.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate.

Title: COML Prerequisite and Evaluation.

OMB Number: 1670—NEW.

COML Prerequisites Verification

Frequency: On occasion.

Affected Public: State, local, or tribal government.

Number of Respondents: 3,000.

Estimated Time Per Respondent: 15 minutes.

Total Burden Hours: 750 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $18,315.

COML Train the Trainer Prerequisites Verification

Frequency: On occasion.

Affected Public: State, local, or tribal government.

Number of Respondents: 3,000.

Estimated Time Per Respondent: 15 minutes.

Total Burden Hours: 750 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $18,315.

Type III Communications Unit Leader (COML) Course Evaluation

Frequency: On occasion.

Affected Public: State, local, or tribal government.

Number of Respondents: 3,000.

Estimated Time Per Respondent: 10 minutes.

Total Burden Hours: 510 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $12,454.

Dated: March 3, 2011.

David Epperson,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2011–6038 Filed 3–16–11; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2394–10; DHS Docket No. USCIS–2010–0006]

RIN 1615–ZA98

Prevailing Wage Rates for Construction Occupations on Guam for Purposes of the H–2B Temporary Worker Program

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: U.S. Citizenship and Immigration Services (USCIS) is requesting comments from the public on the system that the Governor of Guam is using to determine prevailing wage rates for construction occupations on Guam. In addition, USCIS is posting the most recent prevailing wage rates that have been proposed by the Governor of Guam based on the system described in this notice. Based on its own analysis and input from the public, USCIS will determine whether the prevailing wage rates suggested by the Governor of Guam are reasonable and whether USCIS should require a new system to be used by the Governor of Guam in determining the prevailing wage rates.

DATES: Written comments must be submitted on or before April 18, 2011.

ADDRESSES: You may submit comments, identified by DHS Docket No. USCIS–2010–0006, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail:* You may submit comments directly to USCIS by e-mail at *rfs.regs@dhs.gov.* Include DHS Docket No. USCIS–2010–0006 in the subject line of the message.
- *Mail:* Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020. To ensure proper handling, please reference DHS Docket No. USCIS–2010–0006 on your correspondence. This mailing address may be used for paper, disk, or CD–ROM submissions.
- *Hand Delivery/Courier:* U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020. Contact telephone number is (202) 272–8377.

FOR FURTHER INFORMATION CONTACT: John Brown, Management and Program Analyst, Business and Foreign Worker Branch, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529–2140. Telephone Number (202) 272–1482.

SUPPLEMENTARY INFORMATION:

I. Background

Employers seeking temporary, nonagricultural workers from abroad may petition for such workers under the H–2B nonimmigrant visa classification. H–2B workers are persons who have a residence in a foreign country which

they have no intention of abandoning and who are coming temporarily to the United States to perform temporary, nonagricultural service or labor. *See* Immigration and Nationality Act (INA) section 101(a)(15)(H)(ii)(b), 8 U.S.C. 1101(a)(15)(H)(ii)(b). They may be admitted to the United States as H–2B workers only if "unemployed persons capable of performing such service or labor cannot be found in this country * * *." *Id.*

This Notice pertains to the proper determination of prevailing wage rates for construction occupations on Guam for purposes of ensuring an adequate test of the U.S. labor market, as mandated by INA section 101(a)(15)(H)(ii)(b), 8 U.S.C. 1101(a)(15)(H)(ii)(b). While Guam is part of the United States, *see* INA section 101(a)(38), 8 U.S.C. 1101(a)(38), special regulatory provisions apply to Guam for purposes of the H–2B program, *see* 8 CFR 214.2(h)(6)(iii)(D).[1]

An employer seeking to import H–2B workers for employment on Guam must first obtain a temporary labor certification from the Governor of Guam, and then file an H–2B petition with USCIS. *See* 8 CFR 214.2(h)(6)(iii)(A) and (h)(6)(v). Notwithstanding the issuance of a temporary labor certification, USCIS must determine the adequacy of the U.S. labor market test, that is, among other things, whether: (1) There are no available U.S. workers to fill the positions in question, and (2) the alien's employment will adversely affect the wages and working conditions of similarly employed U.S. workers (*i.e.,* adequacy of the U.S. labor market test). *See* 8 CFR 214.2(h)(6)(iii)(A).

A key component of the U.S. labor market test on Guam is a determination whether the wages and working conditions offered to U.S. workers by a prospective H–2B employer accurately reflect the prevailing wages and conditions on Guam. *See* 8 CFR 214.2(h)(6)(v)(E) and (F). If the prevailing wage rate is too low, available U.S. workers may be dissuaded from accepting the job offered. Similarly, a prevailing wage rate that is too high may disadvantage prospective employers by requiring them to pay wages higher than those paid to similarly situated workers.

As reported in a number of newspaper articles and websites, and by the Guam Department of Labor, over the next several years, Guam is expected to experience a substantial increase in the number of construction-related jobs available on the island due to the relocation of large-scale U.S. military facilities from Japan to Guam.[2] The Governor of Guam, as required by regulation, submitted for USCIS's consideration proposed new wage rates for construction occupations on Guam to be used in connection with testing the availability of U.S. workers.

The proper determination of prevailing wage rates, however, depends on the adequacy of the system used to determine these rates. By regulation, the Governor of Guam must consult with USCIS to "establish systematic methods for determining the prevailing wage rates and working conditions for individual occupations on Guam and for making determinations as to availability of qualified United States residents." *See* 8 CFR 214.2(h)(6)(v)(E). USCIS is required to approve "the system to determine prevailing wages and working conditions and the system to determine availability of United States resident workers" and publish such systems in the **Federal Register.** *See* 8 CFR 214.2(h)(6)(v)(F)(*1*). For construction occupations on Guam, the Governor of Guam is required to submit wage survey data and proposed rates to USCIS, and USCIS is required to approve specific wage data and rates used prior to implementation of new rates. 8 CFR 214.2(h)(6)(v)(F)(*2*). Notwithstanding the submission by the Guam Department of Labor (GDOL) of wage rates for construction occupations on Guam, USCIS has not, to date, published an approved system for determining such wage rates. USCIS is responsible for determining whether the system used by the Governor of Guam for determining the prevailing wage rates for construction occupations on Guam is adequate to satisfy the requirements of the H–2B statute and relevant regulations.

This Notice solicits the views of the public as to both the system used by the Governor of Guam and her delegates to determine wage rates and the rates submitted by the Governor of Guam. USCIS believes that it is appropriate to solicit the views of the U.S. public in order to ensure the accuracy of the wage rates and proper administration of the H–2B program. While USCIS is not required to solicit public comments on the prevailing wage rates for H–2B construction occupations on Guam and the system used to determine these wage rates, USCIS believes that the public's comments will be a valuable tool in assisting USCIS to evaluate Guam's system for determining prevailing wages and determining the accuracy of the wage rates submitted by Guam.

II. System for Determining the Prevailing Wage Rates for Construction Occupations on Guam

The Guam Department of Labor relies on the Occupational Employment Statistics (OES) wage estimates provided by the U.S. Department of Labor's Bureau of Labor Statistics (BLS) in proposing the prevailing wage rates for construction occupations on Guam. The OES wage estimates are calculated from data collected from the OES survey administered by the BLS.[3] The OES survey used for Guam is a semiannual mail survey of nonfarm employers in Guam. The BLS produces the survey materials and selects the employers to be surveyed. In the case of Guam, the sampling frame (the list from which establishments to be surveyed are selected) is derived from a list of employers submitted to the BLS by the GDOL. The OES survey generally does not reflect input from interested U.S. labor groups or members of the construction trades in Guam or elsewhere in the United States.[4]

USCIS, in consultation with BLS, is currently reviewing GDOL's system for determining current and proposed prevailing wage rates received from the GDOL in January 2010, and invites the public to comment on whether the current system for determining such wage rates satisfactorily ensures an adequate test of the U.S. labor market. USCIS intends to publish a subsequent notice in the **Federal Register** to announce the approved system, in

[1] In addition, Congress has exempted Guam from the numerical cap on H–2B workers from November 28, 2009, to December 31, 2014. *See* section 6(b) of Public Law 94–241, as added by section 702 of the Consolidated Natural Resources Act of 2008, Public Law 110–229.

[2] *See, e.g., http://www.guambuildup.com* and *http://www.reuters.com/article/idUSTRE6711TA20100802.*

[3] For additional background and details relating OES methodology, *please see* the main webpage for OES at *http://www.bls.gov/oes/home.htm.*

[4] Once the survey is completed, the BLS publishes the OES wage rates on the U.S. Department of Labor's Foreign Labor Certification Online Wage Library (OWL), which is available at *http://wwwforeignlaborcert.doleta.gov/wages.cfm.* GDOL has informed USCIS that it relied on the OWL wage rates in proposing the prevailing wage rates described in this Notice for construction occupations on Guam, but that, in certain cases, GDOL's proposed rates (*e.g.,* those for pipefitters, structural steelworkers, and surveyor helpers) do not match those published on the OWL. Since, according to Guam DOL, the wages for these occupations actually declined from the previous survey, Guam DOL suggested that the wages for these occupations be frozen at the previous higher rate. The OWL reports wages at four different levels for each occupation. These levels correspond to different skill, training and educational attainment of workers. Level 4 wages reflect the highest wage rates for a given occupational category. The wage rates that GDOL has proposed reflect Level 4 wages.

accordance with 8 CFR 214.2(h)(6)(v)(F)(*1*).

III. Proposed Prevailing Wage Rates

The table below provides the current and proposed prevailing wage rates for construction occupations on Guam, as provided by the GDOL to USCIS on January 10, 2010.[5] The currently approved construction wage rates, which were based on 2007/2008 BLS data, will remain in effect until any new prevailing wage rates are approved by USCIS. USCIS intends to publish the prevailing wage rates it approves in the same **Federal Register** notice that announces the approved system for determining prevailing wages, working conditions, and availability of U.S. resident workers.

TABLE—PREVAILING WAGE RATES FOR CONSTRUCTION OCCUPATIONS ON GUAM

Occupation	Current approved hourly wage rate	Proposed hourly wage rate
Bricklayer	$14.02	$14.12
Camp Cook	11.85	12.83
Carpenter	13.56	13.75
Cement Mason	12.87	12.97
Construction Equipment Mechanic	14.14	15.15
Electrician	15.45	16.35
Heating, Air Conditioning & Refrigeration Mechanic	15.73	17.62
Operating Engineer	13.77	14.72
Painter	14.60	14.94
Pipe Fitter	16.80	15.24
Plasterer	10.98	11.61
Plumber	14.96	15.24
Reinforcing Metal Worker	12.56	12.88
Sheet Metal Worker	15.17	16.14
Structural Steel Worker	13.22	11.35
Surveyor Helper	15.98	15.20
Welder	16.09	16.19

IV. Comments

USCIS welcomes comments from the public regarding:

- The current system for determining prevailing wage rates for construction occupations on Guam and the proposed prevailing wage rates that were calculated by the current system; and
- Whether this system adequately reflects a balance of the interests of all affected members of the regulated public.

Alejandro N. Mayorkas,

Director, U.S. Citizenship and Immigration Services.

[FR Doc. 2011–6208 Filed 3–16–11; 8:45 am]

BILLING CODE 9111–97–P

[5] The BLS has recently released new wage rate data, available at *http://www.bls.gov/bls/blswage.htm,* for the half year period beginning July 2010.

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket No. BOEM–2010–0063]

Commercial Leasing for Wind Power on the Outer Continental Shelf (OCS) Offshore Massachusetts—Request for Interest; Reopening of the Comment Period

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Request for Interest (RFI) in Commercial Wind Energy Leasing Offshore Massachusetts and Invitation for Comments from Interested and Affected Parties; Reopening of the Comment Period

SUMMARY: The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) is reopening the comment period on the RFI in Commercial Wind Energy Leasing Offshore Massachusetts and Invitation for Comments from Interested and Affected Parties.

DATES: BOEMRE must receive your submission indicating your interest in this potential commercial leasing area no later than April 18, 2011 for your submission to be considered. BOEMRE requests comments or other submissions of information by this same date. We will consider only the indications of interest we receive by that time.

Submission Procedures: You may submit your indications of interest, comments, and information by one of two methods:

1. *Electronically: http://www.regulations.gov.* In the entry titled "Enter Keyword or ID," enter BOEM–2010–0063, then click "Search". Follow the instructions to submit public comments and view supporting and related materials available for this request for information.

2. *By mail, sending your indications of interest, comments, and information to the following address:* Bureau of Ocean Energy Management, Regulation and Enforcement, Office of Offshore Alternative Energy Programs, 381 Elden Street, Mail Stop 4090, Herndon, Virginia 20170.

BOEMRE will post all comments.

FOR FURTHER INFORMATION CONTACT: Jessica Bradley, Renewable Energy Program Specialist, Bureau of Ocean Energy Management, Regulation and Enforcement, Office of Offshore Alternative Energy Programs, 381 Elden Street, Mail Stop 4090, Herndon, Virginia 20170, (703) 787–1300.

SUPPLEMENTARY INFORMATION:

Background: On December 29, 2010, BOEMRE published in the **Federal Register** the RFI in Commercial Wind Energy Leasing Offshore Massachusetts inviting submissions describing commercial leasing interest and providing comments and information pertaining to the RFI area (75 FR 82055). The RFI, requested submissions by February 28, 2011.

Because of requests received from the public and the Commonwealth of Massachusetts, we are hereby reopening the comment period until April 18, 2011. As stated in the RFI published December 29, 2010, BOEMRE will use the responses to this RFI to gauge specific interest in commercial development of OCS wind resources in the area described, as required by 43 U.S.C. 1337(p)(3). Parties wishing to obtain a commercial lease for a wind energy project should submit detailed and specific information as described in the section entitled, "Required Indication of Interest Information." Also, with this announcement, BOEMRE invites all interested and affected parties to comment and provide information—including information about multiple uses of the area, environmental issues and data—that will be useful in the consideration of the RFI area for commercial wind energy leasing. Please refer to the RFI, published in the **Federal Register** on December 29, 2010, (75 FR 82055) for further information. Comments already submitted on the RFI need not be resubmitted.

Dated: March 8, 2011.

Michael R. Bromwich,

Director, Bureau of Ocean Energy Management, Regulation and Enforcement.

[FR Doc. 2011–6167 Filed 3–16–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2011–N049;

40120–1112–0000–F5]

Receipt of Applications for Endangered Species Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

DATES: We must receive written data or comments on the applications at the address given below, by *April 18, 2011.*

ADDRESSES: Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: Cameron Shaw, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: Cameron Shaw, telephone 904/731–3191; facsimile 904/731–3045.

SUPPLEMENTARY INFORMATION: The public is invited to comment on the following applications for permits to conduct certain activities with endangered and threatened species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 17. This notice is provided under section 10(c) of the Act. If you wish to comment, you may submit comments by any one of the following methods. You may mail comments to the Fish and Wildlife Service's Regional Office (*see* **ADDRESSES** section) or via electronic mail (e-mail) to: *permitsR4ES@fws.gov.* Please include your name and return address in your e-mail message. If you do not receive a confirmation from the Fish and Wildlife Service that we have received your e-mail message, contact us directly at the telephone number listed above (*see* **FOR FURTHER INFORMATION CONTACT** section). Finally, you may hand deliver comments to the Fish and Wildlife Service office listed above (*see* **ADDRESSES** section).

Before including your address, telephone number, e-mail address, or other personal identifying information in your comments, 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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Applicant: U.S. Forest Service, Montgomery, Alabama, TE–132772. The applicant requests renewal of authorization for taking the following species during scientific studies and land management activities on National Forest lands in Alabama:

Cahaba shiner *Notropis cahabae*
Cumberlandian Combshell *Epioblasma brevidens*
Upland Combshell *Epioblasma metastriata*
Southern acornshell *Epioblasma othcaloogensis*
Coosa moccasinshell *Medionidus parvulus*
Southern clubshell *Pleurobema decisum*
Dark pigtoe *Pleurobema furvum*
Southern pigtoe *Pleurobema geogianum*
Ovate clubshell *Pleurobema perovatum*
Triangular kidneyshell *Ptychobranchus greenii*
Flat pebblesnail *Lepyrium showalteri*
Lacy elimia *Elimia crenatella*
Cylindrical lioplax *Lioplax cyclostomaformis*
Tulotoma *Tulotoma magnifica*

Applicant: Stephen Samoray, Nashville, Tennessee, TE 25612A. Applicant requests authorization for non-lethal take of Indiana bats (*Myotis sodalis*), gray bats (*Myotis grisescens*), Virginia big-eared bats (*Corynorihinus townsendii virginianus*) and Ozark big-eared bats (*Corynorhinus townsendii ingens*) for the purpose of conducting presence/absence surveys and collecting scientific data on roost sites.

Applicant: Troy Best, Auburn University, Alabama, TE–77175. Applicant requests authorization to take (capture and release) Indiana bats (*Myotis sodalis*) and gray bats (*Myotis grisescens*) for the purpose of conducting scientific and genetic research, population monitoring, and ecological studies. This work will be conducted throughout Alabama.

Applicant: U.S. Forest Service, Russellville, Arkansas, TE–65972. The applicant requests renewal of authorization for take of the following species during scientific studies and land management activities on National Forest lands of the Ozark-St. Francis National Forest:

Gray bat *Myotis grisescens*
Indiana bat *Myotis sodalis*
Ozark big-eared bat *Corynorhinus townsendii ingens*
Least tern *Sterna antillarum*
Fat pocketbook *Potamilus carpax*
Pink mucket *Lampsilis abrupt*
Palid sturgeon *Scaphirhynchus albus*
Cave crayfish *Cambarus aculabrum*
Cave crayfish *Cambarus zophonastes*
American burying beetle *Nicrophorus americanus*
Missouri bladderpod *Lesquerella filiformis*

Applicant: Joseph Alderman, Semora, North Carolina, TE–28597A.

The applicant requests authority for nonlethal take of the following species while conducting presence/absence surveys in North and South Carolina:

Carolina heelsplitter *Lasmigona decorate*
Appalachian elktoe *Alasmidonta raveneliana*
Tar River spinymussel *Elliptio steinstansana*
Dwarf wedgemussel *Alasmidonta heterodon*
James spinymussel *Pleurobema collina*
Littlewing pearlymussel *Pegias fibula*
Cape Fear shiner *Notropis mekistocholas*

Applicant: Ecological Solutions, Inc., Roswell, Georgia, TE–70800.

The applicant requests authority for nonlethal take of the following species while conducting presence/absence surveys in Georgia:

Hairy Rattleweed *Baptisia arachnifera*
Alabama Leather Flower *Baptisia arachnifera*
Smooth coneflower *Echinacea laevigata*
Pondberry *Lindera melissifolia*
Candy dropwort *Oxypolis canbyi*
Harperella *Ptilimnium nodosum*
Dwarf sumac *Rhus michauxii*
Green pitcherplant *Sarracenia oreophila*
Chaffseed *Schwalbea Americana*
Fringed campion *Silene polypetala*
Cooley meadowrue *Thalictrum cooleyi*
Persistent trillium *Trillium persistens*
Relict trillium *Trillium reliquum*
Tennessee yellow-eyed grass *Xyris tennesseensis*
Etowah Darter *Etheostoma etowahae*
Amber Darter *Percina antesella*

Applicant: Shaw Air Force Base, South Carolina, TE–75925.

The applicant requests renewal of authorization for trapping, banding, translocating and installing artificial nesting cavities for red-cockaded woodpeckers (*Picoides borealis*) on the Poinsett Combat Range, Manchster State Forest, and other Air Force Properties in Sumter County, South Carolina.

Applicant: U.S. Army, Fort Polk, Louisiana, TE–41314.

The applicant requests renewal of authorization for trapping, banding, translocating, and installing artificial nesting cavities for red-cockaded woodpeckers (*Picoides borealis*) on the Ft. Polk Army Base, Louisiana.

Applicant: Dr. J.H. Carter III and Assoc., TE–807672.

The applicant requests renewal of authorization for trapping, banding, translocating, and installing artificial nesting cavities for red-cockaded woodpeckers (*Picoides borealis*) throughout the species' range.

Applicant: North Carolina Wildlife Resources Commission, TE–31057A.

The applicant requests authority for nonlethal take of the following species for the purposes of research, management, and captive propagation in North Carolina:

Appalachian elktoe *Alasmidonta raveneliana*
Tar River spinymussel *Elliptio steinstansana*
Dwarf wedgemussel *Alasmidonta heterodon*
James spinymussel *Pleurobema collina*
Littlewing pearlymussel *Pegias fibula*
Cape Fear shiner *Notropis mekistocholas*

Applicant: Savannah River Ecology Laboratory, Aiken, South Carolina, TE–31066A.

The applicant requests authority to collect seeds from *Echinacea laevigata* (smooth coneflower) for the purpose of establishment of a conservation garden. Plants and seeds from this effort may be used in the future to assist with recovery and reintroduction efforts.

Applicant: Homosassa Springs State Wildlife Park, Homosassa, Florida, TE–40783.

Applicant requests renewal of authorization to take by housing and providing care for Key deer (*Odocoileus virginianus clavium*) for the purpose of public education. This activity will take place in Citrus County, Florida.

Applicant: Eglin Air Force Base, Niceville, Florida, TE–130169.

Applicant requests renewal of authorization to collect *Cladonia perforata* (perforate reindeer lichen), for the purpose of establishing a population at the Bok Tower Garden plant repository to use for re-establishment in the event that the current wild population is lost.

Applicant: North Carolina Wildlife Resources Commission, TE–31079A.

Applicant requests authorization to take (capture and release) Indiana bats (*Myotis sodalis*), Virginia big-eared bats (*Corynorhinus townsendii virginianus*) and gray bats (*Myotis grisescens*) for the purpose of conducting presence/absence surveys, population monitoring, and ecological studies. This work will be conducted in North Carolina.

Applicant: Tennessee Wildlife Resources Agency, TE–31141A.

Applicant requests authorization to take (capture and release) Indiana bats (*Myotis sodalis*) and gray bats (*Myotis grisescens*) for the purpose of conducting presence/absence surveys, population monitoring, and ecological studies. This work will be conducted in Tennessee.

Applicant: Florida Department of Environmental Protection, Apopka, Florida, TE–32394A.

Applicant requests authorization to take, by nonlethal means, the Anastasia Island beach mouse (*Peromyscus polionotus phasma*) for the purpose of scientific study and enhancing management and recovery efforts. This effort will be conducted along the Atlantic coastline of northeast Florida.

Applicant: James Godwin, Auburn, Alabama, TE–32397A.

Applicant requests authorization to take Alabama red-bellied turtles (*Pseudemys alabamenisis*) for the purpose of scientific study. This effort will involve trapping, marking, and removing tissue for genetic analysis. The study will take place in Baldwin and Mobile Counties, Alabama, and Harrison and Jackson Counties, Mississippi.

Applicant: USDA, Forest Service, Montgomery, Alabama, TE–33465A.

The applicant requests authorization for trapping, banding, translocating, and installing artificial nesting cavities for red-cockaded woodpeckers (*Picoides borealis*) on National Forests in Alabama, and related activities in cooperating States.

Applicant: Joseph Kirkbride, National Arboretum, Washington DC, TE–33475A.

The applicant is requesting authorization to take plant tissues and flowers from *Chionanthus pygmaeus* (pygmy fringe tree) from Federal lands in Florida, to retain as voucher specimens at the National Arboretum, and to conduct genetic testing on the specimens for species verification.

Applicant: Virginia Cooperative Fish and Wildlife Research Unit, Blacksburg, Virginia, TE–34778A.

The applicant requests authorization to capture, handle, tag, and track Indiana bat (*Myotis sodalis*) at Ft. Knox, Kentucky, and Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*) in North Carolina.

Applicant: John Alderman, Pittsboro, North Carolina, TE–065756.

The applicant requests to amend his existing permit to include conducting presence-absence surveys (to include capture, tag, and release) for all endangered and threatened species of freshwater mussels in the United States.

Applicant: Bernard Kuhajda, University of Alabama, Tuscaloosa, Alabama, TE–137403.

The applicant requests to amend his existing permit to include presence-absence surveys for and tissue collection from the endangered vermilion darter (*Etheostoma chermocki*) and the proposed endangered rush darter (*E. phytophilum*) in Alabama.

Applicant: Phillip Bettoli, U.S. Geological Survey, Cookeville, Tennessee, TE–34878A.

The applicant is requesting authorization to take (nonlethally) boulder darters (*Etheostoma wapiti*) and cracking pearlymussels (*Hemistena lata*) for the purpose of developing sampling protocols and enhancing recovery efforts. This work will be accomplished in the Elk River, Tennessee.

Applicant: Alabama Power Company, Birmingham, Alabama, TE–34880A.

The applicant is requesting authorization for take (nonlethal) of red-cockaded woodpeckers (*Picoides borealis*), southern clubshell (*Pleurobema decisum*), southern pigtoe (*Pleurobema georgianum*), Georgia pigtoe (*Pleurobema hanleyianum*), interrupted rocksnail (*Leptoxis foreman*), cylindrical lioplax (*Lioplax cyclostomaformis*), rough hornsnail (*Pleurocera foreman*), and tulotoma (*Tulotoma magnifica*), for the purpose of conducting presence/absence surveys and to enhance recovery through management activities. This work will be conducted in Alabama.

Applicant: Mark Bailey, Andalusia, Alabama, TE–34882A.

The applicant is requesting authorization for take (non-lethal) of red-cockaded woodpeckers (*Picoides borealis*), Mississippi gopher frog (*Rana capitol sevosa*) and reticulated flatwoods salamander (*Ambystoma bishop*) for the purpose of conducting presence/absence surveys and to assist with recovery activities. This work will be conducted throughout the species ranges.

Applicant: U.S. Army, Ft. Jackson, South Carolina, TE–60988.

The applicant requests authorization for trapping, banding, translocating and installing artificial nesting cavities for red-cockaded woodpeckers (*Picoides borealis*) on Fort Jackson.

Dated: March 3, 2011.

Mark J. Musaus,

Acting Regional Director.

[FR Doc. 2011–6256 Filed 3–16–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–22014; LLAK–962000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management (BLM) will issue an appealable decision to Bering Straits Native Corporation. The decision will approve the conveyance of the surface and subsurface estates in certain lands pursuant to the Alaska Native Claims Settlement Act. The lands are located north of Koyuk, Alaska, and aggregate 4.86 acres. Notice of the decision will also be published four times in the *Nome Nugget.*

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until April 18, 2011 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

3. Notices of appeal transmitted by electronic means, such as facsimile or e-mail, will not be accepted as timely filed.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960, by e-mail at *ak.blm.conveyance@blm.gov,* or by telecommunication device (TTD) through the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

Dina L. Torres,

Land Transfer Resolution Specialist, Branch of Preparation and Resolution.

[FR Doc. 2011–6170 Filed 3–16–11; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO620000.L18200000.XH0000]

Call for Nominations for Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations.

SUMMARY: The purpose of this notice is to request public nominations for the Bureau of Land Management (BLM) Resource Advisory Councils (RAC) that have member terms expiring this year. The RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas. The BLM will accept public nominations for 45 days after the publication of this notice.

DATES: All nominations must be received no later than May 2, 2011.

ADDRESSES: *See* **SUPPLEMENTARY INFORMATION** for the address of BLM State Offices accepting nominations.

FOR FURTHER INFORMATION CONTACT: Allison Sandoval, U.S. Department of the Interior, Bureau of Land Management, Correspondence, International, and Advisory Committee Office, 1849 C Street, NW., MS–MIB 5070, Washington, DC 20240; 202–208–74294.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1739) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR subpart 1784 and include the following three membership categories:

Category One—Holders of Federal grazing permits and representatives of organizations associated with energy and mineral development, timber industry, transportation or rights-of-way, developed outdoor recreation, off-highway vehicle use, and commercial recreation;

Category Two—Representatives of nationally or regionally recognized environmental organizations; archaeological and historic organizations, dispersed recreation activities, and wild horse and burro organizations; and

Category Three—Representatives of state, county, or local elected office; employees of a state agency responsible for management of natural resources; representatives of Indian tribes within or adjacent to the area for which the council is organized; representatives of academia who are employed in natural sciences; and the public-at-large.

Individuals may nominate themselves or others. Nominees must be residents

of the state in which the RAC has jurisdiction. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographical area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision-making. The Obama Administration prohibits individuals who are currently federally-registered lobbyists to serve on all FACA and non-FACA boards, committees, or councils. The following must accompany all nominations:

—Letters of reference from represented interests or organizations;

—A completed background information nomination form; and

—Any other information that addresses the nominee's qualifications.

Simultaneous with this notice, BLM state offices will issue press releases providing additional information for submitting nominations, with specifics about the number and categories of member positions available for each RAC in the state. Nominations for RACs should be sent to the appropriate BLM offices listed below:

Alaska

Alaska RAC

Danielle Allen, Alaska State Office, BLM, 222 West 7th Avenue, #13, Anchorage, Alaska 99513, (907) 271–3335;

Arizona

Arizona RAC

Dorothea Boothe, Arizona State Office, BLM, One North Central Avenue, Suite 800, Phoenix, Arizona 85004, (602) 417–9219.

California

Central California RAC

David Christy, Mother Lode Field Office, BLM, 5152 Hillsdale Circle, El Dorado Hills, California 95762, (916) 941–3146.

Northeastern California RAC

Jeff Fontana, Eagle Lake Field Office, BLM, 2950 Riverside Drive, Susanville, California 96130, (530) 252–5332.

Northwestern California RAC

Jeff Fontana, Eagle Lake Field Office, BLM, 2950 Riverside Drive, Susanville, California 96130, (530) 252–5332.

Colorado

Front Range RAC

Cass Cairns, Royal Gorge Field Office, BLM, 3028 East Main Street, Cañon City, Colorado 81212, (719) 269–8553.

Northwest RAC

David Boyd, Silt Field Office, BLM, 2300 River Frontage Road, Silt, Colorado 81652, (970) 876–9008.

Southwest RAC

Shannon Borders, Southwest District Office, BLM, 2465 South Townsend Avenue, Montrose, Colorado 81401, (970) 240–5336.

Idaho

Boise District RAC

MJ Byrne, Boise District Office, BLM, 3948 Development Avenue, Boise, Idaho 83705, (208) 384–3393.

Coeur d'Alene District RAC

Lisa Wagner, Coeur d'Alene District Office, BLM, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815, (208) 769–5014.

Idaho Falls District RAC

Sarah Wheeler, Idaho Falls District Office, BLM, 1405 Hollipark Drive, Idaho Falls, Idaho 83401, (208) 524–7613.

Twin Falls District RAC

Heather Tiel-Nelson, Twin Falls District Office, BLM, 2536 Kimberly Road, Twin Falls, Idaho 83301, (208) 736–2352.

Montana and Dakotas

Central Montana RAC

Craig Flentie, Lewistown Field Office, BLM, 920 Northeast Main Street, Lewistown, Montana 59457, (406) 538–1943.

Dakotas RAC

Lonny Bagley, North Dakota Field Office, BLM, 99 23rd Avenue West, Suite A, Dickinson, North Dakota 58601, (701) 227–7703.

Eastern Montana RAC

Mark Jacobsen, Miles City Field Office, BLM, 111 Garryowen Road, Miles City, Montana 59301, (406) 233–2800.

Western Montana RAC

David Abrams, Butte Field Office, BLM, 106 North Parkmont, Butte, Montana 59701, (406) 533–7617.

Nevada

Mojave-Southern Great Basin RAC; Northeastern Great Basin RAC; Sierra Front Northwestern Great Basin RAC

Rochelle Francisco, Nevada State Office, BLM, 1340 Financial Boulevard, Reno, Nevada 89502, (775) 861–6588.

Oregon/Washington

Eastern Washington RAC; John Day-Snake RAC; Southeast Oregon RAC

Pam Robbins, Oregon State Office, BLM, 333 SW First Avenue, P.O. Box 2965, Portland, Oregon 97204, (503) 808–6306.

Utah

Utah RAC

Sherry Foot, Utah State Office, BLM, 440 West 200 South, Suite 500, P.O. Box 45155, Salt Lake City, Utah 84101, (801) 539–4195.

Certification Statement: I hereby certify that the BLM Resource Advisory Councils are necessary and in the public interest in connection with the Secretary's responsibilities to manage the lands, resources, and facilities administered by the BLM.

Robert V. Abbey,

Director.

[FR Doc. 2011–6169 Filed 3–16–11; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[COF000–LLCOF00000–L18200000–XX0000]

Notice of Meetings, Front Range Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Front Range Resource Advisory Council (RAC), will meet as indicated below.

DATES: The Front Range RAC has scheduled meetings on:

1. April 27, 2011, 9:15 a.m. to 4:30 p.m.
2. July 20, 2011, 9:15 a.m. to 4:30 p.m.
3. October 19, 2011, 9:15 a.m. to 4:30 p.m.

ADDRESSES: The locations for the meetings are:

1. April 27, 2011; BLM Royal Gorge Field Office, 3028 East Main Street, Canon City, CO.

2. July 20, 2011; Hampton Inn, 710 Mariposa St., Alamosa, CO.

3. October 19, 2011; BLM Royal Gorge Field Office, 3028 East Main Street, Canon City, CO.

FOR FURTHER INFORMATION CONTACT: Cass Cairns, Front Range RAC Coordinator, BLM Royal Gorge Field Office, 3028 E. Main St., Cañon City, CO 81212. *Phone:* (719) 269–8553. *E-mail: ccairns@blm.gov.*

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in the BLM Front Range District, which includes the Royal Gorge Field Office and the San Luis Valley Public Lands Center and its respective field offices: Saguache Field Office, Del Norte Field Office, and La Jara Field Office, Colorado. Topics of discussion during the Front Range RAC meetings may include land use planning, energy and minerals management, travel management, recreation, grazing and fire management.

All RAC meetings are open to the public. The meetings will begin at 9:15 a.m. The public is invited to make oral comments to the RAC at 9:30 a.m., or may submit written statements during the meeting for the RAC's consideration. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Summary minutes for the RAC meetings will be maintained in the Royal Gorge Field Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting. Meeting minutes and agenda (10 days prior to each meeting) are also available at: *http://www.blm.gov/rac/co/frrac/co_fr.htm.*

Dated: March 9, 2011.

Helen M. Hankins,

State Director.

[FR Doc. 2011–6250 Filed 3–16–11; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUT920000L13100000 FI0000 25–7A]

Notice of Proposed Class II Reinstatement of Terminated Oil and Gas Lease, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Class II Reinstatement of Terminated Oil and Gas Lease, Utah.

SUMMARY: In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), Dudley & Associates timely filed a petition for reinstatement of oil and gas lease UTU77371, for lands in Carbon County, Utah, and it was accompanied by all required rentals and royalties accruing from October 1, 2009, the date of termination.

FOR FURTHER INFORMATION CONTACT: Kent Hoffman, Deputy State Director, Lands and Minerals, Utah State Office, Bureau of Land Management, 440 West 200 South, Salt Lake City, Utah 84145, phone (801) 539–4063.

SUPPLEMENTARY INFORMATION: The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔%, respectively. The $500 administrative fee for the lease has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective October 1, 2009, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Juan Palma,

State Director.

[FR Doc. 2011–6168 Filed 3–16–11; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

[2280–665]

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before February 27, 2011. Pursuant to sections 60.13 or 60.15 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by April 1, 2011.

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.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Cochise County

Benson Historic Barrio, 307–572 Fifth St., between San Pedro St and Route 80, Benson, 11000174

Maricopa County

Tempe Butte, Bounded on N by Tempe Town Lake, on the W by Mill Ave District, on S by Arizona State University, Tempe, 11000175

CALIFORNIA

San Francisco County

San Francisco Juvenile Court and Detention Center, 150 Otis St., San Francisco, 11000182

FLORIDA

Broward County

Homes, Dr. Kennedy, Historic District, 1004 W Broward Blvd., Fort Lauderdale, 11000179

Duval County

Evergreen Cemetery, 4535 N Main St., Jacksonville, 11000157

Hillsborough County

Jackson, Captain William Parker, House, 800 E Lambright St., Tampa, 11000159

Orange County

Downtown Winter Park Historic District, Roughly Canton Ave., Center St., Comstock Ave., New York Ave., Winter Park, 11000158

Palm Beach County

Prospect Park—Southland Park Historic District, Bounded by Lake Worth, S Dixie HWY, Monceaux Rd., Monroe Dr., West Palm Beach, 11000181

GEORGIA

Mitchell County

Williams, Georgia, Nursing Home, 176 Dyer St., Camilla, 11000180

MASSACHUSETTS

Suffolk County

United States Post Office, Courthouse, and Federal Building, 5 Post Office Square, Boston, 11000160

Worcester County

U.S. Post Office and Courthouse, 595 Main St., Worcester, 11000161

MICHIGAN

Delta County

Bay de Noquet Lumber Company Waste Burner, South end of River St., Nahma, 11000177

Grand Traverse County

Dougherty Mission House, 18459 Mission Road, Peninsula, 11000176
Stickney Summer House, 13512 Peninsula Dr., Peninsula, 11000178

MONTANA

Missoula County

Missoula Downtown Historic District Boundary Increase, Bounded by Montana Rail Link and BNSF railway, Toole-Railroad-Alder Sts., Missoula, 11000183

NEW MEXICO

Dona Ana County

Camino Real—Rincon Arroyo—Perrillo Section, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, Rincon, 11000172
Camino Real—San Diego North South Section, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, Radium Springs, 11000166
Camino Real—San Diego South, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, Rincon, 11000165

Santa Fe County

Camino Real—Alamitos Section, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, Santo Domingo Pueblo, 11000169
Camino Real—Canon de las Bocas Section, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, Santa Fe, 11000170
Camino Real—La Bajada Mesa Section, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, Santa Fe, 11000168

Sierra County

Camino Real—Jornada Lakes Section, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, Engle, 11000167
Camino Real—Point of Rocks Section, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, Rincon, 11000171
Camino Real—Yost Draw Section, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, Engle, 11000163

Socorro County

Camino Real—San Pascual Pueblo, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, San Antonio, 11000164
Camino Real—Qualacu Pueblo, (Camino Real in New Mexico, AD 1598–1881 MPS) Address Restricted, San Antonio, 11000173

TEXAS

Liberty County

Chambers, Thomas Jefferson, House, 624 Milam St., Liberty, 11000156

WISCONSIN

Outagamie County

Center Valley Grade School, W5532 Center Valley Rd., Center, 11000162

OTHER ACTIONS

Request for REMOVAL has been made for the following resource:

TEXAS

Victoria County

Victoria Grist Windmill, Memorial Park in Victoria, Victoria, 76002079

Request for RELOCATION has been made for the following resource:

WISCONSIN

Douglas County

Massachusetts Block, 1525–1531 Tower Ave., Superior, 85001469

Milwaukee County

Whitefish Bay National Guard Armory, 1225 E Henry Clay St., Whitefish Bay, 02000650

Walworth County

Bradley Knitting Company, 902 Wisconsin St., Delavan, 92000168

[FR Doc. 2011–6213 Filed 3–16–11; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–753]

In the Matter of Certain Semiconductor Chips and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Granting a Motion To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 15) issued by the presiding administrative law judge's ("ALJ") granting a motion filed by complainant Rambus, Inc. ("Rambus") and respondent Motorola Solutions, Inc. (formerly known as Motorola, Inc.), to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3090. 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 January 4, 2011, based on a complaint filed by Rambus, Inc. ("Rambus") of Sunnyvale, California. The complaint alleges 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 semiconductor chips and products containing the same. The Commission's notice of investigation named numerous respondents. The presiding administrative law judge ("ALJ") (Judge Essex) issued the subject ID on February 15, 2011, granting a joint motion filed by Rambus and Motorola Solutions, Inc. (formerly known as Motorola, Inc.), to substitute Motorola Mobility, Inc. for Motorola, Inc. No party filed a petition 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: March 14, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–6209 Filed 3–16–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–716]

In the Matter of Certain Large Scale Integrated Circuit Semiconductor Chips and Products Containing the Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 35) of the presiding administrative law judge ("ALJ") terminating the above-captioned investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2310. 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 May 5, 2010, based on a complaint filed by Panasonic Corporation of Japan. 75 FR 24742–43. The complaint alleges 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 large scale integrated circuit semiconductor chips and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 5,933,364 and 6,834,336. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named several respondents including the following: Freescale Semiconductor Xiqing Integrated Semiconductor Manufacturing Site ("Freescale Xiqing") of China; Freescale Semiconductor Innovation Center ("Freescale Innovation") of China; Freescale Semiconductor Pte. Ltd. of Singapore; Premier Farnell Corporation d/b/a Newark ("Newark") of Independence, Ohio; Freescale Semiconductor, Inc. of Austin, Texas; Freescale Semiconductor Japan Ltd. of Japan; Freescale Semiconductor Malaysia Sdn. Bhd. of Malaysia; Freescale Semiconductor Pte. Ltd. of Singapore; Mouser Electronics, Inc. of Mansfield, Texas; and Motorola Inc. of Schaumburg, Illinois.

On August 16, 2010, the Commission issued notice of its determination not to review the ALJ's ID granting complainant's unopposed motion to amend the complaint and notice of investigation. The notice of investigation was amended to substitute Freescale Qiangxin (Tianjin) IC Design Co., Ltd. of China; Freescale Semiconductor (China) Limited of China; and Newark Electronics Corporation and Newark Corporation of Chicago, Illinois for respondents Freescale Xiqing, Freescale Innovation, and Newark, respectively. 75 FR 51843 (August 23, 2010).

On February 11 and 16, 2011, respectively, complainant and respondents filed a joint motion, and a supplemental joint motion, to terminate the investigation as to all respondents based on a settlement agreement. The Commission investigative attorney filed a response in support of the motion.

The ALJ issued the subject ID on February 28, 2011, granting the motion for termination. He found that the motion for termination satisfies Commission rule 210.21(b). He further found, pursuant to Commission rule 210.50(b)(2), that termination of this investigation by settlement agreement is in the public interest. No party petitioned for review of the ID. The Commission has determined not to review the ID, and the investigation is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in sections 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure, 19 CFR 210.21, 210.42(h).

By order of the Commission.

Issued: March 11, 2011.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011–6141 Filed 3–16–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to Title 21 of the Code of Federal Regulations § 1301.34(a), this is notice that on May 6, 2010, Aptuit, 10245 Hickman Mills Drive, Kansas City, Missouri 64137, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Marihuana (7360)	I
Poppy Straw Concentrate (9670)	II

The company plans to import a finished pharmaceutical product containing cannabis extracts in dosage form for packaging for a clinical trial study. In addition, the company also plans to import an ointment for the treatment of wounds which contain trace amounts of the controlled substances normally found in poppy straw concentrate for packaging and labeling for clinical trials.

No comments, objections, or requests for any hearings will be accepted on any application for registration or re-registration to import crude opium, poppy straw, concentrate of poppy straw or coca leaves. As explained in the Correction to Notice of Application pertaining to Rhodes Technologies, 72 FR 3417 (2007), comments and requests for hearings on applications to import narcotic raw material are not appropriate.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedule I or II, which fall under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections should be addressed, in quintuplicate,

to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, VA 22152; and must be filed no later than April 15, 2011.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: March 8, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–6166 Filed 3–16–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 19, 2010, and published in the **Federal Register** on December 3, 2010, 75 FR 75496, Meridian Medical Technologies, 2555 Hermelin Drive, St. Louis, Missouri 63144, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Morphine (9300), a basic class of controlled substance listed in schedule II.

The company manufactures a product containing morphine in the United States. The company exports this product to customers around the world, including in Europe. The company has been asked to ensure that its product sold to European customers meets standards established by the European Pharmacopeia, which is administered by the Directorate for the Quality of Medicines (EDQM). In order to ensure that its product will meet European specifications, the company seeks to import morphine supplied by EDQM to use as reference standards. This is the sole purpose for which the company will be authorized by DEA to import morphine.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Meridian Medical Technologies to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Meridian Medical Technologies to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: March 9, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–6165 Filed 3–16–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated November 29, 2010, and published in the **Federal Register** on December 9, 2010 (75 FR 76755), Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Road, Morgantown, West Virginia 26505, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Methylphenidate (1724)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a), and determined that the registration of Mylan Pharmaceuticals, Inc. to import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Mylan Pharmaceuticals, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: March 9, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–6164 Filed 3–16–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 9, 2010, Mallinckrodt, Inc., 3600 North Second Street, St. Louis, Missouri 63147, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Difenoxin (9168)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Norlevorphanol (9634)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine HCl (9059)	II

Drug	Schedule
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Metopon (9260)	II
Dextropropoxyphene, bulk (9273)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture the listed controlled substances for internal use and for sale to other companies.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than May 16, 2011.

Dated: March 9, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–6157 Filed 3–16–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 10, 2010, Cambrex Charles City, Inc., 1205 11th Street, Charles City, Iowa 50616, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of 4-Anilino-N-Phenethyl-4-Piperidine (ANPP) (8333), a basic class of controlled substance.

The company plans to use this controlled substance in the manufacture of another controlled substance.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than May 16, 2011.

Dated: March 8, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–6156 Filed 3–16–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated November 18, 2010, and published in the **Federal Register** on December 3, 2010, (75 FR 75498), Agilent Technologies, 25200 Commercentre Drive, Lake Forest, California 92630–8810, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Phencyclidine (7471)	II
1-piperidinocyclohexanecarbonitrile (8603).	II
Benzoylecgonine (9180)	II

The company plans to manufacture small quantities of the listed controlled substances for use in diagnostic products.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Agilent Technologies to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Agilent Technologies to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: March 9, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–6163 Filed 3–16–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated November 1, 2010, and published in the **Federal Register** on November 12, 2010, 75 FR 69464, Noramco Inc., 1440 Olympic Drive, Athens, Georgia 30601, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Codeine-N-Oxide (9053)	I
Morphine-N-Oxide (9307)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Tapentadol (9780)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Noramco Inc., to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated

Noramco Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: March 9, 2011.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2011–6155 Filed 3–16–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,460]

Delphi Steering, Including On-Site Leased Workers From Acro Service Corporation, Aerotek, Inc., Continental, Inc., Dynamic Corp., G-Tech Professional Staffing, Inc., Globaledge Technologies, Inc. (Formerly CAE Tech), Gonzalez Contract Services, Integrated Partners Group LLC, Kelly Services, Manpower, Inc., Rapid Global Business Solutions, Inc., TAC Worldwide, Trialon Corp., Trison Business Solutions, Wright K. Technologies, Interim Health Care and Advantage Technical Resourcing, Saginaw, 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 July 14, 2009, applicable to workers of Delphi Steering, including on-site leased workers from Bartech and Securitas, Saginaw, Michigan. The notice was published in the **Federal Register** on September 2, 2009 (74 FR 45477). The notice was amended on October 7, 2009, November 2, 2009 and July 22, 2010 to include on-site leased workers. The notices were published in the **Federal Register** on October 20, 2009 (74 FR 53760–53761), December 8, 2009 (74 FR 64716) and August 2, 2010 (75 FR 45159–45160).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of steering systems and components such as steering columns, gears, pumps and electronic power steering systems.

The company reports that on-site leased workers from Advantage Technical Resourcing were employed on-site at the Saginaw, Michigan location of Delphi Steering. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Advantage Technical Resourcing working on-site at the Saginaw, Michigan location of Delphi Steering.

The amended notice applicable to TA–W–70,460 is hereby issued as follows:

All workers of Delphi Steering, including on-site leased workers from Bartech, Securitas, Acro Service Corp., Aerotek, Inc., Continental, Inc., Dynamic Corp., G-Tech Professional Staffing, Inc., GlobalEdge Technologies, Inc., (formerly CAE Tech), Gonzalez Contract Services, Integrated Partners Group LLC, Kelly Services, Manpower, Inc., Rapid Global Business Solutions, Inc., TAC Worldwide, Trialon Corp., Trison Business Solutions, Wright K. Technologies, Interim Health Care and Advantage Technical Resourcing, Saginaw, Michigan, who became totally or partially separated from employment on or after May 20, 2008, through July 14, 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 17th day of February 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–6191 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *February 28, 2011 through March 4, 2011.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) 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;

(B) 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; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' 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, 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.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be 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).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,731	Curt Bean Lumber Company, Inc	Glenwood, AR	March 14, 2010.
74,731A	Curt Bean Lumber Company, Inc	Amity, AR	March 14, 2010.
74,773	Welco, LLC, Leased Workers from All Star Staffing	Shelton, WA	October 12, 2009.
74,914	Holt Sublimation Printing & Products, Inc	Burlington, NC	November 22, 2009.
75,063	Whiting Paper Mill, Newpage Corporation	Stevens Point, WI	December 31, 2009.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,882	Fasco Industries, Regal Beloit, RBC Horizon, Cassville	Cassville, MO	November 16, 2009.
74,997	Emergency First Aid Products, Inc	Plattsburgh, NY	December 14, 2009.
75,002	Brookfield Data Center, Navistar, Anderson International, IBM Global, US Tech Solutions, etc.	Brookfield, WI	December 15, 2009.
75,010	Hachette Book Group, Information Technology Applications, Global Employment Solutions, etc.	Boston, MA	November 29, 2009.
75,029	CompX Precision Slides, Inc, CompX Durislide; Leased Workers from Gill Staffing, Manpower, Inc., etc.	Byron Center, MI	December 16, 2009.
75,031	Time-O-Matic, Inc., Watchfire Holding, Watchfire Enterprises, Leased Workers Manpower, etc.	Danville, IL	December 21, 2009.
75,070	St. Johnson Medical Services PC, Episcopal Health Services, Inc	Bethpage, NY	January 5, 2010.
75,075	Autodesk, Inc., SP&O and GBS Divisions	Manchester, NH	January 7, 2010.
75,119	Acme-McCrary Corporation, 159 North St. and 601 E. Pritchard St., Express Employment Professionals.	Asheboro, NC	January 19, 2010.

TA–W No.	Subject firm	Location	Impact date
75,119A	Acme-McCrary Corporation, 159 North St. and 601 E. Pritchard St., Express Employment Professionals.	Siler City, NC	January 19, 2010.
75,153	HSBC Card Services, Inc., Quality Monitoring; Wages Reported under HSBC Technology & Services, Inc.	Tigard, OR	January 27, 2010.
75,164	Rosemount Analytical, Emerson, Leased Workers Supervisor Staffing, Resource & Rainmaker Staffing.	Irvine, CA	January 31, 2010.
75,165	Hartford Financial Services Group, Inc., EIT/TSS Application Configuration Support (ACS).	Hartford, CT	January 31, 2010.
75,166	Hewlett Packard Company, Imaging & Printing, Graphics Solutions Business, etc.	Minnetonka, MN	December 3, 2010.
75,179	Stratus Technologies, Inc	Maynard, MA	February 3, 2010.
75,189	Roche Carolina, Inc., F. Hoffman-LA Roche, Pharmaceutical, Pharma Technical, Olsten Staffing, etc.	Florence, SC	February 7, 2010.
75,193	TydenBrooks Security Products Group, Telesearch Staffing and Express Employment Professionals.	Newton, NJ	February 8, 2010.
75,216	Russell Newman, Inc., RNA Holdings, LLC; Leased Workers from Hour Personnel Services, etc.	Denton, TX	February 10, 2010.
75,216A	RNA Holdings, LLC, New York Division; SE–RN Holdings, LLC	New York, NY	February 10, 2010.
75,241	Tyco Electronics, ADC Telecommunications; Leased Workers from Salo, Adecco, Aerotek, etc.	Eden Prairie, MN	February 10, 2010.
75,241A	Tyco Electronics, ADC Telecommunications; Leased Workers from Salo, Adecco, Aerotek, etc.	Shakopee, MN	February 10, 2010.
75,242	Sensormatic Electronics, LLC, Tyco International, Roth Staffing	Boca Raton, FL	February 10, 2010.
75,277	Steelcase, Inc., Wood Plant	Caledonia, MI	June 14, 2011.
75,277A	Manpower, Working On-Site at Steelcase, Inc.; Wood Plant	Caledonia, MI	February 1, 2010.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
74,729	Kemco, Inc	Travelers Rest, SC	October 13, 2009.
75,236	Silberline Manufacturing Company, Inc., Hometown Facility	Tamaqua, PA	March 10, 2011.
75,236A	Silberline Manufacturing Company, Inc., Lansford Facility	Lansford, PA	March 10, 2011.
75,236B	Silberline Manufacturing Company, Inc., Tidewood Facility	Tamaqua, PA	March 10, 2011.
75,236C	Silberline Manufacturing Company, Inc., Decatur Facility	Decatur, IN	March 10, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
74,801	Analog Devices	Wilmington, MA.	
75,071	Acuity Brand Lighting, Inc., Acuity Brands, Inc	Newark, OH.	
75,099	West, Thomson Reuters Business, Thomson Reuters Legal, Adecco	Albuquerque, NM.	
75,135	Flowserve Corporation	Albuquerque, NM.	
75,177	Digital Networking, LLC	Denver, CO.	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
75,059	Durex Products, Inc., Minerals Division, Weir Group	St. Croix Falls, WI.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
74,704	SuperValu, Inc., IT and Finance Department	Hopkins, MN.	
74,842	Bosch Rexroth Corporation, Robert Bosch Corporation	Buchanan, MI.	
75,101	Burke Grading and Paving, Inc	Drexel, NC.	
75,106	The Factory Company International, Inc., Leased Workers from Humanix	Spokane, WA.	
75,141	Anthem Insurance Companies, Inc., Anthem BCBS/CMSI, IT Development, Wellpoint Companies.	Green Bay, WI.	
75,175	Equitrac Corporation, Field Services Technical, Teleworkers, Leased Workers Kelly, OCG.	Plantation, FL.	
75,185	ZEPF Center	Toledo, OH.	
75,226	Wells Fargo & Co., Auto Direct Division	Kansas City, MO.	
75,281	South Central Service, Inc	Berea, KY.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
75,173	Hire Right, Inc	Irvine, CA.	
75,220	Tinder Box Trading Company	Mayfield, KY.	
75,233	Peak Oilfield Services	Anchorage, AK.	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
74,907	Tektronix TCS and TSS	Beaverton, OR.	

I hereby certify that the aforementioned determinations were issued during the period of *February 28, 2011 through March 4, 2011.* Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or *tofoiarequest@dol.gov.* These determinations also are available on the Department's Web site at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: March 10, 2011.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance .

[FR Doc. 2011–6189 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Funding Opportunity and Solicitation for Grant Applications (SGA) for National Farmworker Jobs Training Program (NFJP)

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA–DFA–PY–10–05.

SUMMARY: The U. S. Department of Labor (DOL), Employment and Training Administration (ETA), Office of Workforce Investment, Division of Adult Services, announces a grant competition for operating the National Farmworker Jobs Program (NFJP), under section 167 of the Workforce Investment Act (WIA), 29 U.S.C. 2912. WIA generally requires DOL to conduct a general grants competition every two years to select NFJP grantees.

Under section 167(a) of WIA, the Secretary must award grants on a competitive basis to eligible entities for the purposes of carrying out the activities authorized under section 167. We are conducting this competition before the passage of the Department of Labor's Fiscal Year (FY) 2011 appropriation in anticipation of the appropriation of funds for Program Year (PY) 2011 NFJP grants, but we will not obligate any funds for PY 2011 grants unless and until they are appropriated. The FY 2011 appropriations request for this program is $78,410,000, to be allocated among state service delivery areas for operation of NFJP. All interested applicants should read this notice in its entirety.

The complete SGA and any subsequent SGA amendments are described in further detail on ETA's Web site at *http://www.doleta.gov/grants* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications is May 2, 2011.

FOR FURTHER INFORMATION CONTACT: Jeannette Flowers, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210; *telephone:* 202–693–3322.

Signed at Washington, DC, this 11th day of March 2011.

B. Jai Johnson,

Grant Officer, Employment and Training Administration.

[FR Doc. 2011–6245 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Funding Opportunity and Solicitation for Grant Applications (SGA) for National Farmworker Jobs Training Program (NFJP) Housing Assistance

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA–DFA–PY–10–08.

SUMMARY: The U.S. Department of Labor (the Department or DOL), Employment and Training Administration (ETA), Office of Workforce Investment (OWI), Division of Adult Services (DAS), announces a grant competition for operating the Housing Assistance portion of the National Farmworker Jobs Program (NFJP), under section 167 of the Workforce Investment Act of 1998 (WIA), 29 U.S.C. 2912. Section 167(a) of WIA requires the Secretary to conduct a grants competition every two years for the purpose of carrying out the activities authorized under section 167. Although housing assistance is identified in WIA as one of the allowable activities under NFJP, Congressional appropriations language directs the Department to make available a specific amount of the funds appropriated for the NFJP for migrant and seasonal farmworkers housing assistance grants, and requires that no less than 70 percent of the specified amount must be used for permanent housing activities.

We are conducting this competition before the passage of the Department of Labor's Fiscal Year (FY) 2011 appropriation in anticipation of the appropriation of funds for Program Year (PY) 2011 NFJP housing assistance grants, but we will not obligate any funds for PY 2011 grants unless and until they are appropriated. The FY 2011 appropriation request for this program is $5,700,000.

The complete SGA and any subsequent SGA amendments are described in further detail on ETA's Web site at *http://www.doleta.gov/grants* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications is May 3, 2011.

FOR FURTHER INFORMATION CONTACT: Eileen Banks, 200 Constitution Avenue, NW., Room N4716, Washington, DC 20210; *telephone:* 202–693–3403.

Signed at Washington, DC, this 11th day of March 2011.

B. Jai Johnson,

Grant Officer, Employment and Training Administration.

[FR Doc. 2011–6244 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,510]

Jeld-Wen Millwork Distribution, Wilkesboro, NC; Notice of Negative Determination on Reconsideration

On October 7, 2010, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Jeld-Wen Millwork Distribution, Wilkesboro, North Carolina (subject firm). The Department's Notice was published in the **Federal Register** on October 25, 2010 (75 FR 65513).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition, filed by a company official, stated that the workers distribute "wood exterior door frames" and that "door frames are being imported from China and South America at a price we can't compete with at this location."

The initial negative determination was based on the findings that there was no increase in imports of like or directly competitive articles by either the subject firm or its customers, and no shift to/acquisition from a foreign country by the workers' firm in production of like or directly competitive articles. The investigation also revealed that the subject firm did not produce a component part that was used by a firm that employed workers eligible to apply for Trade Adjustment Assistance (TAA) and used the component parts in the production of the article that was the basis for the TAA certification.

The workers, in the request for reconsideration, state that the subject firm's competitors and customer have increased imports of like or directly competitive articles from China. The workers also allege that the articles produced at the subject firm include door component parts ("door jambs, door T–AST, door mull posts") and window component parts ("replacement window grills").

Information obtained during the reconsideration investigation confirmed that the only articles produced by the subject firm during the relevant period are wood exterior door frames; that, during the relevant period, the subject firm did not increase reliance on imports of wood exterior door frames; and that the subject firm supplies articles exclusively to internal customers.

Moreover, information obtained during the reconsideration investigation confirmed that that the subject firm did not perform a service (such as distribution) that was used by a firm that both employed a worker group eligible to apply for TAA and directly used the services supplied in the production of an article or supply of a service that was the basis for the TAA certification.

Aggregate data reviewed during the reconsideration investigation revealed that U.S. imports of articles like or directly competitive with wood exterior door frames did not increase during the relevant period.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Jeld-Wen Millwork Distribution, Wilkesboro, North Carolina.

Signed in Washington, DC, on this 4th day of March 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–6185 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,355]

Flanders Tool Company, Inc., Flanders, NJ; Notice of Negative Determination on Reconsideration

On January 4, 2010, the Department of Labor issued a Negative Determination Regarding Eligibility to apply for worker adjustment assistance for the workers and former workers of Flanders Tool Company, Flanders, New Jersey (the subject firm). The Department's Notice was published in the **Federal Register** on February 16, 2010 (75 FR 7039).

By application dated February 12, 2010, the petitioner requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of the subject firm. At the request of the petitioners, the Department conducted further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974, as amended. Workers are engaged in employment related to the production of precision cutting tools and drills.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The initial negative determination was based on the findings that there was no increase in imports by the workers' firm or customers of articles like or directly competitive with precision cutting tools and drills, or a shift to/acquisition from a foreign country by the workers' firm in the production of articles like or directly competitive with precision cutting tools and drills, and that the workers' firm did not produce and supply directly component parts (or services) to a firm that both employed a worker group eligible to apply for TAA and directly used the component parts (or services) in the production of the article or in the supply of the service that was the basis for the TAA certification.

The request for reconsideration stated that the subject firm supplies products to certified customers.

Information obtained during the reconsideration investigation confirmed that the subject firm did not produce and supply directly component parts to a firm that both employed a worker group eligible to apply for TAA and directly used the component parts in the production of the article or in the supply of the service that was the basis for the TAA certification.

While tools and capital equipment are used in the production of an article, they are not component parts.

Information obtained during the reconsideration investigation confirmed that, during the relevant period, the major declining customers of the subject firm did not directly or indirectly import articles like or directly competitive with the precision cutting tools and drills produced by the subject firm.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Flanders Tool Company, Flanders, New Jersey.

Signed in Washington, DC, on this 4th day of March 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–6193 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,493]

Ananke, Inc., Providence, RI; Notice of Negative Determination on Reconsideration

On December 1, 2010, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Ananke, Inc., Rhode Island (subject firm). The Department's Notice was published in the **Federal Register** on December 13, 2010 (75 FR 77664). The workers at the subject firm supplied on-site application packaging services to a financial services firm located in Boston, Massachusetts. Therefore, the worker group includes workers who report to the subject firm but are located in Massachusetts; however, the worker group does not include any on-site leased or temporary workers.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The initial negative determination was based on the findings that neither the subject firm nor a declining customer imported services like or directly competitive with the application packaging services supplied by the subject workers; that the subject firm did not shift to/acquire from a foreign country the supply of services like or directly competitive with the application packaging services supplied by the subject workers; and that workers of the subject firm are not adversely affected secondary workers.

The request for reconsideration states that "Ananke Inc. performed application packaging services for John Hancock * * * In September 2009, John Hancock replaced * * * Ananke Inc. with * * * Cognizant Technology Solutions (an offshoring/outsourcing company)" and included support documentation.

Information obtained during the reconsideration investigation confirmed that, during the relevant period, neither the subject firm nor a client firm shifted to/acquired from a foreign country the supply of services like or directly competitive with the application packaging services supplied by the workers. Rather, the shift in the supply of services that is alleged by the petitioner is related to services that are neither like nor directly competitive with those supplied by the subject workers.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Ananke, Inc., Rhode Island.

Signed in Washington, DC, on this 4th day of March 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–6194 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,041]

Aleris Blanking and Rim Products, Inc., a Division of Aleris International, Inc., Terre Haute, IN; Notice of Revised Determination on Reconsideration

On February 18, 2010, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The Department's Notice of determination was published in the **Federal Register** on March 2, 2010 (75 FR 9436–9437). The workers produce aluminum blanks and hoops.

New information revealed that, during the period of investigation, imports of articles like or directly competitive with aluminum blanks and hoops produced by the subject firm have increased. Specifically, the Department of Labor conducted a second tier survey of the subject firm's major declining customer regarding their purchases of aluminum blanks and hoops during the relevant period. The survey revealed increased customer reliance on imported aluminum blanks and hoops.

Finally, Section 222(a)(2)(A)(iii) has been met because the increased imports of aluminum blanks and hoops by a second tier customer of the subject firm's major declining customer contributed importantly to the worker group separations and sales/production declines at the subject firm.

Conclusion

After careful review of the additional facts obtained during the reconsideration investigation, I determine that workers of Aleris Blanking and Rim Products, Inc., a division of Aleris International, Inc., Terre Haute, Indiana, who are engaged in employment related to the production of aluminum blanks and hoops, meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of Aleris Blanking and Rim Products, Inc., a division of Aleris International, Inc., Terre Haute, Indiana, who became totally or partially separated from employment on or after August 14, 2008, through two years from the date of this revised certification, 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 4th day of March 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–6192 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,689]

Amdocs, Inc., Global Support Services, Advertising and Media AT&T Division, New Haven, CT; Notice of Revised Determination on Reconsideration

By application dated December 22, 2010, the petitioner requested administrative reconsideration of the Department's negative determination regarding the eligibility of workers and former workers of Amdocs, Inc., Global Support Services, Advertising and Media AT&T Division, New Haven, Connecticut to apply for Trade Adjustment Assistance (TAA). On January 21, 2011, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration applicable to workers of the subject firm. The Notice was published in the **Federal Register** on February 22, 2011 (76 FR 5831). The subject workers are engaged in employment related to the supply of development, testing, including sanity and regression testing, and production support services related to computer systems.

During the reconsideration investigation, the Department received information that revealed that the subject firm had shifted to a foreign country a portion of the supply of services like or directly competitive with the services supplied by the subject workers, and that the shift in services contributed importantly to worker group separations at the subject firm.

Conclusion

After careful review of the additional facts obtained on reconsideration, I determine that workers of the subject firm, who are engaged in employment related to the supply of development, testing, including sanity and regression testing, and production support services related to computer systems, meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of Amdocs, Inc., Global Support Services, Advertising and Media AT&T Division, New Haven, Connecticut, who became totally or partially separated from employment on or after September 29, 2009, through two years from the date of this revised certification, 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 4th day of March 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–6187 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,305]

Shorewood Packaging, a Business Unit of International Paper, Inc., Springfield, OR; Notice of Negative Determination on Reconsideration

On January 26, 2010, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration applicable to workers and former workers of Shorewood Packaging, a business unit of International Paper, Inc., Springfield, Oregon (the subject firm). The Department's Notice was published in the **Federal Register** on February 16, 2010 (75 FR 7030).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial negative determination was based on the findings that neither imports of articles like or directly competitive with packaging produced by the subject firm nor a shift in production to a foreign country by the subject firm contributed importantly to worker separations at the subject firm.

In the request for reconsideration, the petitioner provided additional information and alleged that Shorewood Packaging shifted overseas the production at Springfield, Oregon.

Information obtained from the subject firm during the reconsideration investigation clarified that the worker group was part of the Home Entertainment group. The subject firm also confirmed that production of Home Entertainment group articles were not shifted overseas. Rather, production was shifted to facilities located within the United States. Further, the articles produced at foreign facilities are neither like nor directly competitive with the Home Entertainment group packaging produced at the Springfield, Oregon facility.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Shorewood Packaging, a business unit of International Paper, Inc., Springfield, Oregon, on this 4th day of March, 2011

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–6190 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,733]

Xpedite Systems, LLC; a Subsidiary of EasyLink Services International Corporation, Deerfield Beach, FL; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated February 21, 2011, petitioners requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Xpedite Systems, LLC, a subsidiary of EasyLink Services International Corporation, Deerfield Beach, Florida (subject firm). The determination was issued on January 26, 2011. The Department's Notice of Determination was published in the **Federal Register** on February 2, 2011 (76 FR 7588). The workers provide communication, applications, and support services.

The negative determination was based on the findings that imports of services like or directly competitive with those supplied by the workers did not increase during the relevant period; there has not been a shift to a foreign country by the workers' firm in the supply of (like or directly competitive) services; and the subject firm did not supply a service that was used by a firm that employed a worker group eligible to apply for TAA and used the services supplied by the subject firm in the production of an article or supply of a service that was the basis for the aforementioned TAA certification.

In the request for reconsideration, the petitioners alleged that "there was a contract between Xpedite and AppLabs, an Indian company, to do customer development work. * * * AppLabs employees located in India are writing/testing custom software applications on Xpedite's platform."

The Department has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the petitioning workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 4th day of March 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–6188 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,587]

Raleigh Film and Television Studios, LLC, Los Angeles, CA; Notice of Negative Determination on Reconsideration

On October 7, 2010, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Raleigh Film and Television Studios, LLC, Los Angeles, California (the subject firm). The Department's Notice was published in the **Federal Register** on October 25, 2010 (75 FR 65512). The subject firm supplies sound stage, production, catering, administrative, and other entertainment production industry-related services.

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The initial negative determination was based on the findings that there was, during the relevant period, no increase in imports of services like or directly competitive with the entertainment production industry-related services supplied by the workers and no a shift to/acquisition from a foreign country by the subject firm of like or directly competitive services. The investigation also revealed that the subject workers are not adversely affected secondary workers.

The request for reconsideration alleges that the subject firm is building large film studios in foreign countries.

Information obtained during the reconsideration investigation confirmed that the subject firm did not shift to/acquire from a foreign country the supply of services like or directly competitive with the entertainment production industry-related services supplied by the workers.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for

worker adjustment assistance for workers and former workers of Raleigh Film and Television Studios, LLC, Los Angeles, California.

Signed in Washington, DC, on this 4th day of March 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–6186 Filed 3–16–11; 8:45 am]

BILLING CODE 4510–FN–P

MERIT SYSTEMS PROTECTION BOARD

Membership of the Merit Systems Protection Board's Performance Review Board

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of the members of the Merit Systems Protection Board's Performance Review Board.

DATES: March 17, 2011.

FOR FURTHER INFORMATION CONTACT: Marion Hines, 202–254–4413.

SUPPLEMENTARY INFORMATION: The Merit Systems Protection Board is publishing the names of the new and current members of the Performance Review Board (PRB) as required by 5 U.S.C. 4314(c)(4). William D. Spencer, currently a member of the PRB, will serve as Chairman of the PRB. James M. Eisenmann will serve as a new member of the PRB, and William L. Boulden will continue to serve as a member of the PRB. Gail T. Lovelace of the General Services Administration will continue to serve as an advisory member of the PRB.

Dated: March 14, 2011.

William D. Spencer,

Clerk of the Board.

[FR Doc. 2011–6239 Filed 3–16–11; 8:45 am]

BILLING CODE 7400–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Board of Directors Meeting; Sunshine Act

TIME AND DATE: 11 a.m., Tuesday, March 22, 2011.

PLACE: 1325 G Street, NW., Suite 800, Boardroom, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Erica Hall, Assistant Corporate Secretary, (202) 220–2376; *ehall@nw.org.*

AGENDA:

I. CALL TO ORDER
II. Approval of the Minutes
III. Approval of the Minutes
IV. Summary Report of the Audit Committee
V. Summary Report of the Finance, Budget and Program Committee
VI. Summary Report of the Corporate Administration Committee
VII. Financial Report & Budget
VIII. National Foreclosure Mitigation Counseling (NFMC)
IX. Management Report
X. Strategic Plan
XI. Adjournment

Erica Hall,

Assistant Corporate Secretary.

[FR Doc. 2011–6345 Filed 3–15–11; 11:15 am]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company; Notice of Availability of Application for a Combined License

On March 28, 2008, Southern Nuclear Operating Company (SNC), acting on behalf of itself and Georgia Power Company, Oglethorpe Power Corporation (an Electric Membership Corporation), Municipal Electric Authority of Georgia, and the City of Dalton, Georgia, an incorporated municipality in the State of Georgia acting by and through its Board of Water, Light and Sinking Fund Commissioners (Dalton Utilities), herein referred to as the applicant, filed with the U.S. Nuclear Regulatory Commission (NRC, the Commission) pursuant to Section 103 of the Atomic Energy Act and Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," an application for combined licenses (COLs) for two AP1000 advanced passive pressurized water reactors at the Vogtle Electric Generating Plant (VEGP) site located in Burke County, Georgia. The reactors are to be identified as VEGP Units 3 and 4. The application is currently under review by the NRC staff.

An applicant may seek a COL in accordance with Subpart C of 10 CFR Part 52. The information submitted by the applicant includes certain administrative information, such as financial qualifications submitted pursuant to 10 CFR 52.77, as well as technical information submitted pursuant to 10 CFR 52.79. This notice is being provided in accordance with the requirements found in 10 CFR 50.43(a)(3).

A copy of the application is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and via the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* The accession number for the application cover letter is ML081050133. Other publicly available documents related to the application, including revisions filed after the initial submission, are also posted in ADAMS. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.* The application is also available at *http://www.nrc.gov/reactors/new-reactors/col.html.*

Dated at Rockville, Maryland, this 10th day of March 2011.

For the Nuclear Regulatory Commission.

Ravindra Joshi,

Senior Project Manager, AP10000 Projects Branch 1, Division of New Reactor Licensing, Office of New Reactor.

[FR Doc. 2011–6219 Filed 3–16–11; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64071; File No. SR–NASDAQ–2010–074]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment No. 3 to a Proposed Rule Change and Order Granting Accelerated Approval to the Proposed Rule Change, as Modified by Amendment Nos. 1 and 3, To Adopt Rule 4753(c) as a Six-Month Pilot in 100 NASDAQ-Listed Securities

March 11, 2011.

I. Introduction

On June 18, 2010, The NASDAQ Stock Market LLC ("Nasdaq" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4

[1] 15 U.S.C. 78s(b)(1).

thereunder,[2] a proposed rule change to implement, on a six-month pilot basis, a volatility-based trading pause in 100 Nasdaq-listed securities ("Volatility Guard"). On June 25, 2010, Nasdaq filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on July 15, 2010.[3] The Commission received four comment letters on the proposal.[4] Nasdaq responded to these comments on August 12, 2010.[5] The Commission subsequently extended the time period in which to either approve the proposed rule change, or to institute proceedings to determine whether to disapprove the proposed rule change, to October 13, 2010.[6] On October 13, 2010, the Commission instituted proceedings to determine whether to disapprove the proposed rule change.[7] The Commission thereafter received a fifth comment letter on the proposed rule change.[8] On January 10, 2011, the Commission extended the time period within which to either approve or disapprove the proposed rule change to March 11, 2011.[9] On March 10, 2011, the Exchange filed Amendment Nos. 2 and 3 to the proposed rule change.[10] The Commission is publishing this notice and order to solicit comments on Amendment No. 3 and to approve the proposed rule change, as modified by Amendment Nos. 1 and 3, on an accelerated basis.

II. Description of the Proposal

Nasdaq proposed to adopt, on a pilot basis, a volatility-based trading halt for 100 Nasdaq-listed securities. Under this proposal, Nasdaq would suspend trading in a security if a trade in that security is executed at a price that exceeds a certain threshold, as measured over the preceding 30 seconds. The triggering threshold varies according to the price of the security, *i.e.,* 15% for securities with an execution price of $1.75 and under; 10% for securities over $1.75 and up to $25; 5% for securities over $25 and up to $50; and 3% for securities over $50. If the Volatility Guard were triggered, Nasdaq would suspend trading in that security for a period of 60 seconds, but would maintain all current quotes and orders during that time, and would continue to accept quotes and orders. Following this 60-second period, Nasdaq would re-open the market using its Halt Cross mechanism.[11] According to Nasdaq, the proposed Volatility Guard is similar in purpose to the Liquidity Replenishment Points ("LRPs") rules that currently exist on the New York Stock Exchange ("NYSE").[12]

III. Comment Letters

The Commission received four comment letters opposing the proposed rule change [13] and one comment letter in favor of the proposed rule change.[14] Nasdaq responded to the comments regarding its proposal.[15]

Three of the four commenters opposing the proposal expressed concerns about its effect upon market volatility. These commenters stated that the Volatility Guard could actually increase volatility marketwide by re-directing trading in a security to other potentially less liquid venues once trading in that security had been halted on Nasdaq.[16] One commenter specifically argued that this proposal, coupled with the LRPs currently in effect on the NYSE, would result in disparate market approaches towards dampening volatility that may create confusion among market participants, particularly in times of market stress, and exacerbate market volatility.[17] Another commenter argued that the Volatility Guard would inappropriately impede the market's price-setting mechanism, to the detriment of issuers and investors.[18]

One commenter, however, supported Nasdaq's "right to design the controls it believes are best for trading on its market." [19] This commenter stated that the national market system was designed to encourage competitive distinctions such as Nasdaq's Volatility Guard and NYSE's LRPs.[20] According to this commenter, both the Nasdaq proposal and the NYSE LRPs "provide certainty and predictability of operation," and permit those markets to pursue strategies where the quality of price need not always defer to speed of execution.[21]

In its response, Nasdaq rejected the argument that the proposed Volatility Guard would exacerbate market volatility.[22] Nasdaq stated that it specifically designed the proposed Volatility Guard to work within the parameters of the single-stock circuit breaker pilot program currently in effect across all markets, and to avoid the potential for conflicting standards between the two mechanisms.[23] Nasdaq also asserted that there is no evidence that the proposed Volatility Guard would increase volatility in a particular security; rather, Nasdaq stated that the Volatility Guard would actually keep aberrant volatility on Nasdaq from spreading to other markets.[24]

Nasdaq also argued that the proposed Volatility Guard differed significantly from the NYSE LRPs, and that criticizing the Volatility Guard by comparing it to the LRPs was misleading. Nasdaq stated that the Volatility Guard, unlike the LRPs, would be based on clear and predictable criteria that would trigger a pause only in the event of a significant imbalance.[25] Accordingly, Nasdaq did not believe it appropriate to make a generic assertion that all market-based single-stock

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62468 (July 7, 2010), 75 FR 41258.

[4] *See* Letter from Joe Ratterman, Chairman and Chief Executive Officer, BATS Global Markets, Inc., to Hon. Mary Schapiro, Chairman, Commission, dated July 1, 2010 ("BATS Letter"); Letter from Jose Marques, Managing Director, Deutsche Bank Securities Inc., to Elizabeth M. Murphy, Secretary, Commission, dated July 21, 2010 ("Deutsche Bank Letter"); Letter from Janet M. Kissane, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext, to Elizabeth Murphy, Secretary, Commission, dated August 3, 2010 ("NYSE Letter"); Letter from Ann L. Vlcek, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Elizabeth M. Murphy, Secretary, Commission, dated June 25, 2010 ("SIFMA Letter").

[5] *See* Letter from T. Sean Bennett, Assistant General Counsel, Nasdaq, to Elizabeth M. Murphy, Secretary, Commission ("Nasdaq response").

[6] *See* Securities Exchange Act Release No. 62740 (August 18, 2010), 75 FR 52049 (August 24, 2010).

[7] *See* Securities Exchange Act Release No. 63098 (October 13, 2010), 75 FR 64384 (October 19, 2010).

[8] *See* Letter from Timothy Quast, Managing Director, Modern IR LLC, to Elizabeth M. Murphy, Secretary, Commission, dated November 11, 2010 ("Modern IR Letter").

[9] *See* Securities Exchange Act Release No. 63685, 76 FR 2732 (January 14, 2011).

[10] *See* Amendment No. 3 dated March 10, 2011 ("Amendment No. 3"). Amendment No. 3 replaces and supersedes Amendment No. 2. Amendment No. 3 extended the proposed start date of the pilot program from August 1, 2010 to a pilot period ending six months after the date of Commission approval of SR–NASDAQ–2010–074. The Exchange proposed to implement the rule change on a date to be announced to the public through a widely disseminated alert.

[11] The Nasdaq Halt Cross is "the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest." *See* Nasdaq Rule 4753(a)(3).

[12] *See* NYSE Rule 1000(a)(iv).

[13] *See* BATS Letter; Deutsche Bank Letter; SIFMA Letter; Modern IR Letter.

[14] *See* NYSE Letter.

[15] *See* Nasdaq response, *supra* note 5.

[16] *See* BATS Letter at 2; Deutsche Bank Letter at 4; SIFMA Letter at 3.

[17] *See* Deutsche Bank Letter at 4.

[18] *See* Modern IR Letter at 1–2.

[19] *See* NYSE Letter at 2. In its comment letter, NYSE also addressed what it perceived as Nasdaq's inaccurate description of the LRPs. NYSE provided additional detail about the LRPs, the role of the LRPs during the events of May 6, 2010, and the interaction between LRPs and the single-stock circuit breaker pilot program.

[20] *Id.*

[21] *Id.* at 3–4.

[22] *See* Nasdaq response, *supra* note 5, at 2.

[23] *Id.*

[24] *Id.*

[25] *Id.* at 3.

trading pauses are detrimental to the overall market.[26]

Finally, Nasdaq stated that it was proposing to employ prudent precautions in implementing the Volatility Guard. In particular, Nasdaq would implement the Volatility Guard as a pilot, limited in time and scope, during which time the Volatility Guard could be adjusted as needed. Nasdaq would also provide data to the Commission during the pilot period about the efficiency and effect of the Volatility Guard.[27]

IV. Discussion and Commission Findings

After carefully considering the proposal and the comments submitted, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 3, is consistent with the requirements of the Act and the rules and regulations thereunder.[28] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[29] which requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Nasdaq's proposal is presented by the Exchange as an effort to protect Nasdaq-listed securities and Nasdaq market participants from aberrant volatility, such as that witnessed on May 6, 2010. According to Nasdaq, the Volatility Guard is similar in purpose to the LRP rules that currently exist on the NYSE. A few commenters argued that individual exchange-specific mechanisms to moderate volatility may in fact exacerbate the volatility of the market overall, create confusion, and complicate the operation of the market-wide single stock circuit breakers.[30] However, the commenters opposing the proposal did not provide data or other evidence to support their contention. In addition, the Commission notes that the presence of another exchange-specific volatility moderator, the NYSE LRPs, was not found by the Report of the Staffs of the Commodity Futures Trading Commission and the Commission (the "May 6 Staff Report")[31] to have caused or created the broad-based liquidity crisis on that day.[32]

Since the events of May 6, 2010, the Commission has been working with the exchanges and FINRA on a consistent mechanism, applicable throughout the U.S. markets, to moderate excessive volatility in individual securities. On June 10, 2010, the Commission approved, on a pilot basis, circuit breaker rules that pause trading for five minutes in a security in the S&P 500 Index if its price moves ten percent or more over a five-minute period.[33] On September 10, 2010, the circuit breaker pilot was expanded to include securities in the Russell 1000 Index and certain exchange-traded products.[34] The Commission continues to work with the exchanges and FINRA to assess the operation of the circuit breaker pilot and its possible expansion, as well as the prospect of supplementing the circuit breakers with "limit up/limit down" style trading parameters.

In light of the fact that the circuit breaker mechanism in effect today applies only to certain securities, and that its operation currently is being evaluated under the pilot, and in recognition of the current existence of NYSE's LRPs, the Commission believes there is continued room for experimentation with certain exchange-specific volatility moderators. Accordingly, the Commission today finds that Nasdaq's proposal to implement the Volatility Guard for a six-month pilot program in 100 Nasdaq-listed securities is consistent with the Act.

The Commission emphasizes, however, that it is continuing to work diligently with the exchanges and FINRA to develop an appropriate consistent cross-market mechanism to moderate excessive volatility that could be applied widely to individual exchange-listed securities and to address commenters' concerns regarding the complexity and potential confusion of exchange-specific volatility moderators. To the extent the Commission approves such a mechanism, whether it be an expanded circuit breaker with a limit up/limit down feature or otherwise, the Commission may no longer be able to find that exchange-specific volatility moderators—including both Nasdaq's Volatility Guard and the NYSE's LRPs—are consistent with the Act.

V. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[35] for approving the proposed rule change, as modified by Amendment Nos. 1 and 3 thereto, prior to the 30th day after the date of publication of Amendment No. 3 in the **Federal Register.** In Amendment No. 3, the Exchange proposed to change the start date of the pilot period from August 1, 2010 to a pilot period ending six months after the date of Commission approval of SR–NASDAQ–2010–074, because as originally proposed, the pilot period would have expired on February 1, 2011, which is prior to the Commission's approval date. By granting accelerated approval, the pilot program may be implemented without delay. Accordingly, the Commission finds that good cause exists to approve the proposal, as modified by Amendment Nos. 1 and 3, on an accelerated basis.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 3 to 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–NASDAQ–2010–074 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

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[26] *Id.*

[27] *Id.*

[28] In approving this amendment, the Commission has considered the proposed amendment's impact of efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[29] 15 U.S.C. 78f(b)(5).

[30] *See* notes 16–17 *supra* and accompanying text.

[31] *See Report of the Staffs of the CFTC and SEC to the Joint Advisory Committee on Emerging Regulatory Issues,* "Findings Regarding the Market Events of May 6, 2010", dated September 30, 2010.

[32] *Id.* at 70. The May 6 Staff Report did note, however, that the increasing number of LRPs being triggered on NYSE underscored the severity of market conditions as they were unfolding, and that this additional "evidence" played into market participants' decisions to reduce liquidity, pause trading, or withdraw from the markets. *Id.* at 70–71.

[33] *See* Securities Exchange Act Release Nos. 62251, 75 FR 34183 (June 16, 2010); 62252, 75 FR 34186 (June 16, 2010).

[34] *See* Securities Exchange Act Release Nos. 62883, 75 FR 56608 (September 16, 2010); 62884, 75 FR 56618 (September 16, 2010). The circuit breaker pilot currently is scheduled to end on April 11, 2011. *See e.g.,* Securities Exchange Act Release Nos. 63497 (December 9, 2010), 75 FR 56618 (December 15, 2010); 63503 (December 9, 2010), 75 FR 78316 (December 15, 2010).

[35] 15 U.S.C. 78s(b)(2).

All submissions should refer to File Number SR–NASDAQ–2010–074. 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 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NASDAQ–2010–074 and should be submitted on or before April 7, 2011.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[36] that the proposed rule change (SR–NASDAQ–2010–074), as modified by Amendment Nos. 1 and 3, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Cathy H. Ahn,

Deputy Secretary.

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[36] 15 U.S.C. 78s(b)(2).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64075; File No. SR–Phlx–2011–28]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NASDAQ OMX PHLX LLC To Expand the Number of Components in the PHLX Oil Service Sector℠ Known as OSX ℠, on Which Options Are Listed and Traded

March 11, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on March 2, 2011, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to expand the number of components in the PHLX Oil Service Sector℠ (the "Index" or "OSX℠"), on which options are listed and traded, and the Index weighting methodology [sic].[3] No other changes are made to the Index or the options thereon.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to expand to thirty the number of components in the PHLX Oil Service Sector℠ or OSX℠, on which options are listed and traded, and change the Index weighting methodology to modified capitalization-weighted.[4] No other changes are made to the Index or the options thereon.

OSX℠ options subsequent to this proposal will be identical to OSX℠ options that are currently listed and trading except for the number of components in and the weighting methodology of the underlying Index; and will trade pursuant to similar contract specifications (updated regarding components and weighting methodology).[5] The only post-proposal difference in OSX℠ options is that they will overly [sic] an Index with thirty components (the current Index has fifteen components) that will be modified capitalization-weighted (the current Index is price-weighted).

Background

The Exchange currently has initial listing and maintenance listing standards for options on indexes in Rule 1009A that are designed to allow the Exchange to list options on narrow-based indexes [6] and broad based indexes[7] pursuant to generic listing standards (the "Index Listing Standards").[8] The PHLX Oil Service

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] PHLX Oil Service Sector℠ may also be known as PHLX Oil Service Sector℠ Index or PHLX Oil Service Index.

[4] The Exchange notes that changing the weighting of the Index from price-weighting to modified capitalization-weighting does not by itself require a rule filing proposal because both weighting methodologies are acceptable per the current generic index listing standards found in Rule 1009A(b)(2). The weighting change is included in this proposal only in conjunction with increasing the number of Index components by more than the amount indicated in Rule 1009A(c)(2), which requires a rule filing proposal.

[5] The contract specifications for OSX℠ options are available at *https://www.nasdaqtrader.com/micro.aspx?id=phlxsectorscontractspecs.*

[6] A narrow-based index or industry index is defined as: An index designed to be representative of a particular industry or a group of related industries. The term "narrow-based index" includes indices the constituents of which are all headquartered within a single country. Rule 1000A(b)(12).

[7] A broad-based index or market index is defined as: An index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries. Rule 1000A(b)(11).

[8] Rule 1009A establishes generic listing standards for options on narrow-based and broad-based

Sector℠ is a narrow-based index and OSX℠ options overlying the Index are listed and traded pursuant to Rule 1009A(b). OSX℠ options were originally listed and began trading in 1997 pursuant to Exchange approval.[9]

The PHLX Oil Service Sector℠ is a price-weighted index composed of fifteen companies that provide oil drilling and production services, oil field equipment, support services and geophysical/reservoir services. The Index provides exposure to the dynamic oil industry. The Index is one of several narrow-based sector indexes on which options are listed and traded on the Exchange.[10] When investors want information and investment opportunities specific to the oil industry they very often turn to the Index and the OSX℠ options traded thereon.[11] The Index has served as an important market indicator and OSX℠ options a viable trading and investing vehicle in respect of the oil services sector [sic].[12] Recognizing the market-leading aspects of the Index, the Exchange is proposing a rule change to increase to thirty the number of components in the Index [13] so that OSX℠ options may be listed and traded on this premiere index that even more effectively reflects the oil services sector.

The Exchange submits that in the proposed expanded form OSX℠ would continue to meet the relevant generic Index Listing Standards of Rule 1009A for listing options. Specifically, all the index maintenance requirements in subsection (c) of Rule 1009A applicable to options on narrow-based indexes would be met with one exception.[14] The singular exception is the number of components.[15] In particular, subsection (c)(2) of Rule 1009 [sic] indicates that the total number of component securities in the index may not increase or decrease by more than 33⅓% from the total number of securities in the index at the time of its initial listing; adding components to equal thirty is outside the (c)(2) parameter, and is the reason why the Exchange is making the current filing.

Index Design and Index Composition

Currently, the Index is calculated using a price-weighted index methodology. The value of the Index equals the aggregate value of the Index share weights, also known as the Index Shares, of each of the Index Securities, which is fixed at 10,000,000 multiplied by each such security's Last Sale Price,[16] and divided by the divisor of the Index. The divisor serves the purpose of scaling such aggregate value to a lower order of magnitude which is more desirable for Index reporting purposes. If trading in an Index security is halted on its primary listing market, the most recent Last Sale Price for that security is used for all index computations until trading on such market resumes. Likewise, the most recent Last Sale Price is used if trading in a security is halted on its primary listing market before the market is open. The Index is ordinarily calculated without regard to cash dividends on Index securities.

The modified capitalization-weighted methodology is expected to retain, in general, the economic attributes of capitalization weighting, while providing enhanced diversification. To accomplish this, NASDAQ OMX, which maintains the Index, rebalances the Index quarterly and adjusts the weighting of Index components.

Index eligibility is limited to specific security types only. The security types eligible for the Index include foreign or domestic common stocks, ordinary shares, American Depository Receipts ("ADRs"), shares of beneficial interest or limited partnership interests, and tracking stocks. Security types not included in the Index are closed-end funds, convertible debentures, exchange traded funds, preferred stocks, rights, warrants, units and other derivative securities.

As of December 31, 2010, the following were characteristics of the Index using a modified capitalization-weighting methodology:

—The total weighted capitalization of all components of the Index was $365.08 billion;

—Regarding component capitalization, (a) the highest weighted capitalization of a component was $113.93 billion (Schlumberger N.V.), (b) the lowest weighted capitalization of a component was $0.80 billion (Global Industries, Ltd.), (c) the mean capitalization of the components was $12.17 billion, and (d) the median capitalization of the components was $4.77 billion;

—Regarding component price per share, (a) the highest price per share of a component was $103.54 (Carbo Ceramics, Inc.), (b) the lowest price per share of a component was $6.93 (Global Industries, Ltd.), (c) the mean price per share of the components was $49.47, and (d) the median price per share of the components was $47.92;

—Regarding component weightings, (a) the highest weighting of a component was 8% (Schlumberger N.V., Halliburton Company, National

indexes pursuant to Rule 19b–4(e) of the Act. *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998). The listing standards in Rule 1009A are similar to those of other options exchanges such as, for example, Chicago Board Options Exchange, Incorporated; International Stock Exchange LLC; and The NASDAQ Stock Market LLC.

[9] *See* Securities Exchange Act Release No. 38207 (January 27, 1997), 62 FR 5268 (February 4, 1997) (SR–Phlx–97–02) (notice of filing and immediate effectiveness of proposal to list and trade OSX℠ options on the Index). On October 21, 2008, in that OSX℠ options met the generic Index Listing Standards per Rule 1009A, the Exchange filed Form 19b–4(e) regarding such options.

[10] Other sector indexes on which options are listed and traded on the Exchange include: KBW Bank Index℠ (BKX℠); PHLX Gold/Silver Sector℠ (XAU℠); PHLX Housing Sector℠ (HGX℠); PHLX Utility Sector℠ (UTY℠); SIG Energy MLP Index℠ (SVO™); SIG Oil Exploration & Production Index™ (EPX℠); PHLX Semiconductor Sector℠ (SOX℠); and NASDAQ Internet Index℠ (QNET℠).

[11] Other currently available investment products that evaluate the oil industry, albeit differently from OSX℠, include the Oil Services HOLDRs ETF (OIH), iShares Dow Jones U.S. Oil Equipment & Services Index Fund (IEZ), SPDR S&P Oil & Gas Equip & Services ETF (XES), and PowerShares Dynamic Oil Services Portfolio (PX).

[12] During 2010, OSX℠ has traded an average of 22,774 contracts per month and has traded as much as 3,826 contracts in a day (February 5, 2010). As of December 31, 2010, there were 11,228 contracts of open interest in OSX℠.

[13] A listing of the component securities in the Index is available at *https://indexes.nasdaqomx.com/weighting.aspx?IndexSymbol=OSX&menuIndex=0>>*.

[14] The maintenance provisions in subsection (c) of Rule 1009A state, in part, as applicable to OSX℠:

(1) The conditions stated in subparagraphs (b)(1), (3), (6), (7), (8), (9), (10), (11) and (12), must continue to be satisfied, provided that the conditions stated in subparagraph (b)(6) must be satisfied only as to the first day of January and July in each year; (2) The total number of component securities in the index may not increase or decrease by more than 33⅓% from the number of component securities in the index at the time of its initial listing, and in no event may be less than nine component securities; (3) Trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume must be at least 400,000 shares for each of the last six months; (4) In a capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index each have had an average monthly trading volume of at least 1,000,000 shares over the past six months.

[15] *See* supra note 4. While the Exchange will change the weighting of the Index from price-weighting to modified capitalization-weighting, both weighting methodologies are acceptable per the current Index Listing Standards. Rule 1009A(b)(2).

[16] For purposes of this document, Last Sale Price refers to the following: For a security listed on NASDAQ, it is the last sale price on NASDAQ, which normally would be the NASDAQ Official Closing Price (NOCP) when NASDAQ is closed. For any NYSE-listed or NYSE AMEX listed security, it is the last regular way trade reported on such security's primary U.S. listing market. If a security does not trade on its primary listing market on a given day, the most recent last sale price from the primary listing market (adjusted for corporate actions, if any) is used.

Oilwell Varco, Inc., Baker Hughes Incorporated, Transocean Ltd (Switzerland)), (b) the lowest weighting of a component was 0.43% (Global Industries, Ltd.), (c) the mean weighting of the components was 3.33%, (d) the median weighting of the components was 2.60%, and (e) the total weighting of the top five highest weighted components was 40% (Schlumberger N.V., Halliburton Company, National Oilwell Varco, Inc., Baker Hughes Incorporated, Transocean Ltd (Switzerland));

—Regarding component shares, (a) the most available shares of a component was 1.36 billion shares (Schlumberger N.V.), (b) the least available shares of a component was 0.02 billion shares (Carbo Ceramics, Inc.), (c) the mean available shares of the components was 0.24 billion shares, and (d) the median available shares of the components was 0.13 billion shares;

—Regarding the six-month average daily volumes ("ADVs") of the components, (a) The highest six-month ADV of a component was 14.61 million shares (Halliburton Company), (b) the lowest six-month ADV of a component was 0.22 million shares (Bristow Group Inc.), (c) the mean six-month ADV of the components was 3.05 million shares, (d) the median six-month ADVs of the components was 1.40 million shares, (e) the average of six-month ADVs of the five most heavily traded components was 9.70 million shares (Halliburton Company, Weatherford International, Ltd (Switzerland), Schlumberger N.V., Transocean Ltd (Switzerland), Nabors Industries, Inc. New), and (f) 100% of the components had a six-month ADV of at least 200,000; and

—Regarding option eligibility, (a) 100.00% of the components were options eligible, as measured by weighting, and (b) 100.00% of the components were options eligible, as measured by number.

Index Calculation and Index Maintenance

The Index is maintained by NASDAQ OMX and index levels are calculated continuously, using the Last Sale Price for each component stock in the Index. Index values are publicly disseminated at least every fifteen seconds throughout the trading day through a major market data vendor, namely NASDAQ OMX's index dissemination service. The Exchange expects that such dissemination will continue through one or more (NASDAQ OMX-owned or unrelated) major market data vendors.[17]

Appurtenant to review of the Index for purposes of rebalancing, component securities are evaluated by NASDAQ OMX. In the event that an Index component security no longer meets the requirements for continued security eligibility, it will be replaced with a security that is not currently in the Index that meets all of the initial security eligibility criteria and additional criteria which follow. Securities eligible for inclusion will be ranked ascending by market value, current price and percentage price change over the previous six months. The security with the highest overall ranking will be added to the Index provided that the Index then meets the following criteria: No single Index security is greater than 30% of the weight of the Index and the top five Index securities are not greater than 55% of the weight of the Index; and non-U.S. component securities that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 15% of the weight of the Index.[18] In the event that the highest-ranking security does not permit the Index to meet the above criteria, the next highest-ranking security will be selected and the Index criteria will again be applied to determine eligibility. The process will continue until a qualifying replacement security is selected.[19] Component changes will be publicly announced.

In the event a class of index options listed on the Exchange fails to satisfy the maintenance listing standards, the Exchange shall not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act.[20]

The Exchange represents that, if the Index ceases to be maintained or calculated, or if the Index values are not disseminated at least every fifteen seconds by a widely available source, the Exchange will promptly notify the Division of Trading and Markets of the Commission, and the Exchange will not list any additional series for trading and will limit all transactions in such options to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

Contract Specifications

The contract specifications for the proposed expanded Index options (updated regarding components and weighting methodology) are, as previously noted, identical to the current narrow-based Index options that are currently listed and traded on the Exchange.[21] Options on the Index are European-style and A.M. cash-settled. The Exchange's trading hours for index options (9:30 a.m. to 4 p.m. ET), will apply to options on OSX℠.[22] Exchange rules that are applicable to the trading of options on indexes will continue to apply to the trading of options on OSX℠.[23]

The strike price intervals for OSX℠ options contracts will remain the same as those currently in use: $1 or greater.[24] The minimum increment size for series trading below $3 will remain $0.05, and for series trading at or above $3 will remain $0.10.[25] The Exchange's margin rules will be applicable.[26] The Exchange will continue to list options on OSX℠

[17] Rule 1009A(b)(12) states that should an underlying index be maintained by a broker-dealer, however, the index must be calculated by a third party who is not a broker-dealer, and the broker-dealer will have to erect a "Chinese Wall" around its personnel who have access to information concerning changes in and adjustments to the index.

[18] *See* Rule 1009A(b).

[19] Moreover, changes in the price of an index security driven by corporate events such as stock dividends, stock splits, certain spin-offs, and rights issuances will be adjusted on the ex-date.

In the case of a special cash dividend, a determination will be made on an individual basis whether to make a change to the price of an index security in accordance with its Index dividend policy. If it is determined that a change will be made, it will become effective on the ex-date and advance notification will be made. Ordinarily, whenever there is a change in the price of an index security due to stock dividends, stock splits, spin-offs, rights issuances, or special cash dividends, the divisor is adjusted to ensure that there is no discontinuity in the value of the Index, which might otherwise be caused by any such change.

If the change in total shares outstanding arising from other corporate actions is greater than or equal to 10%, the change is made as soon as practicable. Otherwise, if the change in total shares outstanding is less than 10%, then all such changes are accumulated and made effective at one time on a quarterly basis after the close of trading on the third Friday in each of March, June, September and December. The Index Shares are derived from the security's total shares outstanding. Intra-quarter, the Index Shares are adjusted by the same percentage amount as the amount that the total shares outstanding have changed.

[20] 15 U.S.C. 78s(b)(2).

[21] *See* supra note 5.

[22] *See* Rule 101.

[23] For trading rules applicable to trading index options, *see* Rules 1000A *et seq.* For trading rules applicable to trading options generally, *see* Rules 1000 *et seq.*

[24] *See* Commentary .03 to Phlx Rule 1101A. Rule 1101A generally indicates that strike price intervals for index options may be $5.00, $2.50 and $1.00.

[25] *See* Phlx Rule 1034(a). However, the rule indicates that certain products (*e.g.* IWM options and Alpha Index options) may trade at $0.01 minimum increments.

[26] *See* Phlx Rule 721 *et seq.*

in up to three months from the March, June, September, December cycle plus two additional near-term months (that is, as many as five months at all times).[27] The trading of OSX℠ options will continue to be subject to the same rules that govern the trading of all of the Exchange's index options, including sales practice rules, margin requirements, and trading rules.

Surveillance and Capacity

The Exchange represents that it has an adequate surveillance program in place for options traded on the Index and intends to apply those same program procedures that it applies to the Exchange's current OSX℠ options and other index options. Additionally, the Exchange is a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement, dated June 20, 1994. ISG members generally work together to coordinate surveillance and investigative information sharing in the stock and options markets. In addition, the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses.[28]

The Exchange represents that it has the necessary systems capacity to continue to support listing and trading OSX℠ options.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [29] in general, and furthers the objectives of Section 6(b)(5) of the Act [30] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the proposal to expand the OSX℠ index will allow the Exchange to continue listing and trading options on this premiere index that even more effectively reflects [sic] the oil services sector.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2011–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2011–28. 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 copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2011–28 and should be submitted on or before April 7, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Cathy H. Ahn,

Deputy Secretary.

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[27] *See* Phlx Rule 1101A(b).

[28] A list of the current members and affiliate members of ISG can be found at *https://www.isgportal.org/isgPortal/public/members.htm.*

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 7364]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Youth Leadership Program With South Asia (Nepal, Sri Lanka, and the Maldives) and the Youth Leadership Program With Azerbaijan

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/PE/C/PY–11–30.

Catalog of Federal Domestic Assistance Number: 19.415.

Application Deadline: May 11, 2011.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs announces an open competition for two Youth Leadership Programs: the Youth Leadership Program with South Asia (Nepal, Sri Lanka, and the Maldives) and the Youth Leadership Program with Azerbaijan. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3) may submit proposals for reciprocal exchange programs for high school students and adult participants. For the Youth Leadership Program with South Asia, hereinafter referred to as Program A, applicants should plan to recruit and select approximately 30 youth and adult participants in the Maldives, Nepal, Sri

Lanka, and the United States. For the Youth Leadership Program with Azerbaijan, hereinafter referred to as Program B, applicants should plan to recruit and select approximately 105–125 youth and adult participants in Azerbaijan and in the United States. In both programs, applicants will provide the participants with substantive three-week exchanges in the partner countries that focus broadly on the themes of civic rights and responsibilities, youth leadership development, respect for diversity, and community activism. Activities will be geared toward preparing participants to conduct projects at home that serve a community need.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation. The funding authority for the program with Azerbaijan is provided through a transfer from Assistance to Europe, Eurasia, and Central Asia (AEECA) funding.

Purpose: The Bureau of Educational and Cultural Affairs' (ECA) Youth Leadership Programs enable teenagers (ages 15–17) and adult educators to participate in intensive, thematic exchanges. Exchange activities must focus broadly on civic rights and responsibilities, youth leadership development, respect for diversity, and community activism. Specific topics, such as the environment, media literacy, health, or entrepreneurial initiatives, will be used as tools to illustrate those concepts. Participants will be engaged in a variety of activities such as workshops, community and/or school-based programs, cultural activities, seminars and other activities designed to achieve the program's stated goals and objectives. Ample opportunities for the exchange participants to interact with their peers in the host country will be included. The program will prepare the participants to apply and share their exchange experiences upon their return home.

The goals of the programs are to:

(1) Promote mutual understanding between the United States and the people of other countries;

(2) Inspire a sense of civic responsibility and commitment to community development among youth;

(3) Develop a cadre of community activists who will share their knowledge and skills with their peers through positive action; and

(4) Foster relationships among youth from different ethnic, religious, and national groups.

The objectives of the programs are for participants to:

(1) Demonstrate a better understanding of the elements of a participatory democracy;

(2) Demonstrate critical thinking and leadership skills; and

(3) Demonstrate skill at developing project ideas and planning a course of action to bring the projects to fruition.

The primary themes of the programs are:

(1) Civic Rights and Responsibilities (including citizen participation, grassroots democracy and rule of law);

(2) Youth Leadership Development (such as team building, public speaking, negotiation, goal setting and project planning);

(3) Respect for Diversity (including ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities); and

(4) Community Activism (social/corporate responsibility, volunteerism, and philanthropy).

For each program, applicant organizations must focus on these primary themes. In addition, applicants should identify specific topics, such as the environment, media literacy, health, or entrepreneurial initiatives, and describe how these topics will serve to illustrate the more abstract concepts of the primary themes. For example, the specific topic of the environment could be used to examine community activism and civic responsibility by demonstrating how a group of individuals with an idea can start a recycling campaign in their community.

Applicants should identify their own specific objectives and measurable outputs and outcomes based on these program goals and the specifications provided in this solicitation.

Applicants must demonstrate their capacity for implementing programs of this nature, focusing on three areas of competency: (1) Provision of programs that address the goals and themes outlined in this document; (2) age-appropriate programming for youth; and (3) previous experience working with the relevant geographic region, either Eurasia or South Asia. In addition to their U.S. presence, applicants, or their partner organizations, need to have the necessary capacity in South Asia or Azerbaijan to recruit, select, and provide follow-on activities for local participants, and to provide a content-rich exchange program for the American participants. Applicants or their partner organizations must have a functioning office and an established track record of working with youth or on issues in local education in the participating countries of Azerbaijan or Nepal and Sri Lanka. The partner organization is not required to have an office in the Maldives, but should demonstrate their ability to recruit, select, and provide follow-on activities for the Maldivian participants. The representative(s) in the host countries should have an active role in the preparation of the proposal submitted in response to this RFGP. The Bureau recommends that Program A applicants consult with the U.S. Embassies in Kathmandu and Colombo prior to submitting their proposal for help in identifying or vetting in-country partners. [Note that the U.S. Embassy in Colombo oversees activities in both Sri Lanka and the Maldives.] Program B applicants should consult with the U.S. Embassy in Baku to learn about existing educational programs. Please consult with the ECA Program Officer for contact information.

ECA intends to award one cooperative agreement for each program. Organizations may submit only one proposal, for either Program A or Program B. Proposals for the two programs will be judged independently and will be compared only to proposals for the same region.

Program A Guidelines: Youth Leadership Program With South Asia

The cooperative agreement will begin on or about September 1, 2011, pending the availability of funds. The award period will be approximately 14 to 18 months in duration, according to the applicant's program design. Applicants should propose the timing of the exchange delegations: one South Asian delegation traveling to the United States and one or two American delegations traveling to South Asia. Each delegation will travel for three weeks. The exchanges will take place in 2012. Applicants should propose the period of the exchanges based on the timeframes noted above. Dates may be shifted by the mutual agreement of the Department and the award recipient.

The amount of ECA funding available is projected to be $300,000.

The program will be offered for approximately 30 participants: 18–24 students and educators from South Asia and 8–12 students and educators from the United States. The ratio of students to adult participants should be approximately 7:1.

The South Asian participants will travel as a regional delegation with equal representation of the three participating countries: The Maldives, Nepal, and Sri Lanka. Exchange activities should take place in English; therefore, proficiency in English should be a requirement for selection, particularly as it will enhance interaction with American peers.

The American participants will be 8–12 high school students and educators that represent the diversity of the United States and who demonstrate an interest in South Asia and the project themes. Applicants must present a well-justified plan for how they will arrange the Americans' travel to the region. The Bureau does not anticipate that all of the U.S. participants will travel to all three countries; for instance, some Americans may travel to only one country while others travel to the other countries.

Program B Guidelines: Youth Leadership Program With Azerbaijan

The cooperative agreement will begin on or about September 1, 2011. The cooperative agreement period will be approximately 20 to 30 months in duration, according to the applicant's program design. Applicants should propose the timing of multiple exchange delegations to be sent to the United States or Azerbaijan in manageable group sizes throughout the award period. Each delegation will travel for three weeks. Proposals should account for four to six delegations: three to five Azerbaijani delegations traveling to the United States and one or two American delegations traveling to Azerbaijan. Each delegation should focus on the program goals and objectives, but all delegations do not need to focus on the same programmatic themes or topics. The exchanges will take place in 2012 and 2013. Dates may be shifted by the mutual agreement of the Department and the award recipient.

The amount of ECA funding available is projected to be $1,011,500.

An applicant should present the number of participants within the range of 105–125 it expects to be able to accommodate based on its program design and budget. The ratio of students to adult participants should be approximately 7:1.

The Azerbaijani participants will travel in three to five delegations of 15 to 30 students and educators each. Programs should take place in English; therefore, fluency in English should be a requirement for selection, particularly as it will enhance interaction with American peers.

An applicant should describe a robust participant recruitment strategy for selection of Azerbaijani participants. The overall strategy should address ways to successfully recruit both Azerbaijani educators and students from all across the country, including representatives from the Nakhchivan Autonomous Republic, geographical exclave of Azerbaijan. Likewise, the applicant should demonstrate a recruitment plan that adds synergy to existing U.S. Government-funded education programs in Azerbaijan that target at underserved populations.

The American participants will travel in one or two delegations of 15 to 30 high school students and educators each that represent the diversity of the United States and who demonstrate an interest in Azerbaijan and the project themes.

Guidelines for Both Programs

In pursuit of the goals outlined above, the program will include the following:

- The open recruitment and competitive selection of a diverse group of youth and adult participants in the participating countries.
- Pre-departure and arrival orientations.
- Design and planning of exchange activities that provide a creative and substantive program on the specified themes and offer a thorough introduction to the host country's culture. Opportunities for the exchange participants to engage with their peers in the host country must be included whenever possible.
- Opportunities for the educators to work with their peers to help them foster youth leadership, civic education, and community service programs at home.
- Logistical arrangements, including accommodations, disbursement of stipends, local travel, and travel between sites.
- Homestay arrangements with properly screened and briefed host families for a significant portion of the exchange period. Criminal background checks must be conducted for members of host families and others living in the home who are 18 years or older.
- Monitoring of the participants' safety and well-being while on the exchange, including proper staff supervision and opportunities for participants to share potential issues and have them resolved promptly.
- Follow-on activities in the participants' home countries designed to reinforce the ideas and skills imparted during the exchange program.

Please see the Project Objectives, Goals, and Implementation document for more details.

Criteria for selection of all participants will be leadership skills, an interest in service to the community, strong academic and social skills, overall composure, and openness and flexibility. In addition, all participants must be citizens of the country from which they are applying and must legally reside in that country.

As noted below, the support of diversity is an important feature of Bureau programs. The delegation of participants selected for the program should adequately reflect the rich cultural, geographic, and ethnic diversity of the participating countries. Applicants should ensure that special efforts are made to recruit students from underserved populations and locales. Selection should reflect a preference for candidates who have not already spent a significant period of time overseas and who might not otherwise travel abroad were it not for this program opportunity.

Given the youth of the participants, the award recipient will be required to provide proper staff supervision and facilitation to ensure that the Azerbaijani, South Asian, and American teenagers have safe and pedagogically robust programs while visiting the other country. Staff, along with the adult participants, will need to assist youth with cultural adjustments, to provide societal context to enhance learning, and to counsel students as needed. Applicants should describe their plans to meet these requirements in their proposals.

Proposals must demonstrate how the stated objectives will be met. The proposal narrative should provide detailed information on the major program activities, and applicants should explain and justify their programmatic choices. Programs must comply with J–1 visa regulations for the International Visitor and Government Visitor categories. Please be sure to refer to the complete Solicitation Package—this RFGP, the Project Objectives, Goals, and Implementation (POGI), and the Proposal Submission Instructions (PSI)—for further information.

In a cooperative agreement the Department of State is substantially involved in program activities above and beyond routine monitoring. The Department of State's activities and

responsibilities for this program are as follows:

(1) Facilitate interaction within the Department of State, to include ECA, the regional bureaus, and overseas posts.

(2) Provide advice and assistance in the execution of all program components.

(3) Approve the selection of final candidates and alternates.

(4) Issue DS–2019 forms and J–1 visas for the foreign participants. All foreign participants will travel on a U.S. Government designation for the J Exchange Visitor Program.

(5) Approve applications, publicity materials, and final calendar of exchange activities.

(6) Represent the U.S. Government as the program sponsor at exchange events.

(7) Monitor and evaluate the program and assist with participant monitoring through regular communication with the award recipient and possibly one or more site visits.

II. Award Information

Type of Award: Cooperative Agreement.

Fiscal Year Funds: 2011.

Approximate Total Funding: $1,311,500.

Approximate Number of Awards: Two.

Anticipated Award Date: Pending the availability of funds, September 1, 2011.

Anticipated Project Completion Date: 14–30 months after the start date, to be specified by the applicant based on the program design.

Additional Information: Pending successful implementation of the Youth Leadership Program with South Asia and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this cooperative agreement for two additional fiscal years before openly competing it again. Please note that this statement does not apply to the Youth Leadership Program with Azerbaijan.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements:

(a) Bureau cooperative agreement guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making two awards in amounts that exceed $60,000 to support the program and administrative costs required to implement these exchange programs. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

(b) Proposed sub-award recipients are also limited to grant funding of $60,000 or less if they do not have four years of experience in conducting international exchanges.

(c) The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

(d) Organizations may submit only one proposal (total) under this competition. If multiple proposals are received from the same applicant, all submissions will be declared technically ineligible and will be given no further consideration in the review process. **Please note:** Applicant organizations are defined by their legal name, and EIN number as stated on their completed SF–424 and additional supporting documentation outlined in the Proposal Submission Instructions (PSI) document.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact the Youth Programs Division, ECA/PE/C/PY, SA–5, 3rd Floor, U.S. Department of State, Washington, DC 20522–0503, Tel (202) 632–6421, E-mail *LantzCS@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/PY–11–30 when making your request. Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Bureau Branch Chief Carolyn Lantz and refer to the Funding Opportunity Number ECA/PE/C/PY–11–30 on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory

Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. All federal award recipients and sub-recipients must maintain current registrations in the Central Contractor Registration (CCR) database and have a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Recipients and sub-recipients must maintain accurate and up-to-date information in the CCR until all program and financial activity and reporting have been completed. All entities must review and update the information at least annually after the initial registration and more frequently if required information changes or another award is granted.

You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their cooperative agreement activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-p age description of cooperative agreement activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence To All Regulations Governing The J Visa:

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of recipient organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR part 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street, NW., Washington, DC 20037.

IV.3d.2 Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation:

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a

description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable timeframe), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior,* concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) Specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (**Please note** that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1 Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. Budget requests may not exceed $275,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

*IV.*3f. Application Deadline and Methods of Submission:

Application Deadline Date: Wednesday, May 11, 2011.

Reference Number: ECA/PE/C/PY–11–30.

Methods of Submission:

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (i.e., Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications: Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may *not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and six copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/PE/C/PY–11–30, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20037.

With the submission of the proposal package, please also e-mail the Executive Summary, Proposal Narrative, and Budget sections of the proposal, as well as any attachments essential to understanding the program, in Microsoft Word, Excel, and/or PDF, to *LantzCS@state.gov.* The Bureau will provide these files electronically to the Public Affairs Sections at the relevant U.S. Embassies for their review.

IV.3f.2 Submitting Electronic Applications: Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please Note: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800 518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau cooperative agreement panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below.

1. Quality of the program idea: The proposed program should be well developed, respond to design outlined in the solicitation, and demonstrate originality. It should be clearly and accurately written, substantive, and with sufficient detail. Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. Program planning: Objectives should be reasonable, feasible, and flexible. A detailed agenda and work plan should clearly demonstrate how project objectives would be achieved, addressing the three main components, i.e., participant selection and preparation, exchange activities, and follow-on activities. The agenda and plan should adhere to the program overview and guidelines described above. Participant recruitment and selection should be thoroughly explained. The substance of workshops, seminars, presentations, school-based activities, and/or site visits should be described in detail. Proposals should also provide a plan for Bureau-supported follow-on activities to help the participants apply what they have learned.

3. Support of diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

4. Institutional capacity and track record: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals. The proposal should demonstrate an institutional record, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants or cooperative agreements as determined by the Bureau's Office of Contracts. The Bureau will consider the past performance.

5. Program evaluation: The proposal should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. The proposal should include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives. The award recipient will be expected to submit intermediate reports after each project component is concluded.

6. Cost-effectiveness and cost sharing: The applicant should demonstrate efficient use of Bureau funds. The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. The proposal should maximize cost-sharing through other private sector support as well as institutional direct funding contributions, which demonstrates institutional and community commitment.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA

program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments".

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants; http://fa.statebuy.state.gov.*

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus one copy of the following reports:

(1) Interim program and financial reports, as required in the cooperative agreement;

(2) A final program and financial report no more than 90 days after the expiration of the award;

(3) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(4) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements

Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Draft schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three weeks prior to the beginning of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Carolyn Lantz, Youth Programs Division, ECA/PE/C/PY/T, U.S. Department of State, Washington, DC 20522–0503, Tel (202) 632–6421, Fax (202) 632–9355, *LantzCS@state.gov.* All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–11–30.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding.

Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 9, 2011.

Ann Stock,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2011–6271 Filed 3–16–11; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 7365]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Global Connections and Exchange Program (GCE)

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–11–32.

Catalog of Federal Domestic Assistance Number: 19.415.

Application Deadline: May 9, 2011.

Executive Summary

The Youth Programs Division, Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for two or three projects under the Global Connections and Exchange Program (GCE) in the following countries worldwide: Bolivia, Botswana, Ecuador, Ethiopia, Ghana, Mongolia, Namibia, Nepal, Nicaragua, Oman, Pakistan, Peru, the Philippines, Samoa, Tajikistan, Thailand, Venezuela, Vietnam, and the United States. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501c(3) may submit proposals to facilitate online and face-to-face exchanges between overseas schools and/or community youth organizations and counterparts in the United States.

The Global Connections and Exchange Program utilizes technology to create a U.S. presence in areas where many citizens may have little opportunity to travel or participate in exchange programs. Through web chats and discussion boards, foreign teachers, students/youths and youth leaders participate in dialogues with U.S. peers about their lives, families and communities. In addition, theme-based curriculum projects will increase understanding of issues relevant to both U.S. and overseas participants and harness their energies to effect positive change in their communities.

I. Funding Opportunity Description:

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the

Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Program Overview and Goals

Social media, communication technology and blogs offer young people opportunities to connect with peers across borders and tear down misperceptions that lead to misunderstanding. In order to harness these powerful technology tools to remove stereotypes and impel change, youth need to be better equipped to use social networking sites, interactive websites, and new technologies in a positive way.

The goal of the Global Connections and Exchange Program is to address these issues by developing a cadre of technology leaders who have been introduced to a broad range of ideas and resources through the use of information and communication technologies. By participating in this program, teachers, community youth leaders, and secondary school youth in the United States and overseas will expand their computer literacy skills, improve their general knowledge, gain a deeper understanding of diverse societies and values, and learn to better use technology in order to develop their leadership skills and influence change in their communities.

GCE also aims to build mutual understanding and respect between the people of the United States and other countries. In addition, the Program seeks to encourage respect for diversity and promote problem-solving and critical thinking among all participants.

An applicant may choose to support partnerships between schools/youth centers in the United States with schools/youth centers in two, three, or four of the countries listed in the summary, and may choose to work in countries in one world region or differing world regions. Applicants may not include countries that are not listed in this solicitation.

Program Components:

The major components of the program are as follows:

(1) Development of social networking sites or other types of interactive websites for dialogue between U.S. and overseas youth;

(2) Recruitment and selection of schools/youth centers and individual youth/teachers/community youth leaders overseas and in the United States;

(3) Conducting training for teachers, community youth leaders and others who will lead youth in electronic dialogues, themed projects, and community outreach;

(4) Guiding, encouraging, and nurturing rich, theme-based discussions among program participants;

(5) Providing participants with specialized training in digital dialogue, online media sharing, and proper online community conduct;

(6) Producing theme-based projects relevant to U.S. and overseas schools and communities;

(7) Conducting community outreach whereby participating youth and youth leaders reach out to their surrounding communities, not only to educate community members, but also to ask questions of community leaders and learn what communities are doing or failing to do with the various project themes;

(8) Coordinating recruitment and selection with the ECA program Office, Public Affairs Sections (PAS) at U.S. Embassies, and Ministries of Education, if schools are involved in the program;

(9) Managing all financial aspects of the grant;

(10) Electronically submitting monthly updates to the program office that describe current, ongoing program activities;

(11) Formulating an evaluation plan that links program outcomes to project objectives and defines concrete, observable activities that demonstrate progress to the desired result;

(12) Developing a plan for continued electronic communication among participants after the grant expires;

(13) (OPTIONAL) Planning and arranging possible exchanges/trainings for teachers and community leaders who have emerged as leaders in conducting the electronic dialogues and themed projects of participating youth;

(14) (OPTIONAL) Uniting all GCE participants.

In order to unite all GCE participants across the multiple grants that ECA will award through this FY–2011 program, applicants may propose to implement a final digital videoconference (DVC) or a series of electronic dialogues that bring together all the schools and organizations overseas and in the United States that are participating in GCE, or alternately establish a common online message board for the use of all GCE participants. In these dialogues, participants can share and recap activities and themes, and illustrate the projects that are developing or have already been developed under each grant. Approximate funding available is $5,000. **Note:** Only one applicant will receive funding for this project component.

Information about similar past programs can be found at: *http://exchanges.state.gov/youth/programs/connections.html.*

Project Themes:

Schools/youth centers overseas that are chosen to participate in GCE in collaboration with participating U.S. schools/youth centers will focus together on specific themes. Applicants may choose two or three themes, since many are interrelated. The first theme, leadership development, should be included in all projects.

Themes are as follows: (1) Leadership development, (2) environment, (3) rule of law/civic education, (4) social entrepreneurship, (5) empowering girls and young women, (6) peace education, (7) food security, (8) health. These themes are described in greater detail in the Project Objectives, Goals, and Implementation (POGI).

Organizational Capacity (including overseas partners):

Applicant organizations must demonstrate their capacity for conducting online programs, with the requisite capacity to create, monitor and evaluate a program of this nature. This includes the following elements: (1) Administrative infrastructure in the countries designated in the proposal; (2) technical expertise to create a web-based, multi-faceted curriculum focusing on outlined themes; (3) social networking expertise to monitor the website and conduct electronic dialogues, (4) programmatic experience in designing and carrying out thematic projects, and (5) experience and background in training teachers, youth leaders and students in proactive communication and interaction. An applicant organization may partner with an organization or institution to help provide the capabilities outlined above.

Applicants must clearly define and name their overseas partner organizations or associates and describe clearly what roles they will play in the project. The partner can be a branch office, local non-governmental organization, or other associates that have the demonstrated ability to conduct the specified activities in the partner country, including liaison with the U.S. embassy.

Applicants must also list the affiliated schools or youth centers that they have selected with the partner organization to participate in the electronic dialogues, the training of teachers/youth leaders, and the themed student projects. These may be secondary schools, local community youth organizations/centers, Binational Centers (BNCs), American Corners, or other organizations deemed appropriate. Proposals should indicate if the project will be conducted as part of a classroom curriculum or as an after-school, extracurricular or community activity. The Bureau urges applicants to consult with the Public Affairs Sections of the participating U.S. Embassies prior to submitting their proposal for help in vetting in-country partners and schools/youth centers. Please contact the ECA Program Officer for contact information.

Participants: Secondary school-age participants must be competitively selected to participate in the theme-focused projects, electronic dialogues, and community outreach. Depending on how the program will be implemented, students may be selected from one or more classrooms or schools, or other youth oriented community organizations.

Proposals must clearly define criteria for the selection of teachers, youth leaders, and youth. Since the social networking sites or interactive websites have the capacity of reaching large numbers and a broad spectrum of teachers, youth leaders and students from many classes, schools, and community youth organizations, the proposal must clearly describe how maximum numbers of participants will be reached and drawn in.

The training of teachers and community youth leaders who are expected to guide not only youth chosen to participate in the present projects, but also subsequent generations of students, is of paramount importance to the project.

Proposals must outline a training plan, training methodology, and timeline. Intended outcomes of the trainings must be clearly defined.

Applicants may propose to conduct exchanges for teachers/trainers/youth leaders to and/or from the United States. Proposals must describe in detail the possible exchange programs for the exchange participants. These must be two to three weeks in length and include a strong training component, but may also include visits to different schools and attendance at cultural events.

Sustainability: The applicant must provide concrete ideas and outline specific steps for maintaining contact among participating teachers, community youth leaders, and students after the program has concluded. All participants must be taught or clearly shown how to disseminate information about the program while it is ongoing and after it ends, and how in turn to teach their peers to participate in similar projects in the future. The steps applicants intend to take throughout the grant cycle that will ensure sustainability must be concrete, doable, and clearly outlined.

Program Guidelines:

The grants should begin on or about September 1, 2011, subject to availability of funds, and the grant period will be 12 to 20 months in duration. Applicants must select and name the following:

- Partner countries;
- Specific partner organizations in each country;
- Specific collaborating schools/youth centers in the United States and overseas.

Applicants must also outline their choice of themes, and present a strong justification for their choices.

Upon award, the recipient must begin to coordinate program activities with Post and ECA, keeping all involved parties informed of program activities and events.

An applicant may choose to partner with two to four countries within one world region or differing world regions. Applicants may *not* include countries not listed in the RFGP. For a grant with the specified minimum of two countries, the minimum grant request should be $200,000 and up to approximately $250,000. The maximum grant request is $425,000 for four countries.

The Bureau expects to award two to three grants under this competition with total funding of $850,000. Applicants may submit only one proposal. If multiple proposals are received from the same applicant, all submissions will be declared ineligible and given no further consideration in the review process.

Grant recipients must identify the program as "The Global Connections and Exchange Program (GCE)" at all times. Web sites and other materials must acknowledge the U.S. Department of State as the sponsor, with specific recognition of the Bureau of Educational and Cultural Affairs. The Bureau will retain copyright use of and be allowed to distribute materials related to this program, as appropriate.

Grants to be awarded under this competition will be based upon the quality and responsiveness of proposals to the review criteria presented later in this RFGP. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2011

Approximate Total Funding: $850,000 (pending the availability of funds)

Approximate Number of Awards: Two to three.

Floor of Award Range: $200,000.

Ceiling of Award Range: $425,000.

Anticipated Award Date: Pending availability of funds, September 1, 2011.

Anticipated Project Completion Date: 12 to 20 months after start date, to be specified by applicant.

Additional Information: The estimated cost per country is approximately $100,000 to $125,000. With more countries, per country costs should decrease.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, grantees must maintain written records to support all costs which are claimed as their contribution, as well as costs to be paid by the Federal Government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event grantee does not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements:

(a.) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making awards in amounts exceeding $60,000 to support program and administrative costs required to

implement this program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

(b.) Proposed sub-award recipients are also limited to grant funding of $60,000 or less if they do not have four years of experience in conducting international exchanges.

(c.) Organizations may submit only one proposal (total) under this competition. If multiple proposals are received from the same applicant, all submissions will be declared technically ineligible and will be given no further consideration in the review process.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package: Please contact Program Officer Ilo-Mai Harding at telephone 202–632–9386 or e-mail *HardingIM@state.gov*. Please refer to the Funding Opportunity Number (ECA/PE/C/PY–11–32) when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI), which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Ilo-Mai Harding and refer to the Funding Opportunity Number (ECA/PE/C/PY–11–32) on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet:

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under "Application Deadline and Methods of Submission" under the section below.

IV.3a. Applicants are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that the DUNS number is included in the appropriate box of the SF—424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget. Please refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. All federal award recipients and sub-recipients must maintain current registrations in the Central Contractor Registration (CCR) database and have a Dun and Bradstreet Data Universal Numbering System (DUNS) number.

Recipients and sub-recipients must maintain accurate and up-to-date information in the CCR until all program and financial activity and reporting have been completed. All entities must review and update the information at least annually after the initial registration and more frequently if required information changes or another award is granted.

Applicants must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt Form Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If grantee organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if the organization received nonprofit status from the IRS within the past four years, it must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause the proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing the proposal narrative:

IV.3d.1 Adherence to All Regulations Governing the J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 62, organizations receiving grant awards under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of recipient organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR 62.

Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR 62 *et seq.*

The Bureau of Educational and Cultural Affairs places critically important emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 62. If

grantee organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss its record of compliance with 22 CFR 62 et. seq., including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program in order for them to obtain J–1 visas for entry into the United States. The grant recipient will be responsible for obtaining visas for the U.S. participants and for submitting appropriate information to the Bureau in a timely manner before participant travel.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from:

Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street, NW., Washington, DC 20037.

IV.3d.2. Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process.

Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the success of the project, both as the activities unfold and at the end of the program. The Bureau recommends that proposals include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or study, or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. An evaluation plan should include a description of project objectives, anticipated project outcomes, and how and when grantee organization intends to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. It should also be clearly demonstrated how project objectives link to the goals of the program described in this RFGP.

The monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change.

We encourage a thorough assessment of the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of the monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (**Please note** that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe plans for sustainability, overall program management, staffing, school linkages and projects, reciprocal exchanges, and coordination/consultation with ECA and PAS.

IV.3e. Please take the following information into consideration when preparing the budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program

component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

(1) Stipends for U.S. and overseas educators;

(2) Small grants to support community service projects;

(3) Competitions and other types of incentives;

(4) Reciprocal exchanges for a small group of students and one educator to/from the United States.

Organizations are required to use free and existing websites for purposes of social networking and project implementation.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: Monday, May 9, 2011.

Reference Number: ECA/PE/C/PY–11–32 .

Methods of Submission:

Applications may be submitted in one of two ways:

(1.) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, *etc.*), or

(2.) Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing the submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and eight (8) copies of the application should be sent to:

Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/PE/C/PY–11–32, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20037.

With the submission of the proposal package, please also e-mail the Executive Summary, Proposal Narrative, and Budget sections of the proposal, as well as any attachments essential to understanding the program, in Microsoft Word, Excel, and/or PDF, to the program officer at *HardingIM@state.gov.* The Bureau will provide these files electronically to the Public Affairs Sections at the relevant U.S. Embassies for their review.

IV.3f.2—Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please Note: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that applicant organizations not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the website. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov website, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support.

Contact Center Phone: 800–518–4726.

Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time.

E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. *There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.*

Please refer to the Grants.gov website, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation.

Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. *Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.* ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by

the program office, as well as Public Diplomacy sections overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines, and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the Program Idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program Planning/Ability to Achieve Program Objectives:* Proposals should clearly convey a feasible plan that supports program goals and is relevant to the Bureau's mission. The substance of online activities should be described in detail. A detailed agenda and relevant work plan should adhere to the program overview and guidelines described above. Reviewers will evaluate how training and the curriculum will support online learning and collaboration among students/teachers/youth leaders. They will also assess how objectives will be achieved and make sure that the timetable is feasible for completion of major tasks.

3. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Geographic, gender and socio-economic diversity should be reflected in the selection of schools and participants. The curriculum content should reinforce cultural diversity in the broadest sense of the term.

4. *Institutional Capacity/Track Record:* Proposed personnel and institutional resources in both the United States and in the partner countries should be clearly enumerated and be adequate and appropriate to achieve the program goals. Proposals should exhibit significant experience in social networking as well as implementing web-based educational projects at the high school level. Reviewers will assess the organization's institutional record of successful programs, including responsible fiscal management and full compliance with all reporting requirements as determined by the Bureau's Grants Division. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

5. *Follow-On Activities:* Proposals should provide a plan for continued follow-on activities (without Bureau support) ensuring that Bureau supported programs are not isolated events. Reviewers will examine ways in which social networking sites are managed and their applicability for use when funds are no longer available.

6. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. Draft survey questionnaires or other techniques, plus descriptions of methodologies that link outcomes to original project objectives is strongly recommended, particularly for prior grant recipients implementing similar programs. Grantee organizations are expected to submit interim reports and one final report. Organizations must also electronically submit monthly progress reports that clearly describe program activities.

7. *Cost-Effectiveness/Cost sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. Award Notices:

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements:

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments".

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations

Please reference the following websites for additional information: *http://www.whitehouse.gov/omb/grants. http://fa.statebuy.state.gov*

VI.3. Reporting Requirements: You must provide ECA with a hard copy original of the following reports plus two copies of the following reports:

(1.) A final program and financial report no more than 90 days after the expiration of the award;

(2.) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3.) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

(4.) Interim program and quarterly financial reports that describe program activities and progress, and funds spent.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements:

Award recipients will be required to maintain specific data on program participants and activities in an

electronically accessible database format that can be shared with the Bureau, as required. As a minimum, the data must include the following:

(1) Name, address, contact information of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

(3) Information about participating schools and organizations including, but not limited to, location, demography, participating program leaders, teachers, students, and youth.

VII. Agency Contacts

For questions about this announcement, contact: Ilo-Mai Harding, Program Officer, Office of Citizen Exchanges, ECA–PE–C–PY, Room 3–H17, U.S. Department of State, SA–5, 2200 C Street, NW., Washington, DC 20037, telephone: 202–632–9386, fax number: 202–632–9355, E-mail: *HardingIM@state.gov*.

All correspondence with the Bureau concerning this RFGP should reference the above title and number: ECA/PE/C/PY–11–32.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice:

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 9, 2011.

Ann Stock,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2011–6297 Filed 3–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7366]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Professional Exchanges Congress

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C–11–21.

Catalog of Federal Domestic Assistance Number: 19.415.

Key Dates: Spring and Fall 2012.

Application Deadline: May 19, 2011

Executive Summary: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs invites proposal submissions to conduct the 2012 spring and fall End-of-Program "Professional Exchanges Congresses" for individuals from Africa, East Asia and the Pacific, Europe, the Middle East and North Africa, South and Central Asia and the Western Hemisphere participating in the Legislative Fellows Program, the Women's Empowerment Program, and the Young Entrepreneurs Program. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3) may submit proposals to conduct two three-day Professional Exchanges Congresses in spring and fall 2012. These professional exchange programs support and encourage young government and civil society leaders, roughly ages 25–38, from eligible countries to gain knowledge of U.S. practices and techniques in their field of expertise, explore governance principles and practices in both public and civil society institutions in the United States, and gain a deeper understanding of U.S. society, culture, and people. These professional exchange programs are also designed to provide U.S. participants the opportunity to share their professional expertise with counterparts in eligible countries and gain a deeper understanding of the societies, cultures, and professional arena of their foreign colleagues.

I. Funding Opportunity Description

I.1. Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

I.2. Purpose

ECA anticipates funding one grant of approximately $576,000 for the development, management, and implementation of two (2) Professional Exchanges Congresses that will occur at the end of both the spring and fall fellowship components for the 2012 Legislative Fellows Program, Women's Empowerment Program, and Young Entrepreneurs Program.

These professional exchange programs are two-way exchanges involving current or potential government and civil society leaders from both the U.S. and foreign countries who will effect positive change in their workplace and communities and develop long-term engagement between their home organizations and foreign counterparts. In addition to the professional focus of the program, foreign participants will be provided opportunities to explore governance as practiced in the United States, and in particular the interface between government and civil society.

Additional information about these professional exchange programs can be located on the Federal Registry under *Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals:* Open Competition for the Professional Exchange Programs, *Funding Opportunity Number:* ECA/PE/C–11–01.

The three-day Professional Exchanges Congresses should build upon the thematic focus of the Legislative Fellows Program, the Women's Empowerment Program, and the Young Entrepreneurs Program; work to reinforce programmatic goals; allow for engaged interaction between individuals from different countries; highlight key learning objectives; outline plans for follow-on projects; and help the professional exchange participants translate and utilize their U.S. experiences in their home communities. Special attention should be paid to integrating these three professional exchange programs, and concepts such as citizen empowerment, grassroots advocacy, volunteerism, community action, and leadership into the Congress

design, content, and programmatic activities.

As the capstone events of the 2012 spring and fall professional exchange experience, each Professional Exchanges Congress is designed to provide participating fellows:

- a contextual framework for understanding the "fellowship experience" and the interplay of government, governance, and civil society;
- the opportunity to network with colleagues from participating countries;
- a deeper understanding of the ways an individual, organization, or interest group can generate change for the common good;
- concrete tools to support the role of the individual as a cultural ambassador; and,
- an enhanced appreciation of the importance of public diplomacy in the global community.

A description of the Legislative Fellows Program, the Women's Empowerment Program, and the Young Entrepreneurs Program are provided in Section I.8 below. Additional information about these specific professional exchange programs can be found in a separate RFGP published in the Federal Register, and available at www.grants.gov, as well as on the ECA Web site at *http://exchanges.state.gov/grants/open2.html* (ECA/PE/C–11–01). Potential applicants may wish to review the RFGP for these professional exchange programs before developing a proposal for the Congresses.

I.3. Participants

For the purposes of the Professional Exchanges Congress, "participants" are defined as citizens of the eligible countries selected through a merit-based competition to travel to the United States to take part in one of the three spring or fall professional exchange programs. Participants will be young up-and-coming and mid-level government and civil society professionals with experience and current employment related to one of the designated areas. Because of the nature of this program, all selected participants will be highly proficient in written and oral English, self-directed, able to work effectively in a cross-cultural setting, and have demonstrated leadership abilities.

I.4. Project Activities

Projects should including planning, development, and implementation of two three-day long Professional Exchanges Congress in spring and fall 2012. Each Congress will include approximately 200–250 participants in addition to staff from approximately 12–18 participating organizations. Strong project designs will ground and augment the fellowship experience with leadership development activities that relate to civic engagement. Proposals should clearly outline the goals and objectives of the Professional Exchanges Congress, describe possible symposium themes and topics, suggest speakers, and include innovative informal networking events that allow ample time for interaction among the program participants. Special attention should be paid to highlighting the program using social media and other outreach methods. Proposals should also include a detailed draft agenda. Projects should provide opportunities for the exchange participants to begin the transition from program participant to alumni and discuss how to translate and utilize their U.S. experiences in their home communities.

I.5. Projected Timeline

ECA envisions the approximate dates of the Professional Exchanges Congress to be as follows:

September 2011–January 2012:

- Develop and implement communication plan and system.
- Identify and negotiate contract with appropriate hotel or meeting site for both spring and fall Congresses. Contracts should include provisions for meals and lodging for participating fellows and staff from grantee organizations, as well as space for plenary meetings, informal networking activities, break-out sessions, etc.

February 2012–April 2012:

In coordination with ECA/PE/C staff and participating grantee organizations,

- develop spring Congress agenda and all corresponding materials.
- arrange all hotel, meals, and travel logistics.
- disseminate arrival and hotel information to participating fellows along with the agenda for the Congress and materials.
- develop and implement a public media outreach campaign to interested stakeholders and the wider community. Special provisions should be made for internal outreach within the Department of State.

May 2–4, 2012: Conduct Three-Day Spring Professional Exchanges Congress.

June 2012: Prepare Final Congress Report. Meet with ECA/PE/C staff for an official programmatic debrief.

June 2012–October 2012:

In coordination with ECA/PE/C staff and participating grantee organizations,

- develop fall Congress agenda and all corresponding materials.
- arrange all hotel, meals, and travel logistics.
- disseminate arrival and hotel information to participating fellows along with the agenda for the Congress and materials.
- implement a public media outreach campaign to interested stakeholders and the wider community. Special provisions should be made for internal outreach within the Department of State.

November 7–9, 2012: Conduct Three-Day Fall Professional Exchanges Congress.

December 2012: Prepare Final Congress Report. Meet with ECA/PE/C staff for an official programmatic debrief.

I.6. Professional Exchange Programs

Programs and Eligible Partner Countries: Congress proposals need to embrace a global program design that incorporates the professional exchange programs outlined in announcement ECA/PE/C–11–01:

Legislative Fellows Program

The Legislative Fellows Program will engage professionals who are actively involved in the legislative process and/or policy-making through their work in government, civic education organizations, citizen advocacy groups, political parties, or election monitoring organizations. During their time in the United States, the participants will examine the relationship between civil society and government, and the issue of public corruption and accountability. Participants will observe the role of their U.S. counterparts in various levels of the U.S. government, through placements in Congressional offices (including state/district offices), state legislatures, city councils/local government bodies, advocacy groups or other relevant organizations across the United States, engage in dialogue, and develop plans for projects that support more responsive social and political institutions.

Women's Empowerment

The Women's Empowerment Program will focus on the unique interests of women in issues that affect the broader society, including business, civil society, and journalism. Participants will represent women-owned businesses, non-governmental organizations, healthcare industries, and educational institutions. During their 4–6 week fellowships in the United States, participants will gain firsthand knowledge of how organizations and institutions advocate on behalf of women and their critical role in

community advancement, while also participating in site visits and specially-designed seminars.

Young Entrepreneurs

The Young Entrepreneurs Program will engage small business owners, business professionals and business educators, to observe best practices in business, engage in dialogue with their peers in the U.S., and complete individually tailored fellowships in appropriate organizations. Participants will increase their understanding of the links between entrepreneurial activity and free markets, as well as the importance of transparency and accountability in business and government through the participants' direct involvement in American businesses.

Participants in these professional exchange programs will come from at a minimum 30 countries worldwide. For a full list of the eligible countries under each specific theme, please refer to the RFGP for these professional exchange programs; announcement ECA/PE/C–11–01.

Additional guidelines and programming responsibilities of the recipient organization and ECA are located in the Program Objectives, Goals and Implementation (POGI) document.

II. Award Information

Type of Award: Grant Agreement
Fiscal Year Funds: 2011
Approximate Total Funding: $576,000
Approximate Number of Awards: 1
Approximate Average Award: $576,000
Anticipated Award Date: Pending the availability of funds, September 1, 2011
Anticipated Project Completion Date: December 31, 2012
Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this grant for two additional fiscal years before openly competing it again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

(a.) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making one award, in an amount up to $576,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

(b.) Technical Eligibility: All proposals must comply with the following, or they will result in your proposal being declared technically ineligible and given no further consideration in the review process.

—Eligible applicants may not submit more than one proposal in this competition.

—If more than one proposal is received from the same applicant, all submissions will be declared technically ineligible and will receive no further consideration in the review process. Please note: Applicant organizations are defined by their legal name, and EIN number as stated on their completed SF–424 and additional supporting documentation outlined in the Proposal Submission Instructions (PSI) document.

—Eligible applicants may only propose working with the professional exchange programs and themes listed in this RFGP.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information To Request an Application Package

Please contact David Gustafson in the Office of Citizen Exchanges, ECA/PE/C, U.S. Department of State, SA–5, 3rd Floor, 2200 C Street, NW., Washington, DC 20037, (202) 632–6083, *GustafsonDP@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C–11–21 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. *Please see* section IV.3f for further information.

The Solicitation Package contains the PSI document, which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the POGI document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Linnéa E. Allison and refer to the Funding Opportunity Number ECA/PE/C–11–21 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government.

This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no

charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory PSI document and the POGI for additional formatting and technical requirements.

IV.3c. All federal award recipients and sub-recipients must maintain current registrations in the Central Contractor Registration (CCR) database and have a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Recipients and sub-recipients must maintain accurate and up-to-date information in the CCR until all program and financial activity and reporting have been completed. All entities must review and update the information at least annually after the initial registration and more frequently if required information changes or another award is granted.

You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing The J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of recipient organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR part 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

For informational purposes only, the Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et. seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street, NW., Washington, DC 20037.

IV.3d.2 Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with

the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

Eligible costs include:

(1) Symposium programming for approximately 500 Professional Fellows, participating grantee organizations, and ECA staff

(2) Honoraria for speakers

(3) Lodging and hotel expenses including conference space and audio-visual support

(4) Food including working meals (reception and final banquet)

(5) Enhancement and cultural programming

(6) Ground transportation in the Washington, DC, area for participants, staff, and speakers

(7) Educational Materials

(8) Materials including printing and duplication of promotional pieces, Congress binders, participant bios, name tags, table tents, and other supporting Congress-related items

(9) Staffing

(10) General administrative expenses

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: May 19, 2011.

Reference Number: ECA/PE/C–11–21.

Methods of Submission:

Applications may be submitted in one of two ways:

(1.) In hard-copy, via a nationally recognized overnight delivery service (i.e., Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2.) electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and 8 copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM,

Ref. ECA/PE/C–11–21, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20037.

Applicants submitting hard-copy applications must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) or Microsoft Word format on CD–ROM. As appropriate, the Bureau will provide these files electronically to Public Affairs Section(s) at the U.S. embassy(ies) for its(their) review.

IV.3f.2. Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov).* Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please Note: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted).*

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to:

Grants.gov Customer Support

Contact Center Phone: 800–518–4726.

Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time.

E-mail: support@grants.gov

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation.

Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

The submission will be reviewed with the following review criteria in mind:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning and ability to achieve objectives:* Detailed agenda, sample materials, and relevant work plan should demonstrate an institution's or organization's substantive undertakings and logistical capacity. Agenda and plan should adhere to the stated Professional Exchange Programs overview and Congress guidelines described above. Proposals should clearly demonstrate how the institution or organization will meet the Congress goals and objectives.

3. *Support of Diversity:* Proposals should demonstrate the institution's or organization's commitment to promoting the awareness and understanding of diversity in all aspects of the Congress planning, development and implementation.

4. *Institutional Capacity and Track Record:* Proposed personnel and institutional resources should be adequate and appropriate to designing, developing, implementing, and managing a spring and fall capstone event for these professional exchange programs. Proposals should demonstrate an institutional record of successful execution of large scale conference, workshop, or symposium type programming and related activities, including responsible fiscal management and full compliance with all reporting requirements for past Bureau awards.

5. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. The Bureau recommends that the proposal include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives. Award-receiving organizations/institutions will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

6. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments".

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants. http://fa.statebuy.state.gov*

VI.3. Reporting Requirements

You must provide ECA with an electronic version and one hard copy of the following reports:

(1.) A final program and financial report no more than 90 days after the expiration of the award;

(2.) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3.) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

(4.) Quarterly program and financial reports highlighting all major activities undertaken during the grant period including program analysis and lessons learned.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Linnéa E. Allison, U.S. Department of State, Office of Citizen Exchanges, Professional Exchanges, ECA/PE/C–EAP–ECA–SCA, SA–5, 3rd Floor, ECA/PE/C–11–21, 2200 C Street, NW., Washington, DC 20037, (202) 632–6060, Fax: (202) 632–6492, *allisonle@state.gov*.

All correspondence with the Bureau concerning this RFGP should reference the above title and number: ECA/PE/C–11–21. Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 9, 2011.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2011–6279 Filed 3–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7368]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Open Competition for Professional Exchange Programs

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C–11–01.

Catalog of Federal Domestic Assistance Number: 19.415.

Fiscal Year Funds: 2011.

Application Deadline: May 12, 2011.

Executive Summary: The Office of Citizen Exchanges (ECA/PE/C), Bureau of Educational and Cultural Affairs (ECA), announces an open competition for grants to conduct the 2011 professional exchange programs. This opportunity is designed to bring young foreign professionals to the United States for four week to six week-long fellowships in organizations related to their field of work, followed by American counterparts who will travel overseas for reciprocal fellowships. Projects should take place over the course of one to two years, and engage up-and-coming and mid-level government or civil society professionals who will effect positive change in their institutions and communities through the following initiatives: The Legislative Fellows Program, the Women's Empowerment Program, and the Young Entrepreneurs Program.

U.S. public and non-profit organizations meeting the provisions described in Internal Revenue code section 26 U.S.C. 501(c) (3) may submit proposals that support the goals of these professional exchange programs (the Legislative Fellows Program, the Women's Empowerment Program, and the Young Entrepreneurs Program). The basic framework that should be followed for all three of these programs, including the expected outputs and program timeline, is described in sections I.2 through I.6 below. Elaboration on specific aspects of these programs, and the eligible countries, are provided in Section I.7 below.

I. Funding Opportunity Description

I.1. Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

I.2. Purpose and Program Description

The 2011 professional exchange programs (the Legislative Fellows Program, the Women's Empowerment Program, and the Young Entrepreneurs Program) are two-way exchanges involving current or potential government and civil society leaders in the areas of entrepreneurship, the legislative process, and women's empowerment. This is one of two RFGPs being published simultaneously in the **Federal Register** to support the overall goals and objectives of the 2011 professional exchange programs.

Reflecting both Department and Bureau priorities, those goals are to: (1) Provide participants from eligible countries an opportunity to gain knowledge of U.S. practices and techniques in their field of expertise; explore governance principles and practices in both public and civil society institutions in the United States, and gain a deeper understanding of U.S. society, culture, and people; (2) provide U.S. participants the opportunity to share their professional expertise with counterparts in eligible countries and gain a deeper understanding of the societies, cultures, and people of other countries; and 3) promote mutual understanding and lasting, mutually beneficial partnerships between key professionals and organizations in the United States and their counterparts in eligible countries.

As a result of the program it is expected that participants from both the U.S. and foreign countries will effect positive change in their workplaces and communities and develop long-term engagement between their home organizations and foreign counterparts.

I.3. Participants. "Participants" are defined as those who travel under grant funding from their country of origin to a designated exchange country. It is acceptable for there to be more foreign participants than American participants under this program model; however, applicants are encouraged to include approximately as many American as foreign participants to emphasize that this program is reciprocal in nature.

Foreign participants should be selected through a merit-based, competitive process. They should be up-and-coming and mid-level government or civil society professionals with experience and current employment related to one of the designated areas. Because of the nature of this program, all selected participants must be highly proficient in written and oral English, self-directed, able to work effectively in a cross-cultural setting, and have demonstrated leadership abilities.

U.S. participants should include professionals with relevant expertise from the government and civil society organizations where the foreign participants are placed. While U.S. participants are not required to have foreign language ability or previous country-specific experience, it is highly encouraged.

I.4. Partner Organizations. Applicants must identify the U.S.-based and foreign-based organizations and individuals with whom they are proposing to collaborate and describe previous cooperative activities, if any. Successful proposals will include qualified and established partner organizations/offices in each of the regions where participants are being recruited. Also, proposals must demonstrate capacity in the U.S. to secure relevant fellowship placements for foreign participants: Proposals that include this information—especially with letters of commitment from possible U.S-based host organizations—will be deemed more competitive.

I.5. Project Outputs. Successful grant applicants must fully demonstrate a capacity to provide the following project outputs:

I.5a. *Recruit participants.* The grant recipient will recruit and select qualified individuals from throughout the target country(ies) for two cohorts of both U.S. and foreign participants. Foreign participants should be selected, with the knowledge and participation of the Public Affairs Section (PAS) of the U.S. Embassy, through a merit-based, competitive process. Unless an organization has its own presence in the partner country(ies), an in-country or regional partner organization should be designated to coordinate participant screening, selection, and orientation prior to their departure for the United States. While the PAS should be involved in participant selection, responsibility for coordination and implementation will lie completely with the grantee organization.

I.5b. *Facilitate the visa process.* The grant recipient will work with ECA and the PAS to procure U.S. visas for foreign participants and work directly with the foreign embassy of the partner country to arrange visas for U.S. travelers. The recipient will collect and deliver to ECA/PE/C all biographical information from foreign participants necessary to complete the DS–2019 form required for J–1 visas. ECA will issue the DS–2019 forms required for J visas; *see* Section IV.3d.1. for additional information related to the administration of J visa programs.

I.5c. *Arrange all round-trip international travel.* The recipient will comply with all federal regulations regarding the use of U.S. government funds for travel including the Fly America Act.

I.5d. *Conduct two rounds of U.S. Participant Engagement.* The grant recipient will be responsible for arranging four-week to six-week fellowships in the United States for foreign participants. Fellowships should be designed to offer the maximum hands-on experience for all participants within relevant agencies and/or organizations. One placement that allows the participant to get an insider look and feel of the organization is preferable to serial, short-term placements with several organizations. The purpose of each placement is to provide first-hand experience of the inner, day-to-day workings of a relevant U.S. workplace and an opportunity for the participant to form work and personal relationships with U.S. co-workers. While some group activities may be appropriate, site visits where the participants have only a brief glimpse of a variety of organizations should be kept to a minimum.

The Program Office anticipates that all proposals will adhere to the model outlined in this RFGP. However, in very limited circumstances, when a compelling reason exists to deviate slightly from the program model (for example a somewhat shortened timeline, or alternate dates), this will be taken it into consideration in the review process.

I.5e. *Engage with participants via the ECA Alumni social network.* Grantees should describe plans to utilize the ECA Alumni Web site, a proprietary social networking site for the exclusive use of ECA program participants, grantee

organizations, and ECA program staff. Grantees should communicate with their participants through the Web site from the time they are identified, through the life of the project and beyond. The site can be used to provide logistical information to the participants as well as project content. The award recipient must be able to create a dynamic on-line environment and substantive content that engages participants in on-going group discussions on programmatic themes as they relate to the participants' experience in the U.S. and their home countries.

I.5f. *Conduct two rounds of overseas activities for U.S. participants.* The recipient will arrange two to three weeks of overseas travel for U.S. participants to conduct on-site consultancies and joint programming with foreign participants and their colleagues, and, if appropriate and feasible, arrange fellowship placements for U.S. participants to learn from their counterparts and share their professional expertise. Proposals should present a convincing and detailed work plan for the U.S. participants while they are with the home organizations of the foreign participants. Activities should engage a wide range of people and focus on building the sustainability of the participants' professional and institutional relationships beyond the grant period.

I.5g. *Conduct a Pre-Departure Orientation and an In-Country Orientation for all Participants.* The grantee will be responsible for conducting a pre-departure orientation for foreign participants prior to their departure from their home countries. The grantee should also provide a comprehensive orientation for foreign participants upon their arrival in the United States and for U.S. Participants prior to their travel abroad. Many, if not most, of the foreign participants will never have been to the U.S. before this project. Pre-departure orientation topics should include an overview of travel logistics, arrival information, J–1 visa regulations, programmatic expectations, as well as issues related to U.S. culture, and their programs. Their orientation should provide not only information on their fellowship placements and logistics, but also cover more day-to-day considerations for working and living in the U.S., such as information on the community where they'll be located, cross-cultural issues, standards of conduct, etc. Project goals, performance measurements, a calendar of events and the participants' place in the wider project and program should be discussed.

I.5h. *Facilitate the participation of the foreign professional participants in two Professional Exchanges Congresses.* At the conclusion of each round of U.S.-based fellowships, the grantee will coordinate with ECA and other grant recipients in implementing a three-day Congress in Washington, DC, for all FY 2011 professional exchange participants from foreign countries. The Professional Exchanges Congress is intended to provide the participants:

- The opportunity to network with colleagues from around the world, sharing their own U.S. experience and learning about the experiences of others;
- A contextual framework for understanding the "fellowship experience", the broader exchange program, and civil society issues as they pertain to individual professional backgrounds and expertise;
- Substantive dialogue to examine the interplay of government and civil society;
- A deeper understanding of the ways an individual, organization, or interest group can generate change for the common good; and
- An enhanced appreciation of the importance of public diplomacy in the global community.

Grantees must be willing and able to participate in regularly scheduled planning meetings via teleconference with ECA and other grantee organizations. Grantees' ability and willingness to work collaboratively are key to making each Congress a meaningful and significant capstone that ties seamlessly with individual projects and participants' experience.

It is anticipated that a grant for the overall planning, management, and implementation of the Congresses will be awarded in a separate competition (ECA/PE/C–11–21) to which grant recipients of this funding opportunity (ECA/PE/C–11–01) and other U.S. public and non-profit organizations meeting the provisions described in Internal Revenue code section 26 U.S.C. 501(c)(3) will be eligible to apply.

I.5i. *Monitor, evaluate, and report on project.* The Department of State places high importance on monitoring and evaluation as a means of ensuring and measuring a project's success. Proposals must include a detailed monitoring and evaluation plan that assesses the impact of the project on the participant, his/her organization, and community. Please refer to section. IV.3d.3. Project Monitoring and Evaluation below.

I.5j. *Carry out post-grant engagement.* The grant recipient will develop enhancement activities that reinforce project goals after the participants' return to their home country. This includes encouraging participants' on-going involvement with the on-line Alumni community and helping them maintain and expand their ties to their fellowship placement organizations.

I.5k. *Conduct Re-entry Seminar.* The grant recipient will conduct an in-country re-entry seminar or "debrief" for all returning foreign participants. If possible, the dates of the seminar or debrief should coincide with international arrival schedules to ensure limited domestic travel and good stewardship of federal funds. The grant recipient should consult with the Public Affairs Section on the development of the program date and agenda. The seminar should be interactive in nature with a special emphasis on creating a forum for participants to share their reflections and observations of their U.S. exchange experience.

I.5l. *Manage all financial aspects of the project.* The grantee will be responsible for budget oversight and management of project activities, including participant costs and transparent arrangements of sub-grant relationships with partner organizations, if applicable.

Important: Logistics for the Washington, DC, Congresses, including local transportation, lodging and meals for all participants, will be covered under a separate grant. Therefore, these expenses should NOT be included in individual budgets under this solicitation. Please see *IV.3e.2o* for further details.

I.6. Projected Timeline. ECA envisions the 2011 professional exchange programs calendar as follows:

- *Fall 2011:* Planning for first foreign cohort travel to the U.S. (participant recruitment, selection; J–1 visas; arranging fellowship placements, etc.)
- *April 2012:* Travel to the U.S. by the first cohort of foreign participants for four-week to six-week fellowships.
- *May 2–4, 2012:* Three-day enrichment component in Washington, DC, at the end of the U.S. stay that includes a Professional Exchanges Congress for all Spring 2012 participants.
- *Spring 2012:* Planning for first U.S. cohort travel abroad (schedule, flights visas; etc.)
- *Summer 2012:* Travel by the first cohort of U.S. participants overseas for two to three weeks.
- *Summer 2012:* Planning for second foreign cohort travel to U.S.
- *September/October 2012:* Travel to the U.S by second cohort of foreign participants for four-week to six-week fellowships.

• *November 7–9, 2012:* Three-day enrichment component in Washington, DC, at the end of the U.S. stay that includes a Professional Exchanges Congress for all Fall 2012 participants.

• *Fall 2012:* Planning for second U.S. cohort travel abroad.

• *Winter 2012–3:* Travel by the second cohort of U.S. participants overseas for two to three weeks.

I.7. Only proposals that involve the following will be considered technically eligible:

I.7a. *Legislative Fellows Program*

The Legislative Fellows Program will engage professionals who are actively involved in the legislative process and/or policy-making through their work in government, civic education organizations, citizen advocacy groups, political parties, or election monitoring organizations. During their time in the United States, the participants will examine the relationship between civil society and government, and the issue of public corruption and accountability. Participants will observe the role of their U.S. counterparts in various levels of the U.S. government, through placements in Congressional offices (including state/district offices), state legislatures, city councils/local government bodies, advocacy groups or other relevant organizations across the United States, engage in dialogue, and develop plans for projects that support more responsive social and political institutions.

U.S. participants will be selected from staff members at the various fellowship sites who will act as primary hosts/mentors to the foreign fellows during their U.S. stay, including staff of the U.S. Congress, state legislatures, city councils/local governments, and advocacy groups. After the U.S.-based fellowships are completed, these American participants will travel overseas to their counterparts' home countries for on-site consultancies and joint programming with foreign participants and their colleagues, and, if appropriate and feasible, arrange fellowship placements for U.S. participants to learn from their counterparts and share their professional expertise. This programming could also include outreach activities, engaging the local media and giving presentations to wider audiences.

I.7a.1. Sub-Saharan Africa (AF): Angola, Kenya, Nigeria, South Africa, Zimbabwe

Proposals submitted under this section of the Legislative Fellows Program should include one or more of the countries listed above.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Jim Ogul, tel: (202) 632–6055, e-mail: *OgulJE@state.gov.*

I.7a.2. East Asia and Pacific (EAP): Cambodia, Indonesia, Mongolia, Taiwan

Proposals submitted under this section of the Legislative Fellows Program should include at least three (3) of the countries/territories listed above.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Adam Meier, tel: (202) 632–6067, e-mail: *MeierAW2@state.gov.*

I.7a.3. Europe (EUR): Armenia, Azerbaijan, Georgia, Moldova, Russia, Turkey, Ukraine

Proposals submitted under this section of the Legislative Fellows Program should include all of the countries listed above. Participants from Russia and Turkey combined should constitute at least one half of the total participants.

Approximate Grant Award: $900,000 to $1,000,000

Approximate no. of participants per award: 90 to 100

Program Contact: Linnéa E. Allison, tel: (202) 632–6060, e-mail: *AllisonLE@state.gov.*

I.7a.4. Europe (EUR): Bulgaria, Denmark, Estonia, Hungary, Latvia, Lithuania, Romania, Slovakia

Proposals submitted under this section of the Legislative Fellows Program should include at least three (3) of the countries listed above, and should have a specific focus on the involvement of minority communities and/or the immigrant population in legislatures and government.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Linnéa E. Allison, tel: (202) 632–6060, e-mail: *AllisonLE@state.gov.*

I.7a.5. Near East/North Africa (NEA): Bahrain, Egypt, Iraq, Kuwait, Morocco, Oman, Palestinian Territories, Qatar, Saudi Arabia, Syria, Tunisia, the United Arab Emirates, and Yemen

Proposals submitted under this section of the Legislative Fellows Program may include multiple countries or be single-country projects.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants: 35 to 45

Program Contact: Thomas Johnston, tel: (202) 632–6056, e-mail: *JohnstonTJ@state.gov.*

I.7a.6. South and Central Asia (SCA): Afghanistan, Bangladesh, India, Kazakhstan, Kyrgyzstan, Nepal, Sri Lanka and Pakistan

Proposals submitted under this section of the Legislative Fellows Program should include at least five (5) of the countries listed above, and should include within the broader program (*i.e.* not limited solely to) a focus on grassroots involvement and youth engagement in civil society/political decisionmaking. For proposals that include Afghanistan, security conditions will dictate whether it will be possible to conduct programming for American participants in Afghanistan, and this should be addressed specifically, including appropriate contingencies.

Approximate Grant Award: $650,000 to $750,000

Approximate no. of participants per award: 65 to 75

Program Contact: Karin Brandenburg, tel: (202) 632–9368, e-mail: *BrandenburgKL@state.gov.*

I.7a.7. Western Hemisphere (WHA): Argentina, Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Paraguay, Peru, Venezuela

Proposals submitted under this section of the Legislative Fellows Program must include participants from Mexico and Brazil, and at least seven (7) additional countries from the above list, including representative countries from 2 Caribbean, 2 Central American, and 3 South American countries.

Approximate Grant Award: $650,000 to $750,000

Approximate no. of participants per award: 65 to 75

Program Contact: Carol Herrera, tel: (202) 632–6054, email: *HerreraCA1@state.gov.*

I.7b. *Women's Empowerment Program*

The Women's Empowerment Program will focus on the unique interests of women in issues that affect the broader society, including business, civil society, and journalism. Participants will represent women-owned businesses, non-governmental organizations, healthcare industries, and educational institutions. During their 4–6 week fellowships in the United States, participants will gain firsthand knowledge of how organizations and institutions advocate on behalf of women and their critical role in community advancement, while also participating in site visits and specially-designed seminars.

U.S. participants will be selected from those individuals who act as primary hosts/mentors to the foreign participants

during their U.S. stay. After the U.S.-based fellowships are completed, these American participants will travel overseas to the participants' home countries to engage with their counterparts on the role of women in civil society. The programs will include joint programming with foreign participants and their colleagues, and, if appropriate and feasible, fellowship placements for U.S. participants. This programming could also include outreach activities, engaging the local media and giving presentations to wider audiences.

I.7b.1. Sub-Saharan Africa (AF): Angola, Ghana, Kenya, Nigeria, Senegal, South Africa, Zimbabwe

Proposals submitted under this section of the Women's Empowerment Program should include at least two (2) of the countries listed above and specifically emphasize women's entrepreneurship and employment skills development for participation in the workforce.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Jim Ogul, tel: (202) 632–6055, e-mail: *OgulJE@state.gov.*

I.7b.2. Sub-Saharan Africa (AF): Angola, Ghana, Kenya, Nigeria, Senegal, South Africa, Zimbabwe

Proposals submitted under this section of the Women's Empowerment Program should include at least two (2) of the countries listed above and specifically emphasize building partnerships between U.S. and international women and organizations devoted to health issues such as HIV/AIDS, nutrition, maternal health, disease prevention, gender-based violence or other relevant health issues.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Jim Ogul, tel: (202) 632–6055, e-mail: *OgulJE@state.gov.*

I.7b.3. East Asia and Pacific (EAP): Cambodia, Laos, Thailand, Vietnam

Proposals submitted under this section of the Women's Empowerment Program should be regional in scope, including all four (4) of the Lower Mekong countries listed above and should endeavor to empower women to increase local capacity and connectivity. Specifically, proposals should emphasize strengthening local community infrastructure and capacity, especially in the area of technology, such as improving women's access to reliable mobile technology and services. Participants should be placed at non-governmental organizations, advocacy groups, relevant government offices, small businesses or other related organizations and focus on advancing gender equality by bringing together women and technology.

Program Contact: Adam Meier, tel: (202) 632–6071, e-mail: *MeierAW2@state.gov.*

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

I.7b.4. East Asia and Pacific (EAP): Fiji, Marshall Islands, Micronesia, Palau, Papua New Guinea, Samoa, Timor-Leste, Tonga

Proposals submitted under this section of the Women's Empowerment Program should include at least four (4) of the countries listed above, and should focus on the development of civil society groups that focus on women.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Adam Meier, tel: (202) 632–6067, e-mail: *MeierAW2@state.gov.*

I.7b.5. East Asia and Pacific (EAP): Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, Vietnam

Proposals submitted under this section of the Women's Empowerment Program should include at least four (4) of the countries listed above, with a specific emphasis on women's entrepreneurship.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Adam Meier, tel: (202) 632–6071, e-mail: *MeierAW2@state.gov.*

I.7b6. South and Central Asia (SCA): Afghanistan, Bangladesh, Kyrgyzstan, India, Nepal, Pakistan, Sri Lanka (including the Maldives)

Proposals submitted under this section of the Women's Empowerment Program include at least four (4) of the countries listed above. For proposals that include Afghanistan, security conditions will dictate whether it will be possible to conduct programming for American participants in Afghanistan, and this should be addressed specifically.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Karin Brandenburg, tel: (202) 632–9368, e-mail: *BrandenburgKL@state.gov.*

I.7b.7. Western Hemisphere (WHA): Brazil, Colombia, Dominican Republic, Jamaica, Trinidad & Tobago, El Salvador, Mexico, Haiti, Honduras, Guatemala, Barbados (and the Eastern Caribbean), Costa Rica

Proposals submitted under this section of the Women's Empowerment Program should support professionals who are actively involved in enhancing the role of civil society in the following sectors: Economic Development, Environmental Sustainability and Health. Projects should directly engage African descendant and indigenous communities.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Carol Herrera, tel: (202) 632–6054, email: *HerreraCA1@state.gov.*

I.7c. *Young Entrepreneurs Program*

The Young Entrepreneurs Program will engage small business owners, business professionals and business educators, to observe best practices in business, engage in dialogue with their peers in the U.S., and complete individually tailored fellowships in appropriate organizations. Participants will increase their understanding of the links between entrepreneurial activity and free markets, as well as the importance of transparency and accountability in business and government through the participants' direct involvement in American businesses.

U.S. participants will be selected from those individuals who act as primary hosts/mentors to the foreign fellows during their U.S. stay. After the U.S.-based fellowships are completed, these American participants will travel overseas to the participants' home countries for on-site consultancies and joint programming with foreign participants and their colleagues, and, if appropriate and feasible, arrange fellowship placements for U.S. participants to learn from their counterparts and share their professional expertise. This programming could also include outreach activities, engaging the local media and giving presentations to wider audiences.

I.7c.1. East Asia and Pacific (EAP): Ngwang Choephel Fellows Program—Tibetan Autonomous Region or Tibetan areas of China

Proposals submitted under this section of the Young Entrepreneurs Program should be designed to carry out a two-way Professional program as described in section I.2 through I.6 above, but on a smaller scale; it is expected that there will only be one cycle of participants under this

program, as opposed to the two cycles described in the 2011 professional exchange program overview. The economic outcomes on which the proposals focus could, for example, include economic activity related to cultural preservation and eco-tourism. Proposals should incorporate alternate plans into their narrative in anticipation of any difficulties of participants traveling to or from the Tibetan Autonomous Region or the Tibetan areas of China.

Program Contact: Linnéa E. Allison, tel: (202) 632–6060, e-mail: *AllisonLE@state.gov.*

Approximate Grant Award: $200,000 to $250,000

Approximate no. of participants per award: 20 to 25

I.7c.2. Near East/North Africa (NEA): Algeria, Egypt, Israel, Libya, Morocco, Palestinian Territories, Syria

Proposals submitted under this section of the Young Entrepreneurs Program should include at least four (4) of the countries listed above.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Thomas Johnston, tel: (202) 632–6056, e-mail: *JohnstonTJ@state.gov.*

I.7c.3. South and Central Asia (SCA): Afghanistan, Bangladesh, Sri Lanka, Tajikistan

Proposals submitted under this section of the Young Entrepreneurs Program should include at least one of the countries listed above, and should focus on strengthening the entrepreneurial system in each country, advocating and enabling greater economic diversification. For proposals that include Afghanistan, security conditions will dictate whether it will be possible to conduct programming for American participants in Afghanistan, and this should be addressed specifically.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Karin Brandenburg, tel: (202) 632–9368, e-mail: *BrandenburgKL@state.gov.*

I.7c.4. Western Hemisphere (WHA): Brazil, Colombia, Dominican Republic, Jamaica, Trinidad & Tobago, El Salvador, Mexico, Haiti, Honduras, Guatemala, Ecuador

Proposals submitted under this section of the Young Entrepreneurs Program will engage professionals who are actively involved in working to improve the lives of young people living in communities threatened by conflict and insecurity due to lack of positive economic opportunities. Proposals should focus on engaging young social entrepreneurs to promote sustainable and inclusive community economic empowerment. Projects should engage African Descendants, Indigenous peoples, and other socially excluded communities. Fellows from communities confronted by drugs, crime, and gang violence can be community leaders, educators, and other youth-program implementers who are placed with government, NGO and community organizations that work with youth to offer positive alternatives to gangs, drug-trafficking, and associated violence.

Approximate Grant Award: $350,000 to $450,000

Approximate no. of participants per award: 35 to 45

Program Contact: Carol Herrera, tel: (202) 632–6054, Email: *HerreraCA1@state.gov.*

I.8. What to Include in Your Proposal

I.8a. Executive Summary. The Executive Summary should be one page in length and include the project title, the goals of the project, the target countries, the names of all partner organizations responsible for project implementation, the numbers of participants, both foreign and American, and the number of proposed exchanges and approximate dates.

I.8b. Proposal Narrative. In 20, double-spaced pages the narrative should include:

I.8b.1. Project Goals, Objectives, Anticipated Outcomes. A clear, succinct statement of project goals, objectives and anticipated outcomes that expand upon ECA/PE/C goals as stated in this RFGP. Objectives should be described in specific, measurable, and realistic terms that are achievable within the scope of the project, both in terms of time and funding. They should be framed from the participant perspective, i.e., "By (time), the participants will * * *" They should be guided by one or more of the following questions. (*Please see* section IV.3d.3. Project Monitoring and Evaluation for assistance in identifying and defining outcomes.)

1. What specifically will participants, U.S. and foreign, learn as a result of this project?

2. What new attitudes will participants, U.S. and foreign, develop, or what new ideas will they encounter as a result of this project?

3. How will the participants' behavior change as a result of this project? What new actions will they take?

4. Will participants be a catalyst for change in their schools, work-places, communities, or institutions? How so?

Proposals that clearly delineate salient objectives in measurable terms and plan activities in a sequence that will progressively lead to achieving those objectives, will be considered more competitive.

I.8b.2. Background Information on Implementing Organizations. Information on all organizations and staff involved in the implementation of the project including the mission, relevant expertise in the project theme and country(ies), examples of past activities and accomplishments, on-going and planned activities not including the proposed project.

I.8b.3. Roles and Responsibilities. A clear delineation of the roles and responsibilities of all partner organizations in terms of project logistics, management, and oversight.

I.8b.4. Project Management Plan. A simple project management plan for the two-year life of the project that lists, in table format, outputs (major events or tasks performed by the grantee organization or partners), dates and the person or group responsible.

I.8b.5. Support of Diversity. A description on how the Bureau's policy on Support of Diversity will be integrated into all aspects of the project including but not limited to fellowship placements, program materials, training methodology, etc. Please refer to guidance in PSI under "Diversity, Freedom and Democracy Guidelines."

I.8b.6. Post-grant Plan. A post-grant plan that demonstrates how the grantee and participants will collaborate and communicate after the ECA-funded grant has concluded.

I.8b.7. Evaluation Plan. An evaluation plan that follows the guidance provided in this RFGP. Please refer to section IV.3d.3. "Project Evaluation" below. Detailed evaluation plans that put the narrative over the 20-page limit and sample surveys or other evaluation tools may be included in TAB E.

I.8b.8. Budget. Please refer to section IV.3e. Budget Submission in this document and the PSI for guidance on preparing your budget.

I.8b.9. Working with the ECA Office of Public Affairs and Strategic Communications and the Public Affairs Section. Proposals should include plans to work with ECA's Office of Public Affairs and Strategic Communications in developing a coordinated media and public outreach strategy to strengthen the identity, increase the program's visibility, and raise the public awareness of the Legislative Fellows Program, the Women's Empowerment Program, and the Young Entrepreneurs Program. All grantees will need to incorporate the respective program's

brand (provided by ECA) and give credit to ECA throughout all of its educational and outreach materials including its website with final approval by ECA.

Proposals should also include an articulated plan as to how the grantee plans to work closely with the Public Affairs Section of the U.S. Embassy in the relevant country(ies) to develop plans for project implementation, to select project participants, conduct outreach, and to invite representatives of the Embassy(ies) and/or consulate(s) to participate in project sessions or site visits. Grantee organizations should include a scheduled debrief with Embassy representatives following the foreign participants' return to their home countries, and where possible, at the conclusion of the U.S. participants' visit. All plans must be approved by ECA.

I.8b.10. Acknowledging ECA's Financial Support and use of program logo. An acknowledgement to follow guidance in the PSI entitled "Acknowledgement of ECA's Financial Support and Use of the Department Seal". Proposals should also indicate that grantee organization's plan to use the three ECA-developed program logos (one each for the Legislative Fellows Program, the Women's Empowerment Program, and the Young Entrepreneurs Program) in all relevant program materials, applications, websites, and other related materials.

I.8b.11. Alumni Outreach. An acknowledgement to comply with "ECA's General Policy Guidance on Alumni Outreach/Follow-on and Engagement" provided in the PSI.

I.8c Attachments

I.8c.1. Resumes. Resumes of principal staff of all partner organizations involved in the implementation of the project should be included in TAB E.

I.8c.2. Letters of Commitment and/or letters of support. Letters of commitment or support from partner organizations partner institutions should demonstrate a capacity to arrange and conduct U.S. and overseas activities and should also be included in TAB E.

I.8c.3. Project Materials. Materials that help demonstrate project design and implementation should be included in TAB E. These include:

1. Draft agendas of professional workshops, conferences and seminars including pre-departure, orientation and final conference activities
2. Draft application and recruitment materials
3. Draft selection and interview materials
4. Outline of alumni programming including sample of small grant applications
5. Sample evaluation and survey instruments
6. Project management plan
7. Project promotional materials
8. Sample of any on-line sessions

I.8c.4. Unsolicited Documents. Attachments that do not directly address the proposed project (i.e., organization brochures, pamphlets, unsolicited reports) are strongly discouraged.

II. Award Information

II.1. Type of Award: Grant Agreement.

II.2. Fiscal Year Funds: FY 2011.

II.3. Approximate Total Funding: $8,300,000.

II.4. Approximate Number of Awards: 15–20.

II.5. Approximate Average Award: $400,000.

III. Eligibility Information:

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3).

III.2. Cost-Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost-sharing and funding in support of its programs.

When cost-sharing is offered, it is understood and agreed that the applicant must provide the amount of cost-sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost-sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Four Years of Exchange Experience. Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making awards in an amount from $300,000 and higher to support program and administrative costs required to implement the projects under this RFGP. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

III.4. Technical Eligibility: All proposals must comply with the following or they will result in your proposal being declared technically ineligible and given no further consideration in the review process.

- Eligible applicants may not submit more than one proposal under this competition.
- Eligible applicants may only propose working with the countries and themes listed under each of the themes of this RFGP.
- No funding is available exclusively to send U.S. citizens to conferences or conference type seminars overseas; nor is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States.
- Please refer to the Proposal Submission Instruction (PSI) document for additional requirements.

IV. Application and Submission Information

Note: Please read the complete Solicitation Package before sending inquiries or submitting proposals. All applicants are strongly encouraged to consult with the Washington, DC-based State Department contact for the themes/regions listed in this solicitation. Applicants are also strongly encouraged to consult with Public Affairs Officers at U.S. Embassies in relevant countries as they develop proposals responding to this RFGP. Once the RFGP deadline has passed, Bureau and Embassy staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information To Request a Solicitation Package

Please contact David Gustafson in the Office of Citizen Exchanges, ECA/PE/C, U.S. Department of State, SA–5, 3rd Floor, 2200 C St, NW., Washington, DC 20037, ph: (202) 632–6083, *GustafsonDP@state.gov,* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C–11–01 located at the top of this announcement when making your request. An electronic solicitation package may be obtained from *http://www.grants.gov*. *Please see* section IV.3f for further information.

IV.2. To Download a Solicitation Package Via the Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/*

open2.html or from the Grants.gov Web site at *http://www.grants.gov/search/search.do;jsessionid=Jq8YKvxYr8YPgjW2VSLdBhwhY0NxsFzdgctFJGDpfQYdJV2GzJl9!-1163459943?mode=AGENCYSEARCH&agency=DOS*. Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The Solicitation Package includes both the Request for Grant Proposals (RFGP) and the Proposal Submission Instruction (PSI) document, which consists of required application forms, and standard guidelines for proposal preparation. Applicants should assure that proposals respond to guidance provided in both documents.

IV.3a. DUNS number. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. Proposal Components: All proposals must contain an executive summary, proposal narrative and budget. Please refer to the Solicitation Package. It contains the mandatory Proposal Solicitation Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. Registration and Non-Profit Status: All federal award recipients and sub-recipients must maintain current registrations in the Central Contractor Registration (CCR) database and have a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Recipients and sub-recipients must maintain accurate and up-to-date information in the CCR until all program and financial activity and reporting have been completed. All entities must review and update the information at least annually after the initial registration and more frequently if required information changes or another award is granted.

You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov website as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Additional Information

IV.3d1. Adherence to All Regulations Governing the J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of recipient organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR part 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq*.

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements. The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program. A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://travel.state.gov/visa/temp/types/types_1267.html* or from: United States Department of State, Office of Exchange Coordination and Designation, (ECA/EC/D), SA–5, Floor C2, Department of State, Washington, DC 20037.

IV.3d2. Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and

democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d3. Project Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold, at the end of the project and beyond. The Bureau recommends that each proposal include a draft survey questionnaire or other instruments plus a description of a methodology to be used to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the project, learning as a result of the project, changes in behavior as a result of the project, and effects of the project on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear, participant-centric goals and intended outcomes at the outset of a project. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). (Note the call for measurements at the baseline and for short term and longer-term outcomes.) The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the ECA/PE/C goals described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between project *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change in participant learning, behavior, and at the participant's institution. Findings on outputs and outcomes should both be reported, but the emphasis should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of impact):

1. *Participant satisfaction* with the project and exchange experience.

2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior,* concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of each monitoring and evaluation plan will be judged on how well it (1) Specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (e.g., surveys, interviews, tests, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular project reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Budget Submission. Please follow the guidelines in this section and consult the PSI when preparing the budget submission.

IV.3e.1. Form SF–424A. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs. Allowable costs for the project include the following:

IV.3e.2a. Travel. International and domestic airfare; airline baggage and seat fees; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored projects.

IV.3e.2b. Per Diem. For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. *Domestic per diem rates* may be accessed at: *http://www.gsa.gov/portal/category/21287.* ECA requests applicants to budget realistic costs that reflect the local economy and do not exceed Federal per diem rates. *Foreign per diem rates* can be accessed at: *http://aoprals.state.gov/content.asp?content_id=184&menu_id=78.*

IV.3e.2c. Interpreters. We anticipate that all participants coming to the U.S. on this program have good English skills. However, if special circumstances warrant the use of interpretation, ECA strongly encourages applicants to hire their own locally-based interpreters but may ask ECA to assign State Department interpreters. One interpreter is typically needed for every four participants who require interpretation. When an applicant proposes to use State Department interpreters, the following expenses should be included in the budget: Published Federal per diem rates (both "lodging" and "M&IE") and "home-program-home" transportation in the amount of $400 per interpreter. Salary expenses for State Department interpreters will be covered by the Bureau and should not be part of an applicant's proposed budget. Bureau funds cannot support interpreters who accompany delegations from their home country or travel internationally.

IV.3e.2d. Book and Cultural Allowances. Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses

when they escort participants to cultural events. U.S. project staff, trainers or participants are not eligible to receive these benefits.

IV.3e.2e. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Honoraria rates should not exceed $250 per day. Organizations are encouraged to cost-share rates that would exceed that figure. Subcontracting organizations may also be employed, in which case the written agreement between the prospective grantee and sub-grantee should be included in the proposal. Such sub-grants should detail the division of responsibilities and proposed costs, and subcontracts should be itemized in the budget.

IV.3e.2f. Room rental. The rental of meeting space should not exceed $250 per day. Any rates that exceed this amount should be cost shared.

IV.3e.2g. Materials. Proposals may contain costs to purchase, develop and translate materials for participants. Costs for high quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all project materials to ECA, and ECA support should be acknowledged on all materials developed with its funding.

IV.3e.2h. Supplies. Applicants may propose to use grant funds to purchase supplies, such as computers and printers; supply costs should be justified in the budget narrative. Costs for furniture are not allowed.

IV.3e.2i. Working meal. One working meal may be provided during each U.S.-based or foreign-based travel component. Per capita costs may not exceed $45/person, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. When setting up a budget, interpreters should be counted as participants.

IV.3e.2j. Return travel allowance. A return travel allowance of $70 for each foreign participant may be included in the budget. This allowance would cover incidental expenses incurred during international travel.

IV.3e.2k. Re-entry Seminars. Costs related to providing foreign participants a re-entry seminar may include per diem, hotel accommodations, material development, and other related expenses.

IV.3e.2l. Health Insurance. The grant recipient will be responsible for enrolling foreign and U.S. participants in the program by the ECA-sponsored Accident and Sickness Program for Exchanges (ASPE). The premium is paid by ECA and should not be included in the grant proposal budget. Applicants may include costs for travel insurance for U.S. and foreign participants in the budget.

IV.3e.2m. Wire transfer fees. When necessary, applicants may include costs to transfer funds to partner organizations overseas. Grantees are urged to research applicable taxes that may be imposed on these transfers by host governments.

IV.3e.2n. In-country travel costs for visa processing purposes. Visas for foreign participants are provided by DOS and should not be included in the budget. Given the requirements associated with obtaining J–1 visas for ECA-supported participants, applicants should include costs for any travel associated with procuring visas, including travel for interviews, delivering or picking-up passports, etc.

IV.3e.2o. Administrative Costs. Costs necessary for the effective administration of the project may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the PSI. While there is no rigid ratio of administrative to project costs, proposals in which the administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive under the cost effectiveness and cost sharing criterion, per item V.1 below. Proposals should show strong administrative cost sharing contributions from the applicant, the in-country partner and other sources.

IV.3e.2p. Professional Exchanges Congresses, Washington, DC: Proposals should incorporate a minimum of three (3) days and four (4) nights in Washington, DC into their project plan in order for each group of participants to attend one of the Professional Exchanges Congresses that will take place in spring (May 2–4, 2012) and fall (November 7–9, 2012.) All logistics, including local transportation, hotel, and meals will be arranged and paid for through a separate grant that will cover expenses for all participants and staff attending the Professional Exchanges Congresses. Expenses for the Professional Exchanges Congress must not be included in your budget. The only allowable costs associated with the Washington, DC-based component are:

1. *Travel to/from Washington, DC:* PE/C strongly encourages program managers to plan for the Congress to occur at the end of the fellowship period and to send participants home directly from the Washington area. If, for programmatic reasons, the Professional Exchanges Congress must be scheduled before the fellowships are completed, travel from Washington to the next U.S. site should be included in the budget.

2. *Additional Days:* PE/C strongly encourages program managers to take advantage of the opportunity to arrange meetings with government agencies and national organizations represented in the DC metro area that are relevant to the participants' areas of expertise. If more than three days and four nights are programmed, costs for lodging, meals, and miscellaneous expenses for all additional days should be included in the budget.

3. *Cultural/thematic programming:* All expenses for cultural and relevant thematic activities programmed on additional days beyond the three days and four nights set aside for the Professional Exchanges Congresses should be included in the budget.

IV.3f. Application Deadline and Methods of Submission

Application Deadline Date: May 12, 2011.

Reference Number: ECA/PE/C–11–01.

Methods of Submission: Applications may be submitted in one of two ways: (1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or, (2) electronically through *http://www.grants.gov.* Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation package.

IV.3f.1. Submitting Printed Applications. Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any

time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM."

The original and eight (8) copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/PE/C–11–01, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20037.

Applicants submitting hard-copy applications must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) or Microsoft Word format on CD–ROM. As appropriate, the Bureau will provide these files electronically to U.S. Embassy Public Affairs Section(s) for review.

IV.3f.2. Submitting Electronic Applications. Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov website, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes. Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review.

Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance award grants resides with the Bureau's Grants Officer.

V.2. Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

V.2a. Quality of Project Idea: Proposals should exhibit originality, substance, precision, and direct linkage to the goals of ECA/PE/C's Professional Exchanges Program as well as relevance to the Bureau's mission of mutual understanding. Proposals should demonstrate a realistic and achievable scope that fits within the budgetary and time parameters set forth in the RFGP.

V.2b. Project Planning and Ability to Achieve Objectives: Project objectives should be framed from the participant perspective, targeting participant satisfaction with the project, his/her learning and changes in behavior as a result of the project, and institutional change as a result of the participant having taken part in the project. A detailed agenda should demonstrate how and when these objectives will be achieved. A project management plan should provide, in table format, outputs (major events or tasks by the grantee and/or partner organizations), dates, and the person or group responsible. Responsibilities of proposed in-country partners should be clearly described.

V.2c. Project Monitoring and Evaluation:

Proposals should include a detailed plan to monitor and evaluate the effectiveness and overall impact of the project. Project objectives should target clearly defined results in quantitative terms. Competitive evaluation plans will describe how applicant organizations would measure these results, and proposals should include draft data collection instruments (surveys, questionnaires, de-briefing sessions, etc.) in Tab E.

V.2d. Institutional Capacity: Proposals should include (1) The institution's mission and date of establishment; (2) detailed information about proposed in-country partner(s) and the history of the partnership; (3) an outline of prior awards—U.S. government and/or private support received for the target theme/country/region; and (4) descriptions of experienced staff members who will implement the program. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/countries. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The Bureau strongly encourages applicants to submit letters of support from proposed in-country partners.

V.2e. Cost Effectiveness and Cost Sharing: Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. The number of participants and actual project days should be maximized. Proposals that employ other creative techniques to increase or stretch funding dollars, such as home-stays for foreign participants, and funding or in-kind support from other public and private partners, will be deemed more competitive. Proposals in which the

administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive (*see* IV.3e.2 14 for clarification on this). Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be included in the budget request. Proposal budgets that do not reflect cost sharing will be deemed not competitive on this criterion.

V.2f. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both project administration (selection of participants, project venues and evaluation) and program content (orientation and wrap-up sessions, meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI).

V.2g. Post-Grant Activities: Applicants should provide a plan to conduct activities after the Bureau-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of the Bureau. Costs for these activities must not appear in the proposal budget, but should be outlined in the narrative.

VI. Award Administration Information

VI.1. Award Notices. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application. Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2a. Additional Requirements for the Palestinian Authority, West Bank, and Gaza. All awards made under this competition must be executed according to all relevant U.S. laws and policies regarding assistance to the Palestinian Authority, and to the West Bank and Gaza. Organizations must consult with relevant Public Affairs Offices before entering into any formal arrangements or agreements with Palestinian organizations or institutions.

Note: To assure that planning for the inclusion of the Palestinian Authority complies with requirements, please contact Tom Johnston, Tel. (202) 632–6056; e-mail: *JohnstonTJ@state.gov* for additional information.

VI.2b. Special Provision for Performance in a Designated Combat Area (Currently Iraq and Afghanistan)

All Recipient personnel deploying to areas of combat operations, as designated by the Secretary of Defense (currently Iraq and Afghanistan), under assistance awards over $100,000 or performance over 14 days must register in the Department of Defense maintained Synchronized Pre-deployment and Operational Tracker (SPOT) system. Recipients of federal assistance awards shall register in SPOT before deployment, or if already in the designated operational area, register upon becoming an employee under the assistance award, and maintain current data in SPOT. Information on how to register in SPOT will be available from your Grants Officer or Grants Officer Representative during the final negotiation and approval stages in the federal assistance awards process. Recipients of federal assistance awards are advised that adherence to this policy and procedure will be a requirement of all final federal assistance awards issued by ECA.

Recipient performance may require the use of armed private security personnel. To the extent that such private security contractors (PSCs) are required, grantees are required to ensure they adhere to Chief of Mission (COM) policies and procedures regarding the operation, oversight, and accountability of PSCs.

VI.3. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following Office of Management and Budget (OMB) guidance:

- Circular A–122, "Cost Principles for Nonprofit Organizations."
- Circular A–21, "Cost Principles for Educational Institutions."
- Circular A–87, "Cost Principles for State, Local and Indian Governments."
- Circular A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.
- Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.
- Circular A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference *http://www.whitehouse.gov/omb/grants_circulars/for additional* information:

VI.4. Reporting Requirements. You must provide ECA with a hard copy original plus one electronic copy of the following reports:

VI.4a. Final Reports. A final program and financial report no more than 90 days after the expiration of the award;

VI.4b. One-Page Report. A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

VI.4c. SF–PPR. A SF–PPR, "Performance Progress Report" Cover Sheet should be submitted with all program reports.

VI.4d. Quarterly reports. Quarterly program and financial reports should be submitted for the duration of the program. For program reports, award recipients will be required to provide reports analyzing their evaluation findings to the Bureau. (Please refer to section IV.3.d.3, "Program Monitoring and Evaluation") All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request. All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.5. Additional Program Data Requirements

VI.5a. Data on Program participants and activities. Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. At a minimum, the data must include the following: Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

VI.5b. Travel. Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by

the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Carol Herrera, Office of Citizen Exchanges, ECA/PE/C, U.S. Department of State, SA–5, 3rd Floor, 2200 C St., NW., Washington, DC 20522–0503, phone: (202) 632–6054, e-mail: *herreraca1@state.gov.* All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C–11–01.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.4 above.

Dated: March 9, 2011.

Ann Stock,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2011–6276 Filed 3–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7367]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: One Beat

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/PE/C/CU–11–45.

Catalog of Federal Domestic Assistance Number: 19.415.

Key Dates: September 1, 2011 to September 30, 2013.

Application Deadline: May 16, 2011.

Executive Summary: The Cultural Programs Division of the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for a series of 2–4 week group programs for approximately 55–65 young (average age 19–35) foreign musicians and music professionals from selected countries that will highlight artistic collaboration, improvisation, mentoring, and professional training opportunities. One Beat is a programmatic refinement of the existing Fiscal Year 2010 Cultural Visitors program. The original Cultural Visitors Program was initiated in Fiscal Year 2005 and targeted key countries in the Muslim world and on priority youth audiences in those countries. Vital to the innovative use of the arts in foreign policy are the elements of artistic collaboration, audience engagement, professional enrichment, and artistic production. By concentrating on music, One Beat seeks to combine these elements into cohesive group programs which enhance cross-cultural understanding and demonstrate democratic values such as collaboration, cohesion, and innovation to strengthen the leadership and professional potential of the participants as well as enrich their American counterparts. The program should seek innovative ways to incorporate new media to enhance the program offerings and extend the impact of the program.

The goals of the program are to:

- Energize the work of international musicians in their own countries;
- Provide unique opportunities for musical collaboration, engagement, and performance among the international participants and with their American peers and American music professionals;
- Provide participants with instructive and informative experiences in their art form;
- Provide exposure to the creation and performance of world-class American music;
- Create opportunities for sustaining relationships with U.S. arts professionals; and
- Provide opportunities for educational outreach to American audiences and students.

Pending the availability of funds, ECA will provide approximately $1,000,000 to the award recipient to implement this program through a cooperative agreement. The agreement will cover project activities from September 1, 2011 to September 30, 2013.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Purpose

Cultural diplomacy, an essential facet of America's foreign policy, strives to enhance cross-cultural understanding and open new avenues of dialogue between individuals and nations. It builds on Secretary Clinton's concept of "smart power," which utilizes a variety of means to achieve our 21st Century foreign policy goals. This program ventures to create a dialogue through musical collaboration and professional development that will enrich both the international participants and the Americans with whom they meet.

Program Description

ECA welcomes innovative and creative approaches to programming, which:

- Offers coherent approaches to developing the artistic talents and skills of the participants (activities include, but are not limited to master classes, professional conferences, festivals, workshops, lectures, demonstrations, group work, impromptu play, jam sessions, and attendance at performances);
- Uses new media to enhance and extend the impact and richness of the program through online collaborations and educational programming among other activities;
- Provides mentoring by and exposure to well-respected American artists, diverse cultural organizations and productions;
- Fosters creative musical collaborations, cohesion and open dialogue between the participants and their professional American peers;
- Engages with the diversity of the American public through non fee-based public performance and/or presentation. (Please note that the production and presentation costs of performances in the United States cannot be funded by ECA, but can be included in the organization's cost share.);
- Visits multiple U.S. arts organizations and cities to present a diverse view of American music, musicians, music professionals, and;

• Establishes a foundation for sustaining professional networks and relationships.

Participants

ECA envisions that approximately 55–65 young foreign musicians in contemporary genres (including but not limited to urban, hip-hop, roots, rock, electronic, and world music) and music professionals (including but not limited to composers, producers, arrangers, songwriters, and DJs) from selected countries will visit the United States in a series of specially designed group programs organized by the award recipient in consultation with ECA. Participant composition should reflect an emphasis on musicians.

Foreign participants must be between 19–35 years of age, demonstrate high artistic abilities and professional performance experience, a predisposition to engage with their community through their art, promise in solo and ensemble performance (as appropriate), commitment to teaching and to their craft, and be conversant with broader aspects of society, their home culture and artistic patrimony. Participants should be prepared to conduct or participate in master classes, lecture demonstrations, workshops, impromptu sessions, media outreach, and educational activities with peers, students, and general audiences. They should also be adaptable to performance in situations of varying infrastructure and sophistication.

ECA's Responsibilities

In a cooperative agreement, ECA is substantially involved in program activities above and beyond routine monitoring. Specifically, ECA will:

• Identify countries from which the participants will be selected and provide contact information at posts to award recipient;

• Advise selected countries for recruitment of participants;

• Provide final approval on the award recipient's participant recommendations;

• Review and approve daily schedules and program materials;

• Review and approve media and outreach plans;

• Issue DS–2019 forms to participants; and

• Participate in briefing and debriefing sessions as possible.

Award Funding and Award recipient Responsibilities

In consultation with ECA, the award recipient will:

Participant Selection

• Develop participant selection criteria;

• Develop an application process and timeline (efforts should be made to make it web-based);

• Work with Embassy staff to coordinate the recruitment and solicitation of foreign participants and alternates for U.S. based programs;

• Based on qualifications, recommend participants to ECA for review and approval;

• Inform posts of final selections.

Program Development and Management

• Devise innovative and multi-faceted plans for the program components with detailed timelines for accomplishing each project activity in consultation with ECA program staff;

• Within 3–6 months of the beginning of the award period, submit to ECA for approval proposed outlines and schedules for the music programs, and then advise posts on the application, recruitment and participant selection process. Outlines should include goals and objectives for the programs and suggested participant profiles.

• Recruit American participants and institutions to be engaged in activities with the exchange participants. American site locations are to be determined by the award recipient's organization in consultation with ECA. The award recipient will consult with ECA, but ultimately be responsible for the design and implementation of program development and composition such as performances, workshops, master classes and outreach programs at each site. The programs must strive to represent a diversity of American organizations, regions and cities.

• Orient host institutions and staff to the goals of the program, and to the cultures and sensitivities of the participants;

• Coordinate and identify group coordinator/escort and/or interpreter travel, lodging and other arrangements needed for their participation, including airport meet and greet;

• Maintain liaison with ECA and program participants to ensure the program schedule is compatible with needs and objectives. Provide ECA and program participants with a final program schedule no later than 2 weeks prior to their arrival in the U.S.;

• Provide day-to-day monitoring of the program to prevent and/or manage any issues or complications that may arise;

• Work in consultation with ECA on the implementation of the program, provide timely reporting of progress to ECA, and comply with financial and program reporting requirements.

• Create and encourage solid follow-on projects (not supported by funding from this award) in order to continue and deepen the relationships created by these projects between the award recipient and foreign participants;

• Design and implement an evaluation plan that assesses the impact of the program.

• Contact participants before the program to provide program information, pre-departure materials, and to gather information necessary for visa issuance and specific requirements (dietary, medical, etc.);

• Enroll participants in a health insurance plan for the period of the exchange. Participants can be enrolled in the Bureau's Accident and Sickness Program for Exchanges (ASPE) with no charge to the cooperative agreement. Alternatively, you may use your own plan as long as it offers the same or better coverage and costs no more than $50 per person per month; premiums may be included in the agreement request;

• Facilitate the J–1 visa application process, working with ECA and the Public Affairs Sections (PAS) at the relevant U.S. Embassies and/or Consulates;

• Cover the cost of and arrange all international and domestic travel and lodging for U.S. and foreign participants; including travel for visa interviews when necessary;

• Arrange for an orientation session upon arrival to provide programmatic and logistical information;

• Provide a de-briefing session at the end of the program for evaluation, to summarize the project activities, prepare participants for their return home, and plan for possible follow on activities. Whenever possible, de-briefing sessions should take place in Washington and should include an introduction to the nation's capital and the U.S. form of government;

• Manage all financial aspects of the program, including stipend disbursements to the participants and management of sub-award relationships with partner organizations, if applicable. The proposal should clearly outline all duties and responsibilities of U.S. organizations with which you plan to partner; describe work requirements and provide representative budgets. The applicant must submit a comprehensive budget for the entire program. There must be a summary budget, as well as breakdowns reflecting both administrative and program budgets. The applicant may provide separate sub-budgets for each program

component, phase, location, or activity to provide clarification.

• Work in consultation with ECA to develop and implement a media and marketing plan that includes but is not limited to program branding, press strategy, press/media packets, program Web site and social media plan. The award recipient will prepare educational and promotional materials that support the program.

The proposal submitted must demonstrate how these activities/objectives will be met. The proposal narrative should be substantive and provide detailed information on major program activities to be undertaken. In particular, the proposal should include a thorough outline of the program with a list of arts organizations and musicians/artists that the participants will visit in the United States, and potential musicians/artists and/or host arts organizations across the country with which the applicant plans to place the participants for mentoring/collaboration opportunities.

Applicants should submit a complete and thorough proposal describing the program in a convincing and comprehensive manner, with an eye towards artistic collaboration, professional development, innovation, and new media. Since there is no opportunity for applicants to meet with reviewing officials, the proposal should respond to the criteria set forth in the solicitation and other guidelines as clearly as possible.

The Executive Summary should contain an overview of the goals and activities of the program. The Narrative should deal with program facts, rather than the history of the organization which should be addressed in the section "Institutional Capacity." In the narrative, applicants should not only describe major program activities but also explain and justify their programmatic choices. Applicants should outline their project team's capacity for doing projects of this nature and provide a detailed sample program to illustrate planning capacity and ability to achieve program objectives. Applicants should describe previous cooperative projects in the section on "Institutional Capacity." For this competition, applicants should include in their proposal supporting materials or documentation that demonstrates a minimum of four years experience in conducting global exchanges in the performing arts.

The recipient organization is responsible for all components of the program outlined in this document. The organization must also inform the ECA program officer of its progress at each stage of the project's implementation in a timely fashion. All materials and correspondence related to the program will acknowledge this as a program of the Bureau of Educational and Cultural Affairs of the U.S. Department of State. The Bureau will retain copyright use of and be allowed to distribute materials related to this program as it sees fit.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: 2011.

Approximate Total Funding: $1,000,000.

Approximate Number of Awards: 1.

Approximate Average Award: $1,000,000.

Ceiling of Award Range: $1,000,000.

Anticipated Award Date: Pending availability of funds, September 1, 2011.

Anticipated Project Completion Date: September 30, 2013

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this cooperative agreement for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements:

(a) Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

(b) Technical Eligibility: All proposals must comply with the following:

• Full adherence to the guidelines stated herein and in the Solicitation Package;

• Proposal submission deadline date;

• Non-profit organization status, and

• For purposes of this competition, at least four years of demonstrated experience in programming in the performing arts, or your proposal will be declared technically ineligible and given no further consideration in the review process.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information To Request an Application Package

Please contact the Julia Gómez-Nelson in the Cultural Programs Division, ECA/PE/C/CU, SA–5, 3rd Floor, U.S. Department of State, 2200 C Street, NW., Washington, DC 20037, (T) 202–632–6409, (F) 202–632–9355, *nelsonjg2@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/CU–11–45 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. *Please see* section IV.3f for further information.

The Solicitation Package contains the Proposal Submission

Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Julia Gómez-Nelson and refer to the Funding Opportunity Number ECA/PE/C/CU–11–45 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. All federal award recipients and sub-recipients must maintain current registrations in the Central Contractor Registration (CCR) database and have a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Recipients and sub-recipients must maintain accurate and up-to-date information in the CCR until all program and financial activity and reporting have been completed. All entities must review and update the information at least annually after the initial registration and more frequently if required information changes or another award is granted.

You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov website as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 *Adherence to All Regulations Governing the J Visa.* The Bureau of Educational and Cultural Affairs places critically important emphases on the security and proper administration of the Exchange Visitor (J visa) Programs and adherence by award recipients and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street, NW., Washington, DC 20037.

Please refer to Solicitation Package for further information.

IV.3d.2. Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives,

your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior,* concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe your plans for: Sustainability, overall program management, staffing, coordination with ECA and PAS or any other requirements.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include but are not limited to the following:

(1) Program Expenses, including but not limited to: Domestic and international travel for the selected participants (per The Fly America Act); visas and immunizations; airport taxes and country entrance fees; honoraria; educational materials and presentation items; excess and overweight baggage fees; trip itinerary booklets; press kits and promotional materials; follow-on activities; monitoring and evaluation; and other justifiable expenses related to program activities.

The following guidelines may be helpful in developing a proposed budget:

• Travel Costs. International and domestic airfares. (per The Fly America Act), transit costs, ground transportation, and visas participants to travel to program destinations. Travel costs should also include airfare for selected participants to travel for visa interviews.

• Per Diem: Domestic per diem rates may be accessed at: *http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA_BASIC%20*

• Sub-recipient and Consultants. Sub-recipient organizations may be used, in which case the written agreement between the prospective recipient and sub-recipient should be included in the proposal. Sub-grants must be itemized in the budget under General Program Expenses. Consultants/interpreters/group coordinators/escorts may be used to provide specialized expertise. Daily honoraria cannot exceed $250 per day, and applicants are strongly encouraged to use organizational resources, and to cost share heavily in this area.

• Health Insurance. Participants can be enrolled in the Bureau's Accident and Sickness Program for Exchanges (ASPE) with no charge to the cooperative agreement. Alternatively, you may use your own plan as long as it offers the same or better coverage and costs no more than $50 per person per month; premiums may be included in the agreement request. Please see *http://exchanges.state.gov/aspe* for more information on coverage. Please refer to the PSI for allowable costs and complete budget guidelines and formatting instructions.

• Your proposal should show strong administrative cost sharing contributions. Maximum limits on cooperative agreement funding are as follows: Books and educational materials allowance-$100 per participant; Conference room rental costs-$250 per day per room; Consultant fees and honoraria-$200/day; Cultural allowance-$150 per participant; honoraria for foreign participants-$200/day; per diem-standard government rates; Evaluation costs-5% of the cooperative agreement. Organizations are encouraged to cost-share any rates that exceed these amounts.

• Excess Baggage. Excess baggage costs are based on the size and weight of the instrument. Excess baggage estimates may be subject to change once actual programs are scheduled.

• Immunizations/Visas. For purposes of a proposed budget, line items for immunizations should be estimated at $400 per musician, and visas/visa photos should be estimated at $600 per musician.

• Translation of outreach and/or educational materials.

• Staff Travel. Allowable costs include domestic staff travel for one staff member to attend pre and post program briefings if held in cities different that awardee's headquarters.

• For purposes of this proposal's budget please use the following program as a model: A three week program in music for 8 participants from 7 countries accompanied by one group coordinator and two interpreters to travel to 3 cities in the United States to conduct intensive professional development programs consisting of

workshops, master classes, attendance at relevant festivals or professional conferences, artist-to-artist engagement, outreach activities and performances. Participants will participate in a two-day orientation in Washington, DC, before travelling to Chicago, IL for a 5 to 7 day residency to include multiple master classes with professional and student artists, attendance at a professional music festival to attend performances, meet fellow artists, participate in impromptu play or jam sessions, and participate in a performance. The group will then travel to Nashville, TN for a residency of the same length and composition, after which they will depart Tennessee and travel to Washington, DC for a final debrief and performance.

2. Administrative Costs. Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Solicitation Package. While there is no rigid ratio of administrative to program costs, proposals in which the administrative costs do not exceed 25% of the total requested from ECA grant funds will be more competitive on cost effectiveness. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: May 16, 2011

Reference Number: ECA/PE/C/CU–11–45

Methods of Submission:

Applications may be submitted in one of two ways:

(1.) In hard-copy, via a nationally recognized overnight delivery service (i.e., Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2.) electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications.

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and 10 copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/A/S/U–10–01 (each program office assigns a unique number) SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20037.

(Include following language re: CD–ROM submission only if proposals will be forwarded to embassies. If post input is not necessary, delete language.)

Applicants submitting hard-copy applications must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) or Microsoft Word format on CD–ROM. As appropriate, the Bureau will provide these files electronically to Public Affairs Section(s) at the U.S. embassy(ies) for its(their) review.

IV.3f.2—Submitting Electronic Applications.

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please Note: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov website includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the website. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov website, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to:

Grants.gov Customer Support.

Contact Center Phone: 800–518–4726.

Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time.

Email: support@grants.gov.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Please refer to the Grants.gov website, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by

Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the program idea: Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. Program planning and Ability to achieve program objectives: Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. Multiplier effect/impact and Follow on Activities: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages. Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

4. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. Institutional Capacity and Ability: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau awards (grants or cooperative agreements) as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

6. Project Evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

7. Cost-effectiveness and Cost Sharing: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.1b The following additional requirements apply to this project:

For assistance awards involving Iran:

A critical component of current U.S. government Iran policy is the support for indigenous Iranian voices. The State Department has made the awarding of grants for this purpose a key component of its Iran policy. As a condition of licensing these activities, the Office of Foreign Assets Control (OFAC) has requested the Department of State to follow certain procedures to effectuate the goals of Sections 481(b), 531(a), 571, 582, and 635(b) of the Foreign Assistance Act of 1961 (as amended); 18 U.S.C. §§ 2339A and 2339B; Executive Order 13224; and Homeland Security Presidential Directive 6. These licensing conditions mandate that the Department conduct a vetting of potential Iran award recipients and sub-grantees for counter-terrorism purposes. To conduct this vetting the Department will collect information from grantees and sub-grantees regarding the identity and background of their key employees and Boards of Directors.

Note: To assure that planning for the inclusion of Iran complies with requirements, please contact (Julia Gómez-Nelson, ECA/PE/C/CU at 202–487–8266 or nelsonjg2@state.gov.) for additional information.

For assistance awards involving the Palestinian Authority, West Bank, and Gaza:

All awards made under this competition must be executed according to all relevant U.S. laws and policies regarding assistance to the Palestinian Authority, and to the West Bank and Gaza. Organizations must consult with relevant Public Affairs Offices before entering into any formal arrangements or agreements with Palestinian organizations or institutions.

Note: To assure that planning for the inclusion of the Palestinian Authority complies with requirements, please contact (insert program office contact name, telephone and e-mail) for additional information.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments".

OMB Circular No. A–110 (Revised), Uniform Administrative

Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following websites for additional information:

http://www.whitehouse.gov/omb/grants.
http://fa.statebuy.state.gov

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

(1.) A final program and financial report no more than 90 days after the expiration of the award;

(2.) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3.) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

(4.) Quarterly program and financial reports which should include, but are not limited to: Audience numbers for the public performances as well as participant numbers for the workshop/outreach activities; press clippings (print and web); proactive media outreach; photographs of activities; marketing/collateral materials produced for the program; program calendar; tour agendas and itineraries and relevant contact information; participant bio data and contact information; and program and administrative updates/recaps.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Julia Gómez-Nelson, U.S. Department of State, Cultural Programs Division, ECA/PE/C/CU, SA–5, 3rd Floor, ECA/PE/C/CU–11–45, 2200 C Street, NW., Washington, DC 20037,telephone 202–632–6409 and fax 202–632–9355, *nelsonjg2@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/CU–11–45.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 9, 2011.

Ann Stock,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2011–6272 Filed 3–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2011–120]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before April 6, 2011.

ADDRESSES: You may send comments identified by Docket Number FAA–2011–0140 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Keira Jones (202) 267–4024, Tyneka Thomas (202) 267–7626, or David Staples (202) 267–4058, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on March 11, 2011.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2011–0140.

Petitioner: Federal Express.

Section of 14 CFR Affected: 14 CFR 121.619.

Description of Relief Sought:

Federal Express is seeking relief to allow their aircraft, with an approved EFVS (Enhanced Flight Vision System) and properly trained crews, to be dispatched or released to a destination when the forecast weather is below the published Category I approach minimums, but not lower than one-quarter mile. EVFS is a recently developed infrared sensor that provides real-time video images for display on the HUD to the pilot.

[FR Doc. 2011–6200 Filed 3–16–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind a Notice of Intent To Prepare an Environmental Impact Statement, Ada and Canyon Counties, ID

AGENCY: Federal Highway Administration.

ACTION: Rescind Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The FHWA is issuing this notice to advise the public that the Notice of Intent published on August 28, 2007 to prepare an Environmental Impact Statement for a proposed highway project in Ada and Canyon County, Idaho is being rescinded.

FOR FURTHER INFORMATION CONTACT: Mr. John Perry, Field Operations Engineer, Federal Highway Administration, 3050 Lakeharbor Lane, Suite 126, Boise, Idaho 83703, Telephone: (208) 334–9180, ext. 116, or Mr. Greg Vitley, Sr. Environmental Planner, Idaho Transportation Department District 3, P.O. Box 8028, Boise, Idaho 83714–8028, Telephone: (208) 334–8300.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA) published a Notice of Intent (NOI) to prepare an EIS for a project to construct additional travel lanes and other improvements to approximately 17 miles of State Highway 44 from Exit 25 at Interstate 84 in Canyon County to Ballantyne Lane in Ada County. The project is commonly known as the State Highway 44 Corridor Preservation Study, Project No. STP–3320(101); Key No. 07827.

Recommendations for improvements along this corridor are identified in the regional long-range transportation plan, "Communities in Motion," prepared by the Community Planning Association of Southwest Idaho (COMPASS) as revised and adopted by the COMPASS board in September 2010.

Public meetings were held on May 24–25, 2006; August 22, 2007; and February 11–12, 2009 to solicit comments from the public on the purpose and need, alternatives being considered and the alternative screening process. Participating Agency meetings were held on November 8, 2007 and December 11, 2008. Environmental scans and screening indicate low potential for significant impacts from the alternatives being considered.

The NOI is being rescinded because the project development and environmental process have identified low potential for significant impacts. If, at a future time, FHWA determines that the proposed action is likely to have a significant impact on the environment, a new NOI to prepare an EIS will be published.

To ensure that the full range of issues related to this proposed action and all significant issues are identified, comments and suggestions regarding this action to rescind the NOI published August 22, 2007 for the highway project in Ada and Canyon County, Idaho are invited from all interested parties. Comments or questions should be directed to FHWA or ITD addresses provided above.

Peter J. Hartman,

Division Administrator, FHWA—Idaho Division.

[FR Doc. 2011–6248 Filed 3–16–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2011 0027]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before May 16, 2011.

FOR FURTHER INFORMATION CONTACT: Cmdr Michael DeRosa, Maritime Administration, U.S. Merchant Marine Academy, 300 Steamboat Road, New York, NY 11024. *Telephone:* 516–726–5642; or *e-mail: DeRosaM@USMMA.EDU*. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: U.S. Merchant Marine Academy Candidate Application for Admission.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0010.

Form Numbers: KP 2–65.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: The collection consists of Parts I, II, and III of Form KP 2–65 (U.S. Merchant Marine Academy Application for Admission). Part I of the form is completed by individuals wishing to be admitted as students to the U.S. Merchant Marine Academy.

Need and Use of the Information: The information is necessary to select the best qualified candidates for the U.S. Merchant Marine Academy.

Description of Respondents: Individuals desiring to become students at the U.S. Merchant Marine Academy.

Annual Responses: 2,500.

Annual Burden: 12,500 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://www.regulations.gov.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. *EDT* (*or EST*), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://www.regulations.dot.gov.*

Privacy Act: Anyone is able to search the electronic form of all comments

received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.regulations.dot.gov.*

Authority: 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: March 10, 2011.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2011–6176 Filed 3–16–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds Change in State of Incorporation; Western Bonding Company; Western Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 7 to the Treasury Department Circular 570, 2010 Revision, published July 1, 2010, at 75 FR 38192.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that Western Bonding Company (NAIC#13191) and Western Insurance Company (NAIC#10008) have redomesticated from the state of Nevada to the state of Utah effective December 1, 2010. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 ("Circular"), 2010 Revision, to reflect this change.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: March 2, 2011.

Laura Carrico,

Director, Financial Accounting and Services Division.

[FR Doc. 2011–5890 Filed 3–16–11; 8:45 am]

BILLING CODE 4810–35–M

FEDERAL REGISTER

Vol. 76 Thursday,
No. 52 March 17, 2011

Part II

Nuclear Regulatory Commission

10 CFR Parts 170 and 171
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2011; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150–AI93

[NRC–2011–0016]

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2011

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is proposing to amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, which requires the NRC to recover through fees approximately 90 percent of its budget authority in Fiscal Year (FY) 2011, not including amounts appropriated from the Nuclear Waste Fund (NWF), amounts appropriated for Waste Incidental to Reprocessing (WIR), and amounts appropriated for generic homeland security activities. The NRC is currently operating under a Continuing Resolution (CR) set to expire on March 4, 2011. Based on the FY 2011 budget submitted to the Congress, the NRC's required fee recovery amount for the FY 2011 budget is approximately $915.3 million. After accounting for billing adjustments, the total amount to be billed as fees is approximately $915.7 million.

DATES: Submit comments on the proposed rule by April 18, 2011. Comments received after the above date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Because OBRA–90 requires that the NRC collect the FY 2011 fees by September 30, 2011, requests for extensions of the comment period will not be granted.

ADDRESSES: Please include Docket ID NRC–2011–0016 in the subject line of your comments. For instructions on submitting comments and accessing documents related to this action, *see* Section I, "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of the document. You may submit comments by any one of the following methods.

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0016. Address questions about NRC dockets to Carol Gallagher, *telephone:* 301–492–3668; *e-mail: Carol.Gallagher@nrc.gov*.

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

- *E-mail comments to: Rulemaking.Comments@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1677.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (telephone: 301–415–1677).

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

To obtain additional information on the NRC's FY 2011 budget request, commenters and others may review NUREG–1100, Volume 26, "Performance Budget: Fiscal Year 2011" (SEP 2010), which describes the NRC's budget for FY 2011, including the activities to be performed in each program. This document is available on the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1100/v26.* The allocation of the budget to each fee class and fee-relief category is included in the publicly available work papers supporting this rulemaking.

FOR FURTHER INFORMATION CONTACT: Renu Suri, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; *telephone:* 301–415–0161, *e-mail: Renu.Suri@NRC.gov.*

SUPPLEMENTARY INFORMATION:

I. Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site *http://www.regulations.gov*. Because your comments will not be edited, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov.*

- *Federal Rulemaking Web Site:* Public comments and supporting materials related to this proposed rule can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2011–0016.

II. Background

The NRC is required each year, under OBRA–90 (42 U.S.C. 2214), as amended, to recover approximately 90 percent of its budget authority, not including amounts appropriated from the NWF, amounts appropriated for WIR, and amounts appropriated for generic homeland security activities (non-fee items), through fees to NRC licensees and applicants. The NRC receives 10 percent of its budget authority (not including non-fee items) from the general fund each year to pay for the

cost of agency activities that do not provide a direct benefit to NRC licensees, such as international assistance and Agreement State activities (as defined under Section 274 of the Atomic Energy Act of 1954, as amended).

The NRC assesses two types of fees to meet the requirements of OBRA–90. First, user fees, presented in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 170 under the authority of the Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701), recover the NRC's cost of providing special benefits to identifiable applicants and licensees. For example, the NRC assesses these fees to cover the cost of inspections, applications for new licenses and license renewals, and requests for license amendments. Second, annual fees, presented in 10 CFR Part 171 under the authority of OBRA–90, recover generic regulatory costs not otherwise recovered through 10 CFR Part 170 fees.

The NRC is currently operating under an CR for FY 2011 (Pub. L. 111–322) that is effective through March 4, 2011. This means that the FY 2011 funds currently available are similar to the NRC's funding in FY 2010. Although the NRC has not received a new appropriation for FY 2011 at the time this proposed fee rule was submitted for publication in the **Federal Register**, the NRC must proceed with this rulemaking to collect the required fee amounts by September 30, 2011. Therefore, the NRC is establishing fees in this rulemaking based on the FY 2011 NRC budget sent to the Congress in February 2010.

If the Congress enacts a different version of the NRC budget than that included in the NRC submission, the fees in the NRC's FY 2011 final fee rule will be adjusted to reflect the enacted budget. Therefore, fees in the FY 2011 final fee rule may differ from the fees in this proposed rule. The NRC will adjust the FY 2011 final fees based on the enacted version of the budget without seeking further public comment.

Under a full-year CR with funding similar to FY 2010, the NRC's total required fee recovery amount could decrease by approximately $3.1 million, as compared to the FY 2011 NRC budget submitted to Congress. Nevertheless, the NRC's exact fee recovery amount would depend on the specific provisions in such legislation. A given licensee's Part 171 annual fees under a full-year CR could be similar to or higher than the fees included in this proposed fee rule. Although, some licensees may be affected more than others based on which NRC activities are subject to budget changes. It is possible that some annual fees may increase from this proposed rule under a full-year CR, because the NRC's fee-relief surplus adjustment in this proposed rule (discussed more in Section III.B.1, Application of "Fee Relief/Surcharge" of this document), could be reduced or revert to becoming a surcharge similar to the previous year. Fees in the FY 2011 final fee rule may also change from this proposed fee rule for other reasons, such as changes in the amount expected to be received from Part 170 fees in FY 2011.

Based on the FY 2011 budget submitted to the Congress, the NRC's required fee recovery amount for the FY 2011 budget is approximately $915.3 million, which is increased by approximately $0.4 million to account for billing adjustments (i.e., expected unpaid invoices, payments for prior year invoices), resulting in a total of approximately $915.7 million to be billed as fees in FY 2011.

In accordance with OBRA–90, $26.1 million of the agency's budgeted resources for generic homeland security activities are excluded from the NRC's fee base in FY 2011. These funds cover generic activities such as rulemakings, development of guidance documents that support entire license fee classes or classes of licensees, and major information technology systems that support tracking of source materials. Under its IOAA authority, the NRC will continue to charge Part 170 fees for all licensee-specific homeland security-related services provided, including security inspections and security plan reviews.

The amount of the NRC's required fee collections is set by law, and is, therefore, outside the scope of this rulemaking. In FY 2011, the NRC's total fee recovery amount has increased by $3.1 million from FY 2010. The FY 2011 budget supports activities associated with the safe and secure operations of civilian nuclear power reactors, research and test reactors, various fuel facilities, use of nuclear materials, and storage and transportation of spent nuclear fuel. The FY 2011 budget was allocated to the fee classes that the budget activities support. The annual fees for power reactors and uranium recovery facilities decrease while fees for spent fuel storage facilities, nonpower reactors, fuel facilities, most materials users, and Department of Energy's (DOE) uranium recovery and transportation increases. Another factor affecting the amount of annual fees for each fee class is the estimated collection under Part 170, discussed in Section III, "Proposed Action," of this document.

III. Proposed Action

The NRC is proposing to amend its licensing, inspection, and annual fees to recover approximately 90 percent of its FY 2011 budget authority less the appropriations for non-fee items. The NRC's total budget authority for FY 2011 is $1,053.6 million. The non-fee items include $10 million appropriated from the NWF, $0.5 million for WIR activities, and $26.1 million for generic homeland security activities. Based on the 90 percent fee-recovery requirement, the NRC will have to recover approximately $915.3 million in FY 2011 through Part 170 licensing and inspection fees and Part 171 annual fees. The amount required by law to be recovered through fees for FY 2011 would be $3.1 million more than the amount estimated for recovery in FY 2010, an increase of less than 1 percent.

The FY 2011 fee recovery amount is increased by $0.4 million to account for billing adjustments (i.e., for FY 2011 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2011 for prior year invoices). This leaves approximately $915.7 million to be billed as fees in FY 2011 through Part 170 licensing and inspection fees and Part 171 annual fees.

Table I summarizes the budget and fee recovery amounts for FY 2011. FY 2010 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE I—BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

	FY 2010 final rule	FY 2011 proposed rule
Total Budget Authority	$1,066.9	$1,053.6
Less Non-Fee Items	−53.3	−36.6
Balance	$1,013.6	$1,017.0
Fee Recovery Rate for FY 2011	90%	90%
Total Amount to be Recovered for FY 2011	$912.2	$915.3
Less Part 171 Billing Adjustments:		
Unpaid Current Year Invoices (estimated)	2.1	3.0
Less Payments Received in Current Year for Previous Year Invoices (estimated)	−3.2	−2.6
Subtotal	−1.1	0.4
Amount to be Recovered Through Parts 170 and 171 Fees	$911.1	$915.7
Less Estimated Part 170 Fees	−357.3	−369.3
Part 171 Fee Collections Required	$553.8	$546.4

The NRC estimates that $369.3 million would be recovered from Part 170 fees in FY 2011. This represents an increase of approximately 1.5 percent as compared to the actual Part 170 collections of $364 million for FY 2010. The NRC derived the FY 2011 estimate of Part 170 fee collections based on the previous four quarters of billing data for each license fee class, with adjustments to account for changes in the NRC's FY 2011 budget, as appropriate. The remaining $546.4 million would be recovered through the Part 171 annual fees in FY 2011, which is an increase of less than 1 percent compared to actual Part 171 collections of $545.6 million for FY 2010.

The NRC plans to publish the final fee rule no later than June 2011. The FY 2011 final fee rule will be a "major rule" as defined by the Congressional Review Act of 1996 (5 U.S.C. 801–808). Therefore, the NRC's fee schedules for FY 2011 will become effective 60 days after publication of the final rule in the **Federal Register**. The NRC will send an invoice for the amount of the annual fee to reactor licensees, 10 CFR Part 72 licensees, major fuel cycle facilities, and other licensees with annual fees of $100,000 or more, upon publication of the FY 2011 final rule. For these licensees, payment is due on the effective date of the FY 2011 final rule. Because these licensees are billed quarterly, the payment due is the amount of the total FY 2011 annual fee, less payments made in the first three quarters of the fiscal year.

Materials licensees with annual fees of less than $100,000 are billed annually. Those materials licensees whose license anniversary date during FY 2011 falls before the effective date of the FY 2011 final rule will be billed for the annual fee during the anniversary month of the license at the FY 2010 annual fee rate. Those materials licensees whose license anniversary date falls on or after the effective date of the FY 2011 final rule will be billed for the annual fee at the FY 2011 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

The NRC will send licensees a short summary of the proposed rule and information on how to access the complete proposed rule on the internet. The NRC currently does not mail the final fee rule to all licensees, but will send the final rule or the proposed rule to any licensee or other person upon specific request. To request a copy, contact the Accounts Receivable/Payable Branch, Division of the Controller, Office of the Chief Financial Officer, at 301–415–7554, or e-mail *fees.resource@nrc.gov.* In addition to publication in the **Federal Register**, both the proposed and final rules will be available on the Internet at *http://www.regulations.gov*.

The NRC, in conjunction with internal and external stakeholders, reviewed its fee policies for power reactors in anticipation of the receipt of new applications for licensing small and medium sized commercial nuclear reactors. The NRC has prepared a paper for the Commission's information in support of the Nuclear Energy Institute's position to calculate annual fees for each new licensed power reactor as a function of its licensed thermal power rating (MWt).

The NRC changed its current policy with regard to billing inspection costs. Instead of billing a licensee when the inspection is completed, the NRC will now bill the licensee for any inspection cost incurred during the quarter even if the inspection is still ongoing. Billing for incurred inspections costs began in the first quarter of FY 2011, when the NRC's new accounting system was implemented. This policy change does not require a revision to Part 170.

The NRC is proposing to amend 10 CFR Parts 170 and 171 as discussed in Sections III.A. and III.B. of this document.

A. Amendments to 10 CFR Part 170: Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended

In FY 2011, the NRC is proposing to increase the hourly rate to recover the full cost of activities under Part 170, and using this rate to calculate "flat" application fees.

The NRC is proposing the following changes:

1. Hourly Rate

The NRC's hourly rate is used in assessing full cost fees for specific services provided, as well as flat fees for certain application reviews. The NRC is proposing to change the FY 2011 hourly rate to $273. This rate would be applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The FY 2011 proposed hourly rate is higher than the hourly rate of $259 in the FY 2010 final fee rule. The increase in hourly rate is due to higher FY 2011 agency overhead budgeted resources, and a small reduction in the number of direct full-time equivalents (FTEs). In FY 2011 the NRC revised its budget structure. This new structure allows the agency to accurately identify all its direct and overhead costs. Under this new FY 2011 structure, more of the budgeted resources have been identified as overhead costs. The agency is using this information to further streamline its costs and make efficient use of all its resources. The FTEs for direct program

activities in the Reactor program decrease in FY 2011. The hourly rate calculation is described in further detail in the following paragraphs.

The NRC's hourly rate is derived by dividing the sum of recoverable budgeted resources for (1) mission direct program salaries and benefits; (2) mission indirect program support; and (3) agency corporate support and the Inspector General (IG), by mission direct FTE hours. The mission direct FTE hours are the product of the mission direct FTE times the hours per direct FTE. The only budgeted resources excluded from the hourly rate are those for contract activities related to mission direct and fee-relief activities.

In FY 2011, the NRC is proposing to use 1,371 hours per direct FTE, the same amount as FY 2010, to calculate the hourly fees. The NRC has reviewed data from its time and labor system to determine if the annual direct hours worked per direct FTE estimate requires updating for the FY 2011 fee rule. Based on this review of the most recent data available, the NRC determined that 1,371 hours is the best estimate of direct hours worked annually per direct FTE. This estimate excludes all indirect activities such as training, general administration, and leave.

Table II shows the results of the hourly rate calculation methodology. FY 2010 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE II—HOURLY RATE CALCULATION

	FY 2010 final rule	FY 2011 proposed rule
Mission Direct Program Salaries & Benefits	$343.8	$337.6
Mission Indirect Program Support	$135.6	$25.9
Agency Corporate Support, and the IG	$330.4	$473.4
Subtotal	$809.8	$836.9
Less Offsetting Receipts	−0.0	−0.0
Total Budget Included in Hourly Rate	$809.8	$836.9
Mission Direct FTEs	2,276	2,236
Professional Hourly Rate (Total Budget Included in Hourly Rate divided by Mission Direct FTE Hours)	$259	$273

As shown in Table II, dividing the FY 2011 $836.9 million budget amount included in the hourly rate by total mission direct FTE hours (2,236 FTE times 1,371 hours) results in an hourly rate of $273. The hourly rate is rounded to the nearest whole dollar.

2. "Flat" Application Fee Changes

The NRC is proposing to adjust the current flat application fees in §§ 170.21 and 170.31 to reflect the revised hourly rate of $273. These flat fees are calculated by multiplying the average professional staff hours needed to process the licensing actions by the proposed professional hourly rate for FY 2011.

Biennially, the NRC evaluates historical professional staff hours used to process a new license application for materials users fee categories subject to flat application fees. This is in accordance with the requirements of the Chief Financial Officer's Act. The NRC conducted this biennial review for the FY 2011 fee rule which also included license and amendment applications for import and export licenses.

Evaluation of the historical data in FY 2011 shows that the average number of professional staff hours required to complete licensing actions in the materials program should be increased in some fee categories and decreased in others to more accurately reflect current data for completing these licensing actions. The average number of professional staff hours needed to complete new licensing actions was last updated for the FY 2009 final fee rule. Thus, the revised proposed average professional staff hours in this fee rule reflect the changes in the NRC licensing review program that have occurred since that time.

The higher hourly rate of $273 is the main reason for the increases in the application fees. Application fees for 11 fee categories (3.G., 3.I., 3.P., 3.R.1., 3.R.2., 4.B., 7.C., 8.A., 9.C., 9.D., and 17., under § 170.31) also increase because of the results of the biennial review, which showed an increase in average time to process these types of license applications. The decrease in fees for 9 fee categories (2.C., 3.B., 3.H., 3.L., 3.M., 3.O., 5.A., 7.A., and 9.A., under § 170.31) is due to a decrease in average time to process these types of applications.

The flat application fee for fee Category 17., master materials licenses of broad scope issue to Government agencies, is being eliminated. Instead, any application received for fee Category 17. will be reviewed on a full-cost basis; i.e., staff hours required to review application times the NRC hourly rate. The regulatory effort to review a new master materials license application varies with each license application. Therefore, a full cost application fee would be equitable since the actual cost of review will be charged to the applicant.

Based on the biennial review, the following changes have been made to the fee categories for import and export licenses. The current export fee Category 15.H. is deleted because the description for the fee was incorrect and not used in export licensing. The current fee Category 15.I. is renumbered as 15.H. A new export fee Category 15.H. is established to reflect a new fee category for government-to-government consents for exports of Category 1 quantities for radioactive material listed in Appendix P to 10 CFR Part 110. The new 15.H. fee category reflects the NRC's activity related to obtaining government-to-government consents as specified in § 110.42(e)(3). In addition, fee categories 15.M. through and including 15.Q. are being eliminated since the requirement to obtain a specific license for imports of radioactive materials listed in Appendix P to 10 CFR Part 110 was eliminated as part of a 2010 rule change to 10 CFR Part 110 (July 28, 2010; 75 FR 44072).

The amounts of the materials licensing flat fees are rounded so that the fees would be convenient to the user and the effects of rounding would be minimal. Fees under $1,000 are rounded to the nearest $10, fees that are greater than $1,000 but less than $100,000 are rounded to the nearest $100, and fees that are greater than $100,000 are rounded to the nearest $1,000.

The proposed licensing flat fees are applicable for fee categories K.1. through K.5. of § 170.21, and fee categories 1.C., 1.D., 2.B., 2.C., 3.A. through 3.S., 4.B. through 9.D., 10.B.,

15.A. through 15.L., 15.R., 16, and 17 of § 170.31. Applications filed on or after the effective date of the FY 2011 final fee rule would be subject to the revised fees in the final rule.

In FY 2011, NRC will be eliminating fee Category 3.D. under byproduct materials since the agency does not expect to receive any license under the current definition of this fee category. The fee category will be reserved for future use.

3. Administrative Amendments

In § 170.11, the NRC is inserting a semicolon at the end of paragraph (a)(1)(iii)(A), inserting a semicolon and the word "and" at the end of paragraph (a)(1)(iii)(B), and removing and reserving paragraph (a)(1)(iii)(D) for ease of reading. There is no change to the NRC's fee exemption policy.

In § 170.31, the NRC is eliminating footnote 5 and renumbering footnote 6 to 5.

In summary, the NRC is proposing to make the following changes to 10 CFR Part 170:

1. Establish a revised professional hourly rate to use in assessing fees for specific services;

2. Revise the fee categories for import and export licenses. Also revise the license application fees to reflect the proposed FY 2011 hourly rate; and

3. Make certain administrative changes for purposes of improving the clarity of the rule.

B. Amendments to 10 CFR Part 171: Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC

The NRC proposes to use its fee-relief surplus by decreasing all licensees' annual fees. This rulemaking also proposed to make changes to the number of NRC licensees and to establish rebaselined annual fees based on the FY 2011 budget submitted to the Congress. The proposed amendments are described as follows:

1. Application of Fee-Relief and Low-Level Waste (LLW) Surcharge

The NRC is proposing to use its fee-relief surplus by decreasing all licensees' annual fees, based on their percentage share of the budget. The NRC applies the 10 percent of its budget that is excluded from fee recovery under OBRA–90, as amended (fee-relief), to offset the total budget allocated for activities which do not directly benefit current NRC licensees. The budget for these fee-relief activities is totaled and then reduced by the amount of the NRC's fee-relief. Any difference between the fee-relief and the budgeted amount of these activities results in a fee-relief adjustment (increase or decrease) to all licensees' annual fees, based on their percentage share of the budget (i.e., over 80 percent is allocated to power reactors each year).

In FY 2011, the 10 percent fee-relief exceeded the total budget by $6.4 million. The FY 2011 budget for fee-relief activities is lower than FY 2010, primarily due to a decrease in budgeted resources for nonprofit educational exemptions, international activities, small entity subsidies, and grants for fellowships and scholarships. The NRC is decreasing all licensees' annual fees to use the surplus amount of $6.4 million, based on their percentage share of the fee recoverable budget authority.

This is consistent with the existing fee methodology. Any fee-relief surplus is allocated as a reduction of license fees when the NRC fee-relief amount is more than the budget for fee-relief activities. A fee-relief shortfall amount is allocated as an increase in license fee to licensees when the NRC fee-relief amount is less than the budgeted resources for fee-relief activities. In FY 2011, the power reactors class of licensees will be allocated approximately 86 percent of the fee-relief surplus based on their share of the NRC fee recoverable budget authority.

The FY 2011 budgeted resources for NRC's fee-relief activities are $95.3 million. The NRC's total fee-relief in FY 2011 is $101.7 million, leaving a $6.4 million fee-relief surplus that will reduce licensees' annual fees. These values are shown in Table III. The FY 2010 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE III—FEE–RELIEF ACTIVITIES

[Dollars in millions]

Fee-relief activities	FY 2010 budgeted costs	FY 2011 budgeted costs
1. Activities not attributable to an existing NRC licensee or class of licensee:		
a. International activities	$18.2	$15.0
b. Agreement State oversight	11.2	14.1
c. Scholarships and Fellowships	15.0	11.5
2. Activities not assessed Part 170 licensing and inspection fees or Part 171 annual fees based on existing law or Commission policy:		
a. Fee exemption for nonprofit educational institutions	17.4	13.3
b. Costs not recovered from small entities under 10 CFR 171.16(c)	6.1	5.6
c. Regulatory support to Agreement States	23.1	18.0
d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	15.1	16.6
e. In situ leach rulemaking and unregistered general licensees	2.4	1.2
Total fee-relief activities	108.5	95.3
Less 10 percent of NRC's FY 2011 total budget (less non-fee items)	−101.4	−101.7
Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees	7.1	−6.4

Table IV shows how the NRC is allocating the $6.4 million fee-relief surplus adjustment to each license fee class. As explained previously, the NRC is allocating this fee-relief adjustment to each license fee class based on the percent of the budget for that fee class compared to the NRC's total budget. The fee-relief surplus adjustment is

subtracted from the required annual fee recovery from each fee class.

Separately, the NRC has continued to allocate the LLW surcharge based on the volume of LLW disposal of three classes of licenses: Operating reactors, fuel facilities, and materials users. Because LLW activities support NRC licensees, the costs of these activities are recovered through annual fees. In FY 2011, this allocation percentage was updated based on review of recent data which reflects the change in the support to the various fee classes. The allocation percentage of LLW surcharge increased for operating reactors and fuel facilities, and decreased for materials users compared to FY 2010.

Table IV also shows the allocation of the LLW surcharge activity. For FY 2011, the total budget allocated for LLW activity is $3.0 million. (Individual values may not sum to totals due to rounding.)

TABLE IV—ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE, FY 2011

[Dollars in millions]

	LLW surcharge		Fee-relief adjustment		Total
	Percent	$	Percent	$	$
Operating Power Reactors	70.0	2.1	85.9	−5.5	−3.4
Spent Fuel Storage/Reactor Decommissioning			3.7	−0.2	−0.2
Research and Test Reactors			0.2	0.0	0.0
Fuel Facilities	24.0	0.7	6.2	−0.4	0.3
Materials Users	6.0	0.2	2.8	−0.2	0.0
Transportation			0.5	0.0	0.0
Uranium Recovery			0.8	0.0	0.0
Total	100.0	3.0	100.0	−6.4	−3.3

2. Revised Annual Fees

The NRC is proposing to revise its annual fees in §§ 171.15 and 171.16 for FY 2011 to recover approximately 90 percent of the NRC's FY 2011 budget authority, after subtracting the non-fee amounts and the estimated amount to be recovered through Part 170 fees.

The Commission has determined (71 FR 30721; May 30, 2006) that the agency should proceed with a presumption in favor of rebaselining when calculating annual fees each year. Under this method, the NRC's budget is analyzed in detail, and budgeted resources are allocated to fee classes and categories of licensees. The Commission expects that most years there will be budgetary and other changes that warrant the use of the rebaselining method.

As compared with FY 2010 annual fees, the FY 2011 proposed rebaselined fees are higher for four classes of licensees (spent fuel storage and reactors in decommissioning facilities, research and test reactors, fuel facilities and transportation), and lower for one class of licensees (power reactors). Within the uranium recovery fee class, the proposed annual fees for most licensees decrease, while the proposed annual fee for one fee category increases. The annual fee increases for most fee categories in the materials users' fee class.

The NRC's total fee recoverable budget, as mandated by law, is approximately $3.1 million higher in FY 2011 as compared with FY 2010. The FY 2011 budget was allocated to the fee classes that the budgeted activities support. The increase is primarily due to the higher FY 2011 budget supporting the spent fuel storage and transportation activities, fuel facility reviews, materials user's activities, uranium recovery facilities, and research and test reactor reviews.

The factors affecting all annual fees include the distribution of budgeted costs to the different classes of licenses (based on the specific activities the NRC will perform in FY 2011), the estimated Part 170 collections for the various classes of licenses, and allocation of the fee-relief surplus adjustment to all fee classes. The percentage of the NRC's budget not subject to fee recovery remained at 10 percent from FY 2010 to FY 2011.

Table V shows the rebaselined fees for FY 2011 for a representative list of categories of licensees. The FY 2010 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE V—REBASELINED ANNUAL FEES

Class/category of licenses	FY 2010 annual fee	FY 2011 annual fee
Operating Power Reactors (Including Spent Fuel Storage/Reactor Decommissioning Annual Fee)	$4,784,000	$4,669,000
Spent Fuel Storage/Reactor Decommissioning	148,000	241,000
Research and Test Reactors (Nonpower Reactors)	81,700	86,100
High Enriched Uranium Fuel Facility	5,439,000	6,078,000
Low Enriched Uranium Fuel Facility	2,047,000	2,287,000
UF_6 Conversion Facility	1,111,000	1,242 ,000
Conventional Mills	38,300	31,900
Typical Materials Users:		
Radiographers (Category 3O)	28,200	25,700
Well Loggers (Category 5A)	11,900	9,900
Gauge Users (Category 3P)	4,500	4,800
Broad Scope Medical (Category 7B)	45,100	45,000

The work papers that support this proposed rule show in detail the allocation of NRC's budgeted resources for each class of licenses and how the fees are calculated. Beginning in FY 2011, the NRC is transitioning to a new budget structure. Therefore, the reports included in these work papers summarize the FY 2011 budgeted FTE and contract dollars allocated to each fee class and fee-relief category at the product line level. Since the FY 2010 and FY 2011 budget structures are appreciably different, the reports comparing the FY 2011 allocations to FY 2010 are at a higher summary level. The work papers are available electronically at *http://www.regulations.gov* by searching on Docket ID NRC–2011–0016 and at the NRC's Electronic Reading Room on the Internet at Web site address *http://www.nrc.gov/reading-rm/adams.html.* The work papers may also be examined at the NRC PDR located at One White Flint North, Room O–1F22, 11555 Rockville Pike, Rockville, Maryland 20852.

The budgeted costs allocated to each class of licenses and the calculations of the rebaselined fees are described in paragraphs a. through h. of this section. Individual values in the Tables presented in this section may not sum to totals due to rounding.

a. Fuel Facilities

The FY 2011 budgeted cost to be recovered in the annual fees assessment to the fuel facility class of licenses [which includes licensees in fee categories 1.A.(1)(a), 1.A.(1)(b), 1.A.(2)(a), 1.A.(2)(b), 1.A.(2)(c), 1.E., and 2.A.(1), under § 171.16] is approximately $30 million. This value is based on the full cost of budgeted resources associated with all activities that support this fee class, which is reduced by estimated Part 170 collections and adjusted for allocated generic transportation resources and fee-relief adjustment. In FY 2011, the LLW surcharge for fuel facilities is added to the allocated fee-relief adjustment (*see* Table IV in Section III.B.1., "Application of Fee-Relief and Low-Level Waste Surcharge" of this document). The summary calculations used to derive this value are presented in Table VI for FY 2011, with FY 2010 values shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2010 final	FY 2011 proposed
Total budgeted resources	$48.8	$55.7
Less estimated Part 170 receipts	−21.2	−26.6
Net Part 171 resources	27.6	29.1
Allocated generic transportation	+0.5	+0.6
Fee-relief adjustment/LLW surcharge	+0.7	+0.3
Billing adjustments	−0.1	−0.0
Total required annual fee recovery	28.8	30.0

The increase in total budgeted resources allocated to this fee class from FY 2010 to FY 2011 is primarily due to increased support for licensing amendments, and rulemaking for regulatory framework for reprocessing.

The total required annual fee recovery amount is allocated to the individual fuel facility licensees, based on the effort/fee determination matrix developed for the FY 1999 final fee rule (64 FR 31447; June 10, 1999). In the matrix included in the publicly available NRC work papers, licensees are grouped into categories according to their licensed activities (i.e., nuclear material enrichment, processing operations, and material form) and the level, scope, depth of coverage, and rigor of generic regulatory programmatic effort applicable to each category from a safety and safeguards perspective. This methodology can be applied to determine fees for new licensees, current licensees, licensees in unique license situations, and certificate holders.

This methodology is adaptable to changes in the number of licensees or certificate holders, licensed or certified material and/or activities, and total programmatic resources to be recovered through annual fees. When a license or certificate is modified, it may result in a change of category for a particular fuel facility licensee, as a result of the methodology used in the fuel facility effort/fee matrix. Consequently, this change may also have an effect on the fees assessed to other fuel facility licensees and certificate holders. For example, if a fuel facility licensee amends its license/certificate (*e.g.,* decommissioning or license termination) that results in it not being subject to Part 171 costs applicable to the fee class, then the budgeted costs for the safety and/or safeguards components will be spread among the remaining fuel facility licensees/certificate holders.

The methodology is applied as follows. First, a fee category is assigned, based on the nuclear material and activity authorized by license or certificate. Although a licensee/certificate holder may elect not to fully use a license/certificate, the license/certificate is still used as the source for determining authorized nuclear material possession and use/activity. Second, the category and license/certificate information are used to determine where the licensee/certificate holder fits into the matrix. The matrix depicts the categorization of licensees/certificate holders by authorized material types and use/activities.

Each year, the NRC's fuel facility project managers and regulatory analysts determine the level of effort associated with regulating each of these facilities. This is done by assigning, for each fuel facility, separate effort factors for the safety and safeguards activities associated with each type of regulatory activity. The matrix includes ten types of regulatory activities, including enrichment and scrap/waste-related activities (see the work papers for the complete list). Effort factors are assigned as follows: one (low regulatory effort), five (moderate regulatory effort), and ten (high regulatory effort). These effort factors are then totaled for each fee category, so that each fee category has a total effort factor for safety activities and a total effort factor for safeguards activities.

The effort factors for the various fuel facility fee categories are summarized in Table VII. The value of the effort factors

shown, as well as the percent of the total effort factor for all fuel facilities, reflects the total regulatory effort for each fee category (not per facility). The following factors have changed compared to FY 2010. The total effort factors for the Limited Operations fee category has increased from FY 2010, while the Uranium Enrichment fee category factors decreased from FY 2010 primarily due to a shift of one licensee from the Uranium Enrichment fee category to Limited Operations fee category.

TABLE VII—EFFORT FACTORS FOR FUEL FACILITIES, FY 2011

Facility type (fee category)	Number of facilities	Effort factors (percent of total)	
		Safety	Safeguards
High Enriched Uranium Fuel (1.A.(1)(a))	2	89 (35.5)	97 (46.4)
Low Enriched Uranium Fuel (1.A.(1)(b))	3	70 (27.9)	35 (16.7)
Limited Operations (1.A.(2)(a))	2	15 (6.0)	8 (3.8)
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	1	3 (1.2)	15 (7.2)
Hot Cell (1.A.(2)(c))	1	6 (2.4)	3 (1.4)
Uranium Enrichment (1.E)	2	56 (22.3)	44 (21.1)
UF_6 Conversion (2.A.(1))	1	12 (4.8)	7 (3.3)

For FY 2011, the total budgeted resources for safety activities, before the fee-relief adjustment is made, are $16,216,139. This amount is allocated to each fee category based on its percent of the total regulatory effort for safety activities. For example, if the total effort factor for safety activities for all fuel facilities is 100, and the total effort factor for safety activities for a given fee category is 10, that fee category will be allocated 10 percent of the total budgeted resources for safety activities. Similarly, the budgeted resources amount of $13,502,682 for safeguards activities is allocated to each fee category based on its percent of the total regulatory effort for safeguards activities. The fuel facility fee class' portion of the fee-relief adjustment ($343,353) is allocated to each fee category based on its percent of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The fee (rounded) for each facility is summarized in Table VIII.

TABLE VIII—ANNUAL FEES FOR FUEL FACILITIES

Facility type (fee category)	FY 2011 proposed annual fee
High Enriched Uranium Fuel (1.A.(1)(a))	$6,078,000
Low Enriched Uranium Fuel (1.A.(1)(b))	2,287,000
Limited Operations Facility (1.A.(2)(a))	752,000
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	1,176,000
Hot Cell (and others) (1.A.(2)(c))	588,000
Uranium Enrichment (1.E.)	3,268,000
UF_6 Conversion (2.A.(1))	1,242,000

If the NRC authorizes operation of a new uranium enrichment facility in FY 2011, the applicable fee to any type of new uranium enrichment facility is the annual fee in § 171.16, fee Category 1.E., Uranium Enrichment, unless the NRC establishes a new fee category for the facility in a subsequent rulemaking. The applicable annual fee for a facility that is authorized to operate during the FY will be prorated in accordance with the provisions of § 171.17.

b. Uranium Recovery Facilities

The total FY 2011 budgeted cost to be recovered through annual fees assessed to the uranium recovery class [which includes licensees in fee categories 2.A.(2)(a), 2.A.(2)(b), 2.A.(2)(c), 2.A.(2)(d), 2.A.(2)(e), 2.A.(3), 2.A.(4), 2.A.(5) and 18.B., under § 171.16], is approximately $1.0 million. The derivation of this value is shown in Table IX, with FY 2010 values shown for comparison purposes.

TABLE IX—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2010 final	FY 2011 proposed
Total budgeted resources	$6.69	$7.14
Less estimated Part 170 receipts	−5.83	−6.09
Net Part 171 resources	0.86	1.05
Allocated generic transportation	N/A	N/A
Fee-relief adjustment	+0.05	−0.05
Billing adjustments	−0.01	0.00

TABLE IX—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES—Continued

[Dollars in millions]

Summary fee calculations	FY 2010 final	FY 2011 proposed
Total required annual fee recovery	0.91	1.00

The increase in total budgeted resources allocated to this fee class from FY 2010 to FY 2011 is primarily due to increase in DOE Title I licensing activities partially offset by increase in Part 170 estimates. Since FY 2002, the NRC has computed the annual fee for the uranium recovery fee class by allocating the total annual fee amount for this fee class between the DOE and the other licensees in this fee class. The NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act (UMTRCA). The Congress established the two programs, Title I and Title II under UMTRCA, to protect the public and the environment from uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for the weapons program. The NRC also regulates DOE's UMTRCA Title II program which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

The annual fee assessed to DOE includes recovery of the costs specifically budgeted for NRC's Title I activities, plus 10 percent of the remaining annual fee amount, including the fee-relief and generic/other costs, for the uranium recovery class. The remaining 90 percent of the fee-relief and generic/other costs are assessed to the other NRC licensees in this fee class that are subject to annual fees. The distribution of 10 percent of the generic budgeted costs to DOE and 90 percent to other facilities is a change from the previous year that is based on current NRC activities. Last year, the distribution was 35 percent and 65 percent to DOE and other facilities, respectively.

The costs to be recovered through annual fees assessed to the uranium recovery class are shown in Table X.

TABLE X—COSTS RECOVERED THROUGH ANNUAL FEES

Uranium recovery fee class	
DOE Annual Fee Amount (UMTRCA Title I and Title II) general licenses:	
UMTRCA Title I budgeted costs less Part 170 receipts	$745,331
10 percent of generic/other uranium recovery budgeted costs	30,984
10 percent of uranium recovery fee-relief adjustment	−4,984
Total Annual Fee Amount for DOE (rounded)	771,000
Annual Fee Amount for Other Uranium Recovery Licenses:	
90 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for Title I activities	278,854
90 percent of uranium recovery fee-relief adjustment	−44,857
Total Annual Fee Amount for Other Uranium Recovery Licenses	233,996

The DOE fee increases in FY 2011 compared to FY 2010 due to higher budgeted resources for UMTRCA Title I activities. The annual fee for other uranium recovery licensees decreases in FY 2011.

Although the distribution of the generic budgeted costs to other uranium facilities increased from FY 2010, the total annual fee amount to be recovered decreases in FY 2011 compared to FY 2010, primarily due to increased activities for DOE Title I facilities.

The NRC will continue to use a matrix (which is included in the supporting work papers) to determine the level of effort associated with conducting the generic regulatory actions for the different (non-DOE) licensees in this fee class. The weights derived in this matrix are used to allocate the approximately $234,000 annual fee amount to these licensees. The use of this uranium recovery annual fee matrix was established in the FY 1995 final fee rule (60 FR 32217; June 20, 1995). The FY 2011 matrix is described as follows.

First, the methodology identifies the categories of licenses included in this fee class (besides DOE). In FY 2011, these categories are conventional uranium mills and heap leach facilities, uranium solution mining and resin In Situ Recovery (ISR) facilities, mill tailings disposal facilities (11e.(2) disposal facilities), and uranium water treatment facilities.

Second, the matrix identifies the types of operating activities that support and benefit these licensees. The activities related to generic decommissioning/reclamation are not included in the matrix, because they are included in the fee-relief activities. Therefore, they are not a factor in determining annual fees. The activities included in the FY 2011 matrix are operations, waste operations, and groundwater protection. The relative weight of each type of activity is then determined, based on the regulatory resources associated with each activity. The operations, waste operations, and groundwater protection activities have weights of 0, 5, and 10, respectively, in the FY 2011 matrix.

Each year, the NRC determines the level of benefit to each licensee for generic uranium recovery program activities for each type of generic activity in the matrix. This is done by assigning, for each fee category, separate benefit factors for each type of regulatory activity in the matrix. Benefit factors are assigned on a scale of 0 to 10 as follows: Zero (no regulatory benefit), five (moderate regulatory benefit), and ten (high regulatory benefit). These benefit factors are first multiplied by the relative weight assigned to each activity (described previously). Total benefit factors by fee category, and per licensee in each fee category, are then calculated. These benefit factors thus reflect the relative regulatory benefit associated with each licensee and fee category. The NRC expects to license an ISR Resin

Facility in FY 2011. Therefore, the benefit factors for fee Category 2.A.(2)(d) have been included in the FY 2011 matrix, and an annual fee has been established.

The benefit factors per licensee and per fee category, for each of the non-DOE fee categories included in the uranium recovery fee class, are as follows:

TABLE XI—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Conventional and Heap Leach mills (2.(A).2.a.)	1	200	200	14
Basic In Situ Recovery facilities (2.(A).2.b.)	4	190	760	52
Expanded In Situ Recovery facilities (2.(A).2.c.)	1	215	215	15
In Situ Recovery Resin Facilities (2.(A).2.d.)	1	180	180	12
11e.(2) disposal incidental to existing tailings sites (2.(A).4.)	1	65	65	4
Uranium water treatment (2.(A).5.)	1	45	45	3
			1,465	

Applying these factors to the approximately $234,000 in budgeted costs to be recovered from non-DOE uranium recovery licensees results in the total annual fees for each fee category. The annual fee per licensee is calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category, as summarized in Table XII:

TABLE XII—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES (OTHER THAN DOE)

Facility type (fee category)	FY 2011 proposed annual fee
Conventional and Heap Leach mills (2.A.(2)(a))	31,900
Basic In Situ Recovery facilities (2.A.(2)(b))	30,300
Expanded In Situ Recovery facilities (2.A.(2)(c))	34,300
In Situ Recovery Resin facilities (2.A.(2)(d))	28,800
11e.(2) disposal incidental to existing tailings sites (2.A.(4))	10,400
Uranium water treatment (2.A.(5))	7,200

c. Operating Power Reactors

The $460.5 million in budgeted costs to be recovered through FY 2011 annual fees assessed to the power reactor class was calculated as shown in Table XIII. The FY 2010 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XIII—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2010 final	FY 2011 proposed
Total budgeted resources	$787.3	$783.1
Less estimated Part 170 receipts	−312.5	−320.5
Net Part 171 resources	474.8	462.6
Allocated generic transportation	+0.8	+0.9
Fee-relief adjustment/LLW surcharge	+7.5	−3.4
Billing adjustments	−1.0	0.4
Total required annual fee recovery	482.1	460.5

The annual fee for power reactors decreases in FY 2011 compared to FY 2010 due to a decrease in budgeted resources, increase in the Part 170 collections estimate, and the fee-relief surplus adjustment. The budgeted costs to be recovered through annual fees to power reactors are divided equally among the 104 power reactors licensed to operate. This results in an FY 2011 annual fee of $4,428,000 per reactor. Additionally, each power reactor licensed to operate would be assessed the FY 2011 spent fuel storage/reactor decommissioning annual fee of $241,000. This results in a total FY 2011 annual fee of $4,669,000 for each power reactor licensed to operate.

The annual fees for power reactors are presented in § 171.15.

d. Spent Fuel Storage/Reactors in Decommissioning

For FY 2011, budgeted costs of approximately $29.7 million for spent fuel storage/reactor decommissioning are to be recovered through annual fees assessed to 10 CFR Part 50 power reactors, and to Part 72 licensees who do not hold a Part 50 license. Those reactor licensees that have ceased operations and have no fuel onsite are not subject to these annual fees. Table

XIV shows the calculation of this annual fee amount. The FY 2010 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XIV—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR IN DECOMMISSIONING FEE CLASS

[Dollars in millions]

Summary Fee Calculations	FY 2010 final	FY 2011 proposed
Total budgeted resources	$24.1	$33.4
Less estimated Part 170 receipts	−6.4	−4.0
Net Part 171 resources	17.7	29.4
Allocated generic transportation	+0.4	+0.5
Fee-relief adjustment	+0.2	−0.2
Billing adjustments	0.0	0.0
Total required annual fee recovery	18.2	29.7

The value of total budgeted resources for this fee class is higher in FY 2011 than in FY 2010, due to increased budgeted resources for spent fuel storage licensing and certification activities and lower Part 170 collections estimate, partially offset by the fee-relief surplus adjustment. The required annual fee recovery amount is divided equally among 123 licensees, resulting in an FY 2011 annual fee of $241,000 per licensee.

e. Research and Test Reactors (Nonpower Reactors)

Approximately $340,000 in budgeted costs is to be recovered through annual fees assessed to the research and test reactor class of licenses for FY 2011. Table XV summarizes the annual fee calculation for research and test reactors for FY 2011. The FY 2010 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR RESEARCH AND TEST REACTORS

[Dollars in millions]

Summary fee calculations	FY 2010 final	FY 2011 proposed
Total budgeted resources	$1.31	$1.87
Less estimated Part 170 receipts	−1.01	−1.54
Net Part 171 resources	0.30	0.33
Allocated generic transportation	+0.01	+0.02
Fee-relief adjustment	+0.01	−0.01
Billing adjustments	0.00	0.00
Total required annual fee recovery	0.33	0.34

The increase in annual fees from FY 2010 to FY 2011 is primarily due to increase in budgeted costs for review of licensing amendments partially offset by the fee-relief surplus adjustment. The required annual fee recovery amount is divided equally among the four research and test reactors subject to annual fees and results in an FY 2011 annual fee of $86,100 for each licensee.

f. Rare Earth Facilities

The agency does not anticipate receiving an application for a rare earth facility this fiscal year, so no budgeted resources are allocated to this fee class, and no annual fee will be published in FY 2011.

g. Materials Users

Table XVI shows the calculation of the FY 2011 annual fee amount for materials users licensees. The FY 2010 values are shown for comparison. Note the following fee categories under § 171.16 are included in this fee class: 1.C., 1.D., 2.B., 2.C., 3.A. through 3.S., 4.A. through 4.C., 5.A., 5.B., 6.A., 7.A. through 7.C., 8.A., 9.A. through 9.D., 16, and 17. (Individual values may not sum to totals due to rounding.)

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary fee calculations	FY 2010 final	FY 2011 proposed
Total budgeted resources	$28.8	$30.0
Less estimated Part 170 receipts	−1.8	−1.6
Net Part 171 resources	27.0	28.4

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS—Continued

[Dollars in millions]

Summary fee calculations	FY 2010 final	FY 2011 proposed
Allocated generic transportation	+0.8	+1.0
Fee-relief adjustment/LLW surcharge	+0.9	−0.0
Billing adjustments	−0.0	−0.0
Total required annual fee recovery	28.7	29.4

The total required annual fees to be recovered from materials licensees increase in FY 2011, mainly because of increases in the budgeted resources allocated to this fee class for licensing and oversight activities, and lower estimated Part 170 fee revenue compared to FY 2010. Annual fees for most fee categories within the materials users' fee class increase while some decrease due to decrease in inspection costs in certain fee categories.

To equitably and fairly allocate the $29.4 million in FY 2011 budgeted costs to be recovered in annual fees assessed to the approximately 3,000 diverse materials users licensees, the NRC will continue to base the annual fees for each fee category within this class on the Part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the license, this approach continues to provide a proxy for allocating the generic and other regulatory costs to the diverse categories of licenses based on the NRC's cost to regulate each category. This fee calculation also continues to consider the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

The annual fee for these categories of materials users licenses is developed as follows:

Annual fee = Constant × [Application Fee + (Average Inspection Cost divided by Inspection Priority)] + Inspection Multiplier × (Average Inspection Cost divided by Inspection Priority) + Unique Category Costs.

The constant is the multiple necessary to recover approximately $21 million in general costs (including allocated generic transportation costs) and is 1.53 for FY 2011. The average inspection cost is the average inspection hours for each fee category multiplied by the hourly rate of $273. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is the multiple necessary to recover approximately $8.2 million in inspection costs, and is 2.3 for FY 2011. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2011, approximately $113,500 in budgeted costs for the implementation of revised 10 CFR Part 35, Medical Use of Byproduct Material (unique costs), has been allocated to holders of NRC human-use licenses.

The annual fee to be assessed to each licensee also includes a share of the fee-relief surplus adjustment of approximately $177,000 allocated to the materials users fee class (see Section III.B.1., "Application of Fee-Relief and Low-Level Waste Surcharge," of this document), and for certain categories of these licensees, a share of the approximately $189,000 in LLW surcharge costs allocated to the fee class. The annual fee for each fee category is shown in § 171.16(d).

In FY 2011, the NRC will be eliminating fee Category 3.D. under byproduct materials since the agency does not expect to receive any license under the current definition of this fee category. The fee category will be reserved for future use.

h. Transportation

Table XVII shows the calculation of the FY 2011 generic transportation budgeted resources to be recovered through annual fees. The FY 2010 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary fee calculations	FY 2010 final	FY 2011 proposed
Total budgeted resources	$6.6	$7.5
Less estimated Part 170 receipts	−3.3	−3.4
Net Part 171 resources	3.3	4.1

The increase in Part 171 resources in FY 2011 compared to last year is primarily due to an increase in budgeted resources for transportation regulatory programs.

The NRC must approve any package used for shipping nuclear material before shipment. If the package meets NRC requirements, the NRC issues a Radioactive Material Package Certificate of Compliance (CoC) to the organization requesting approval of a package. Organizations are authorized to ship radioactive material in a package approved for use under the general licensing provisions of 10 CFR Part 71. The resources associated with generic transportation activities are distributed to the license fee classes based on the number of CoCs benefitting (used by) that fee class, as a proxy for the generic transportation resources expended for each fee class.

Generic transportation resources associated with fee-exempt entities are not included in this total. These costs are included in the appropriate fee-relief category (e.g., the fee-relief category for nonprofit educational institutions).

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC will

recover generic transportation costs unrelated to DOE as part of existing annual fees for license fee classes. The NRC will continue to assess a separate annual fee under § 171.16, fee Category 18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

The distribution of these resources to the license fee classes and DOE is shown in Table XVIII. The distribution is adjusted to account for the licensees in each fee class that are fee-exempt. For example, if 3 CoCs benefit the entire research and test reactor class, but only 4 of 32 research and test reactors are subject to annual fees, the number of CoCs used to determine the proportion of generic transportation resources allocated to research and test reactor annual fees equals ((4/32)*3), or 0.4 CoCs.

TABLE XVIII—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2011

[Dollars in millions]

License fee class/DOE	Number CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Total	85.5	100.0	$4.11
DOE	22.0	25.7	1.06
Operating Power Reactors	19.0	22.2	0.91
Spent Fuel Storage/Reactor Decommissioning	10.0	11.7	0.48
Research and Test Reactors	0.5	0.6	0.02
Fuel Facilities	13.0	15.2	0.62
Materials Users	21.0	24.6	1.01

The NRC is proposing to continue to assess an annual fee to DOE based on the Part 71 CoCs it holds and not allocate these DOE-related resources to other licensees' annual fees, because these resources specifically support DOE. Note that DOE's annual fee includes a reduction for the fee-relief surplus adjustment (see Section III.B.1, "Application of Fee-Relief and Low-Level Waste Surcharge," of this document), resulting in a total annual fee of $1,028,000 for FY 2011. The increase in the DOE fee is primarily related to higher budgeted resources for the NRC's transportation activities.

3. Administrative Amendments

Eliminate fee Category 3.D. in § 171.16 since the agency currently does not have any licensee under this category. Based on the definition of this fee category no future licensees are expected since there are no nonprofit educational institutions that are distributors of radiopharmaceuticals.

Revise § 171.16 to reflect changes made to fee categories for import and export licenses in § 170.31. The current export fee Category 15.H. is deleted because the description for the fee was incorrect and not used in export licensing. A new export fee Category 15.H. is established to reflect a new fee category for government-to-government consents for exports of Category 1 quantities for radioactive material listed in Appendix P to 10 CFR Part 110. In addition, fee categories 15.M. through and including 15.Q. are being eliminated. The requirement to obtain a specific license for imports of radioactive materials listed in Appendix P to 10 CFR Part 110 was eliminated as part of a 2010 rule change to 10 CFR Part 110 (July 28, 2010; 75 FR 44072).

In summary, the NRC is proposing to—

1. Use the NRC's fee-relief surplus by reducing all licensees' annual fees, based on their percentage share of the NRC budget; and

2. Establish rebaselined annual fees for FY 2011.

3. Update some fee categories for materials users and import and export licenses.

IV. Plain Language

The Presidential Memorandum dated June 1, 1998, entitled "Plain Language in Government Writing," directed that the Government's writing be in plain language. This memorandum was published on June 10, 1998 (63 FR 31883). The NRC requests specific comments on the clarity and effectiveness of the language in the proposed rule. Comments should be sent to the address listed under the **ADDRESSES** section of this document.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 3701) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies, unless using these standards is inconsistent with applicable law or is otherwise impractical. The NRC is proposing to amend the licensing, inspection, and annual fees charged to its licensees and applicants as necessary to recover approximately 90 percent of its budget authority in FY 2011, as required by the OBRA–90, as amended. This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental assessment nor an environmental impact statement has been prepared for the proposed rule. By its very nature, this regulatory action does not affect the environment and, therefore, no environmental justice issues are raised.

VII. Paperwork Reduction Act Statement

This proposed rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an

information collection requirement, unless the requesting document displays a currently valid Office of Management and Budget control number.

VIII. Regulatory Analysis

With respect to 10 CFR Part 170, this proposed rule was developed under Title V of the IOAA (31 U.S.C. 9701) and the Commission's fee guidelines. When developing these guidelines, the Commission took into account guidance provided by the U.S. Supreme Court on March 4, 1974, in *National Cable Television Association, Inc.* v. *United States,* 415 U.S. 36 (1974) and *Federal Power Commission v. New England Power Company,* 415 U.S. 345 (1974). In these decisions, the Court held that the IOAA authorizes an agency to charge fees for special benefits rendered to identifiable persons measured by the "value to the recipient" of the agency service. The meaning of the IOAA was further clarified on December 16, 1976, by four decisions of the U.S. Court of Appeals for the District of Columbia: *National Cable Television Association* v. *Federal Communications Commission,* 554 F.2d 1094 (DC Cir. 1976); *National Association of Broadcasters* v. *Federal Communications Commission,* 554 F.2d 1118 (DC Cir. 1976); *Electronic Industries Association* v. *Federal Communications Commission,* 554 F.2d 1109 (D.C. Cir. 1976); and *Capital Cities Communication, Inc.* v. *Federal Communications Commission,* 554 F.2d 1135 (DC Cir. 1976). The Commission's fee guidelines were developed based on these legal decisions.

The Commission's fee guidelines were upheld on August 24, 1979, by the U.S. Court of Appeals for the Fifth Circuit in *Mississippi Power and Light Co.* v. *U.S. Nuclear Regulatory Commission,* 601 F.2d 223 (5th Cir. 1979), *cert. denied,* 444 U.S. 1102 (1980). This court held that—

(1) The NRC had the authority to recover the full cost of providing services to identifiable beneficiaries;

(2) The NRC could properly assess a fee for the costs of providing routine inspections necessary to ensure a licensee's compliance with the Atomic Energy Act of 1954, as amended, and with applicable regulations;

(3) The NRC could charge for costs incurred in conducting environmental reviews required by the National Environmental Policy Act (42 U.S.C. 4321);

(4) The NRC properly included the costs of uncontested hearings and of administrative and technical support services in the fee schedule;

(5) The NRC could assess a fee for renewing a license to operate a low-level radioactive waste burial site; and

(6) The NRC's fees were not arbitrary or capricious.

With respect to 10 CFR Part 171, on November 5, 1990, the Congress passed OBRA–90, which required that, for FYs 1991 through 1995, approximately 100 percent of the NRC budget authority, less appropriations from the NWF, be recovered through the assessment of fees. The OBRA–90 was subsequently amended to extend the 100 percent fee recovery requirement through FY 2000. The FY 2001 Energy and Water Development Appropriation Act (EWDAA) amended OBRA–90 to decrease the NRC's fee recovery amount by 2 percent per year beginning in FY 2001, until the fee recovery amount was 90 percent in FY 2005. The FY 2006 EWDAA extended this 90 percent fee recovery requirement for FY 2006. Section 637 of the Energy Policy Act of 2005 made the 90 percent fee recovery requirement permanent in FY 2007. As a result, the NRC is required to recover approximately 90 percent of its FY 2011 budget authority, less the amounts appropriated from the NWF, WIR, and generic homeland security activities through fees. To comply with this statutory requirement and in accordance with § 171.13, the NRC is publishing the amount of the FY 2011 annual fees for reactor licensees, fuel cycle licensees, materials licensees, and holders of CoCs, registrations of sealed source and devices, and Government agencies. The OBRA–90, consistent with the accompanying Conference Committee Report, and the amendments to OBRA–90, provides that—

(1) The annual fees will be based on approximately 90 percent of the Commission's FY 2011 budget of $1,053.6 million not including the following items: Funds appropriated from the NWF to cover the NRC's high-level waste program, amounts appropriated for WIR and generic homeland security activities, and the amount of funds collected from Part 170 fees;

(2) The annual fees shall, to the maximum extent practicable, have a reasonable relationship to the cost of regulatory services provided by the Commission; and

(3) The annual fees be assessed to those licensees the Commission, in its discretion, determines can fairly, equitably, and practicably contribute to their payment.

Part 171, which established annual fees for operating power reactors, effective October 20, 1986 (51 FR 33224; September 18, 1986), was challenged and upheld in its entirety in *Florida Power and Light Company* v. *United States,* 846 F.2d 765 (DC Cir. 1988), *cert. denied,* 490 U.S. 1045 (1989). Further, the NRC's FY 1991 annual fee rule methodology was upheld by the DC Circuit Court of Appeals in *Allied Signal* v. *NRC,* 988 F.2d 146 (DC Cir. 1993).

IX. Regulatory Flexibility Analysis

The NRC is required by the OBRA–90, as amended, to recover approximately 90 percent of its FY 2011 budget authority through the assessment of user fees. This Act further requires that the NRC establish a schedule of charges that fairly and equitably allocates the aggregate amount of these charges among licensees.

This proposed rule would establish the schedules of fees that are necessary to implement the Congressional mandate for FY 2011. This proposed rule would result in increases in the annual fees charged to certain licensees and holders of certificates, registrations, and approvals, and in decreases in annual fees charged to others. Licensees affected by the annual fee increases and decreases include those that qualify as a small entity under NRC's size standards in 10 CFR 2.810. The Regulatory Flexibility Analysis, prepared in accordance with 5 U.S.C. 604, is included as Appendix A to this proposed rule.

The Small Business Regulatory Enforcement Fairness Act (SBREFA) requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. Therefore, in compliance with the law, Attachment 1 of Appendix A to the Regulatory Flexibility Analysis is the small entity compliance guide for FY 2011.

X. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and that a backfit analysis is not required for this proposed rule. The backfit analysis is not required because these amendments do not require the modification of, or additions to, systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental

relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, Registrations, Approvals, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552, the NRC is proposing to adopt the following amendments to 10 CFR Parts 170 and 171.

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. The authority citation for part 170 continues to read as follows:

Authority: Section 9701, Pub. L. 97–258, 96 Stat. 1051 (31 U.S.C. 9701); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205a, Pub. L. 101–576, 104 Stat. 2842, as amended (31 U.S.C. 901, 902); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note), sec. 623, Pub. L. 109–58, 119 Stat. 783 (42 U.S.C. 2201(w)); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

2. In § 170.11, paragraphs (a)(1)(iii)(A) and (a)(1)(iii)(B) are revised and paragraph (a)(1)(iii)(D) is removed and reserved.

The revisions read as follows:

§ 170.11 Exemptions.

(a) * * *

(1) * * *

(iii) * * *

(A) The report should be submitted for the specific purpose of supporting ongoing NRC generic regulatory improvements or efforts (e.g., rules, regulations, regulatory guides, and policy statements), and the agency, at the time the document is submitted, plans to use it for that purpose. The exemption applies even if ultimately the NRC does not use the document as planned;

(B) The NRC must be the primary beneficiary of the NRC's review and approval of these documents. This exemption does not apply to a topical report submitted for the purpose of obtaining NRC approval for future use of the report by the industry to address licensing or safety issues, even though the NRC may realize some benefits from its review and approval of the document; and

* * * * *

3. Section 170.20 is revised to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the professional staff-hour rate of $273 per hour.

4. In § 170.21, in the table, fee Category K is revised to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses.

* * * * *

SCHEDULE OF FACILITY FEES

[*See* footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
* * * * * * *	
K. Import and export licenses:	
Licenses for the import and export only of production and utilization facilities or the export only of components for production and utilization facilities issued under 10 CFR Part 110.	
1. Application for import or export of production and utilization facilities [4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	$17,700
2. Application for export of reactor and other components requiring Executive Branch review only, for example, those actions under 10 CFR 110.41(a).	
Application—new license, or amendment; or license exemption request	9,600
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	4,400
4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	2,700
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment to license	1,400

[1] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect when the service was provided. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for any topical report, amendment, revision, or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

* * * * * * * * *

[4] Imports only of major components for end-use at NRC-licensed reactors are now authorized under NRC general import license.

[5] In § 170.31, the table is revised to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[*See* footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210].	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [Program Code(s): 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities	Full Cost.
(c) Others, including hot cell facilities	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200].	Full Cost.
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers [4].	$1,300.
Application [Program Code(s): 22140]	
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[4].	
Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22163, 22170, 23100, 23300, 23310].	$2,500.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200]	Full Cost.
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities [Program Code(s): 11100]	Full Cost.
(b) Basic In Situ Recovery facilities [Program Code(s): 11500]	Full Cost.
(c) Expanded In Situ Recovery facilities [Program Code(s): 11510]	Full Cost.
(d) In Situ Recovery Resin facilities [Program Code(s): 11550]	Full Cost.
(e) Resin Toll Milling facilities [Program Code(s): 11555]	Full Cost.
(f) Other facilities [Program Code(s): 11700]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000].	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010].	Full Cost.
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820].	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.	
Application [Program Code(s): 11210]	$600.
C. All other source material licenses	$5,400.
Application [Program Code(s): 11200, 11220, 11221, 11230, 11300, 11800, 11810].	
3. Byproduct material:	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	

SCHEDULE OF MATERIALS FEES—Continued

[*See* footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
Application [Program Code(s): 03211, 03212, 03213]	$12,800.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	
Application [Program Code(s): 03214, 03215, 22135, 22162]	$4,400.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4).	
Application [Program Code(s): 02500, 02511, 02513]	$6,500.
D. [Reserved]	N/A [6].
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).	
Application [Program Code(s): 03510, 03520]	$3,100.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03511]	$6,400.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03521]	$60,900.
H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03254, 03255]	$4,300.
I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03250, 03251, 03252, 03253, 03256]	$11,400.
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03240, 03241, 03243]	$2,000.
K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03242, 03244]	$1,100.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution.	
Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	$5,400.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution.	
Application [Program Code(s): 03620]	$3,500.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C.	
Application [Program Code(s): 03219, 03225, 03226]	$6,400.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations.	
Application [Program Code(s): 03310, 03320]	$4,000.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.	
Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03220, 03221, 03222, 03800, 03810, 22130].	$1,500.
Q. Registration of a device(s) generally licensed under part 31 of this chapter.	
Registration	$400.
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section.[5]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified.	
Application [Program Code(s): 02700]	$2,500.
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4), or (5).	
Application [Program Code(s): 02710]	$1,500.
S. Licenses for production of accelerator-produced radionuclides.	
Application [Program Code(s): 03210]	$6,500.
4. Waste disposal and processing:	

SCHEDULE OF MATERIALS FEES—Continued

[*See* footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of	Full Cost.
Application [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101].	
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03234]	$8,400.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03232]	$4,900.
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies.	
Application [Program Code(s): 03110, 03111, 03112]	$3,300.
B. Licenses for possession and use of byproduct material for field flooding tracer studies.	
Licensing [Program Code(s): 03113]	Full Cost.
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	
Application [Program Code(s): 03218]	$21,800.
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices.	
Application [Program Code(s): 02300, 02310]	$8,800.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.	
Application [Program Code(s): 02110]	$8,500.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.	
Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	$2,700.
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	
Application [Program Code(s): 03710]	$2,500.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	
Application—each device	$7,600.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	
Application—each device	$8,800.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	
Application—each source	$10,300.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	
Application—each source	$1,040.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators.	
Application	$3,900.
Inspections	Full Cost.
2. Users.	
Application	$3,900.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities.	Full Cost.
12. Special projects:	Full Cost.

SCHEDULE OF MATERIALS FEES—Continued

[*See* footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
Including approvals, preapplication/licensing activities, and inspections.	
13. A. Spent fuel storage cask Certificate of Compliance.	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter.	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses:	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.)	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	$17,700.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.).	
Application B—new license, or amendment; or license exemption request	$9,600.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	$4,400.
D. Application for export or import of nuclear material, including radioactive waste, not requiring Commission or Executive Branch review, or obtaining foreign government assurances. This category includes applications for export or import of radioactive waste where the NRC has previously authorized the export or import of the same form of waste to or from the same or similar parties located in the same country, requiring only confirmation from the receiving facility and licensing authorities that the shipments may proceed according to previously agreed understandings and procedures.	
Application—new license, or amendment; or license exemption request	$2,700.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment	$1,400.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in Appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).	
Category 1 (Appendix P, 10 CFR Part 110) Exports:	
F. Application for export of Category 1 materials involving an exceptional circumstances review under 10 CFR 110.42(e)(4).	
Application—new license, or amendment; or license exemption request	$15,000.
G. Application for export of Category 1 materials requiring Executive Branch review, Commission review, and/or government-to-government consent.	
Application—new license, or amendment; or license exemption request	$8,700.
H. Application for export of Category 1 materials requiring government-to-government consent.	
Application—new license, or amendment; or license exemption request	$5,500.
I. Requests for additional government-to-government consent requests in support of an export license application or active export license.	
Application—new license, or amendment; or license exemption request	$270.
Category 2 (Appendix P, 10 CFR part 110) Exports:	
J. Application for export of Category 2 materials involving an exceptional circumstances review under 10 CFR 110.42(e)(4).	
Application—new license, or amendment; or license exemption request	$15,000.
K. Applications for export of Category 2 materials requiring Executive Branch review and/or Commission review.	
Application—new license, or amendment; or license exemption request	$8,700.
L. Application for the export of Category 2 materials.	
Application—new license, or amendment; or license exemption request	$5,500.
M. [Reserved]	N/A [6].
N. [Reserved]	N/A [6].
O. [Reserved]	N/A [6].
P. [Reserved]	N/A [6].
Q. [Reserved]	N/A [6].
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR part 110, Export and Imports):	
R. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities.	
Minor amendment	$1,400.
16. Reciprocity:	
Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.	
Application	$2,300.
17. Master materials licenses of broad scope issued to Government agencies.	
Application [Program Code(s): 03614]	Full Cost.

SCHEDULE OF MATERIALS FEES—Continued

[*See* footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
18. Department of Energy.	
A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities.	Full Cost.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for preapplication consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee Category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, preapplication consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in Categories 9.A. through 9.D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended. For applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports for which costs exceed $50,000. Costs which exceed $50,000 for each topical report, amendment, revision, or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20.

[4] Licensees paying fees under Categories 1.A., 1.B., and 1.E. are not subject to fees under Categories 1.C. and 1.D. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6] There are no existing NRC licenses in the fee category.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

6. The authority citation for part 171 continues to read as follows:

Authority: Section 7601, Pub. L. 99–272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330, as amended by sec. 3201, Pub. L. 101–239, 103 Stat. 2132, as amended by sec. 6101, Pub. L. 101–508, 104 Stat. 1388, as amended by sec. 2903a, Pub. L. 102–486, 106 Stat. 3125 (42 U.S.C. 2213, 2214), and as amended by Title IV, Pub. L. 109–103, 119 Stat. 2283 (42 U.S.C. 2214); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note), sec. 651(e), Pub. L.109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

7. In § 171.15, paragraph (b)(1), paragraph (b)(2) introductory text, paragraph (c)(1), paragraph (c)(2) introductory text, paragraph (d)(1) introductory text, and paragraphs (d)(2), (d)(3), and (e), are revised to read as follows:

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2011 annual fee for each operating power reactor which must be collected by September 30, 2011, is $4,669,000.

(2) The FY 2011 annual fee is comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (fee-relief adjustment). The activities comprising the spent storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2011 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2011 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2011 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is $234,000.

(2) The FY 2011 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section) and an additional charge (fee-relief adjustment). The activities comprising the FY 2011 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2011 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) The fee-relief adjustment allocated to annual fees includes a surcharge for the activities listed in paragraph (d)(1)(i) of this section, plus the amount remaining after total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section are reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section for a given FY, annual fees will be reduced. The activities comprising the FY 2011 fee-relief adjustment are as follows:

* * * * *

(2) The total FY 2011 fee-relief adjustment allocated to the operating power reactor class of licenses is −$3.4 million, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2011 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately −$32,248. This amount is calculated by dividing the total operating power reactor fee-relief adjustment (−$3.4 million) by the number of operating power reactors (104).

(3) The FY 2011 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is −$236,572. The FY 2011 spent fuel storage/reactor decommissioning fee-relief adjustment to be assessed to each operating power reactor, each power reactor in decommissioning or possession-only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is approximately −$1,923. This amount is calculated by dividing the total fee-relief adjustment costs allocated to this class by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

(e) The FY 2011 annual fees for licensees authorized to operate a research and test (nonpower) reactor licensed under part 50 of this chapter, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor—$86,100.

Test reactor—$86,100.

8. In § 171.16, paragraph (b) introductory text, paragraphs (c) and (d), and paragraph (e) introductory text are revised to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in the following table. Failure to file a small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years):	
$450,000 to $6.5 million	$2,300
Less than $450,000	500
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$450,000 to $6.5 million	2,300
Less than $450,000	500
Manufacturing entities that have an average of 500 employees or fewer:	
35 to 500 employees	2,300
Fewer than 35 employees	500
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 50,000	2,300
Fewer than 20,000	500
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer:	
35 to 500 employees	2,300
Fewer than 35 employees	500

(d) The FY 2011 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2011 fee-relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2011 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in the following table:

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[*See* footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	$6,078,000

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[*See* footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210]	2,287,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [Program Code(s): 21310, 21320]	752,000
(b) Gas centrifuge enrichment demonstration facilities	1,176,000
(c) Others, including hot cell facilities	588,000
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200]	N/A [11]
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers [Program Code(s): 22140]	3,600
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1.A.(2) [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22163, 22170, 23100, 23300, 23310]	6,900
E. Licenses or certificates for the operation of a uranium enrichment facility [Program Code(s): 21200]	3,268,000
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride [Program Code(s): 11400]	1,242,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities [Program Code(s): 11100]	31,900
(b) Basic In Situ Recovery facilities [Program Code(s): 11500]	30,300
(c) Expanded In Situ Recovery facilities [Program Code(s): 11510]	34,300
(d) In Situ Recovery Resin facilities [Program Code(s): 11550]	28,800
(e) Resin Toll Milling facilities [Program Code(s): 11555]	N/A [5]
(f) Other facilities [4] [Program Code(s): 11700]	N/A [5]
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000]	N/A [5]
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010]	10,400
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820]	7,200
B. Licenses that authorize only the possession, use, and/or installation of source material for shielding [Program Code(s): 11210]	1,700
C. All other source material licenses [Program Code(s): 11200, 11220, 11221, 11230, 11300, 11800, 11810]	11,900
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03211, 03212, 03213]	42,600
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03214, 03215, 22135, 22162]	11,900
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). [Program Code(s): 02500, 02511, 02513]	16,200
D. [Reserved]	N/A [5]
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520]	8,700
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511]	15,200
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521]	137,500
H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255]	8,100

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[*See* footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03256]	19,600
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243]	4,700
K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244]	3,100
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	14,100
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620]	8,100
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. [Program Code(s): 03219, 03225, 03226]	14,300
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license [Program Code(s): 03310, 03320]	25,700
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03220, 03221, 03222, 03800, 03810, 22130]	4,800
Q. Registration of devices generally licensed under part 31 of this chapter	N/A [13]
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section: [14]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	8,900
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4), or (5) [Program Code(s): 02710]	4,800
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	15,300
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]	N/A [5]
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03234]	31,300
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03232]	14,400
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies [Program Code(s): 03110, 03111, 03112]	9,900
B. Licenses for possession and use of byproduct material for field flooding tracer studies [Program Code(s): 03113]	N/A [5]
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218]	44,900
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license [Program Code(s): 02300, 02310]	17,600
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [Program Code(s): 02110]	45,000
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	8,400

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[*See* footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities [Program Code(s): 03710]	8,900
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	11,500
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	13,300
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	15,600
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	1,600
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	N/A [6]
2. Other Casks	N/A [6]
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	N/A [6]
2. Users	N/A [6]
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	N/A [6]
11. Standardized spent fuel facilities	N/A [6]
12. Special Projects	N/A [6]
13. A. Spent fuel storage cask Certificate of Compliance	N/A [6]
B. General licenses for storage of spent fuel under 10 CFR 72.210	N/A [12]
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter	N/A [7]
B. Site-specific decommissioning activities associated with unlicensed sites, whether or not the sites have been previously licensed	N/A [7]
15. Import and Export licenses	N/A [8]
16. Reciprocity	N/A [8]
17. Master materials licenses of broad scope issued to Government agencies [Program Code(s): 03710]	476,000
18. Department of Energy:	
A. Certificates of Compliance	1,028,000 [10]
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	771,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 2010, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1.A.(1) are not subject to the annual fees for Categories 1.C. and 1.D. for sealed sources authorized in the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

[4] Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under Categories 7.B. or 7.C.

[10] This includes Certificates of Compliance issued to the Department of Energy that are not funded from the Nuclear Waste Fund.

[11] *See* § 171.15(c).

[12] *See* § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

(e) The fee-relief adjustment allocated to annual fees includes the budgeted resources for the activities listed in paragraph (e)(1) of this section, plus the total budgeted resources for the activities included in paragraphs (e)(2) and (e)(3) of this section, as reduced by the appropriations NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (e)(2) and (e)(3) of this section for a given FY, a negative fee-relief adjustment (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2011 fee-relief adjustment are as follows:

* * * * *

Dated at Rockville, Maryland, this 2nd day of March 2011.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Chief Financial Officer.

Note: This Appendix Will Not Appear in the Code of Federal Regulations.

Appendix A to Proposed Rule, Revision of Fee Schedules; Fee Recovery for Fiscal Year 2011—Regulatory Flexibility Analysis for the Final Amendments to 10 CFR Part 170 (License Fees) and 10 CFR Part 171 (Annual Fees)

I. Background

The Regulatory Flexibility Act (RFA), as amended at 5 U.S.C. 601 *et seq.,* requires that agencies consider the impact of their rulemakings on small entities and, consistent with applicable statutes, consider alternatives to minimize these impacts on the businesses, organizations, and government jurisdictions to which they apply.

The Nuclear Regulatory Commission (NRC or the Commission) has established standards for determining which NRC licensees qualify as small entities (Title 10 of the *Code of Federal Regulations* (10 CFR) 2.810). These standards were based on the Small Business Administration's most common receipts-based size standards and provides for business concerns that are manufacturing entities. The NRC uses the size standards to reduce the impact of annual fees on small entities by establishing a licensee's eligibility to qualify for a maximum small entity fee. The small entity fee categories in § 171.16(c) of this proposed rule are based on the NRC's size standards.

The NRC is required each year, under the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, to recover approximately 90 percent of its budget authority (less amounts appropriated from the Nuclear Waste Fund (NWF) and for other activities specifically removed from the fee base), through fees to NRC licensees and applicants. The OBRA–90 requires that the schedule of charges established by rulemaking should fairly and equitably allocate the total amount to be recovered from the NRC's licensees and be assessed under the principle that licensees who require the greatest expenditure of agency resources pay the greatest annual charges. Since FY 1991, the NRC has complied with OBRA–90 by issuing a final rule that amends its fee regulations. These final rules have established the methodology used by the NRC in identifying and determining the fees to be assessed and collected in any given FY.

The Commission is proposing to rebaseline its 10 CFR Part 171 annual fees in FY 2011. As compared with FY 2010 annual fees, the FY 2011 proposed rebaselined fees are higher for four classes of licensees (spent fuel storage and reactors in decommissioning facilities, research and test reactors, fuel facilities, and transportation), and lower for one class of licensees (power reactors). Within the uranium recovery fee class, the proposed annual fees for most licensees decrease, while the proposed annual fee for one fee category increases. The annual fee increases for most fee categories in the materials users' fee class.

The Small Business Regulatory Enforcement Fairness Act (SBREFA) provides Congress with the opportunity to review agency rules before they go into effect. Under this legislation, the NRC annual fee rule is considered a "major" rule and must be reviewed by Congress and the Comptroller General before the rule becomes effective.

The SBREFA also requires that an agency prepare a written compliance guide to assist small entities in complying with each rule for which a Regulatory Flexibilty Analysis (RFA) is prepared. As required by law, this analysis and the small entity compliance guide (Attachment 1) have been prepared for the FY 2011 fee rule.

II. Impact on Small Entities

The fee rule results in substantial fees charged to those individuals, organizations, and companies licensed by the NRC, including those licensed under the NRC materials program. Comments received on previous proposed fee rules and the small entity certifications in response to previous final fee rules indicate that licensees qualifying as small entities under the NRC's size standards are primarily materials licensees. Therefore, this analysis will focus on the economic impact of fees on materials licensees. In FY 2010, about 29 percent of these licensees (approximately 921 licensees) qualified as small entities.

Commenters on previous fee rulemakings consistently indicated that the following would occur if the proposed annual fees were not modified:

1. Large firms would gain an unfair competitive advantage over small entities. Commenters noted that small and very small companies ("Mom and Pop" operations) would find it more difficult to absorb the annual fee than a large corporation or a high-volume type of operation. In competitive markets, such as soil testing, annual fees would put small licensees at an extreme competitive disadvantage with their much larger competitors because the proposed fees would be identical for both small and large firms.

2. Some firms would be forced to cancel their licenses. A licensee with receipts of less than $500,000 per year stated that the proposed rule would, in effect, force it to relinquish its soil density gauge and license, thereby reducing its ability to do its work effectively. Other licensees, especially well-loggers, noted that the increased fees would force small businesses to abandon the materials license altogether. Commenters estimated that the proposed rule would cause roughly 10 percent of the well-logging licensees to terminate their licenses immediately and approximately 25 percent to terminate before the next annual assessment.

3. Some companies would go out of business.

4. Some companies would have budget problems. Many medical licensees noted that, along with reduced reimbursements, the proposed increase of the existing fees and the introduction of additional fees would significantly affect their budgets. Others noted that, in view of the cuts by Medicare and other third party carriers, the fees would produce a hardship difficult for some facilities to meet.

Over 3,000 licenses, approvals, and registration terminations have been requested since the NRC first established annual fees for materials licenses. Although some terminations were requested because the license was no longer needed or could be combined with registrations, indications are that the economic impact of the fees caused other terminations.

To alleviate the significant impact of the annual fees on a substantial number of small entities, the NRC considered the following alternatives in accordance with the RFA in developing each of its fee rules since FY 1991.

1. Base fees on some measure of the amount of radioactivity possessed by the licensee (e.g., number of sources).

2. Base fees on frequency of use of licensed radioactive material (e.g., volume of patients).

3. Base fees on the NRC size standards for small entities.

The NRC has reexamined its previous evaluations of these alternatives and continues to believe that a maximum fee for small entities is the most appropriate and effective option for reducing the impact of fees on small entities.

III. Maximum Fee

The SBREFA and its implementing guidance do not provide specific guidelines on what constitutes a significant economic impact on a small entity. In developing the maximum small entity annual fee in FY 1991, the NRC examined 10 CFR Part 170 licensing and inspection fees and Agreement State fees for fee categories which were expected to have a substantial number of small entities. Six Agreement States (Washington, Texas, Illinois, Nebraska, New York, and Utah) were used as benchmarks in the establishment of the maximum small entity annual fee in FY 1991.

The NRC maximum small entity fee was established as an annual fee only. In addition to the annual fee, NRC small entity licensees were required to pay amendment, renewal

and inspection fees. In setting the small entity annual fee, NRC ensured that the total amount small entities paid would not exceed the maximum paid in the six benchmark Agreement States.

Of the six benchmark States, the NRC used Washington's maximum Agreement State fee of $3,800 as the ceiling for total fees. Thus, the NRC's small entity fee was developed to ensure that the total fees paid by NRC small entities would not exceed $3,800. Given the NRC's FY 1991 fee structure for inspections, amendments, and renewals, a small entity annual fee established at $1,800 allowed the total fee (small entity annual fee plus yearly average for inspections, amendments, and renewal fees) for all categories to fall under the $3,800 ceiling.

In FY 1992, the NRC introduced a second, lower tier to the small entity fee in response to concerns that the $1,800 fee, when added to the license and inspection fees, still imposed a significant impact on small entities with relatively low gross annual receipts. For purposes of the annual fee, each small entity size standard was divided into an upper and lower tier. Small entity licensees in the upper tier continued to pay an annual fee of $1,800, while those in the lower tier paid an annual fee of $400.

Based on the changes that had occurred since FY 1991, the NRC reanalyzed its maximum small entity annual fees in FY 2000 and determined that the small entity fees should be increased by 25 percent to reflect the increase in the average fees paid by other materials licensees since FY 1991, as well as changes in the fee structure for materials licensees. The structure of fees NRC charged its materials licensees changed during the period between 1991 and 1999. Costs for materials license inspections, renewals, and amendments, which were previously recovered through Part 170 fees for services, are now included in the Part 171 annual fees assessed to materials licensees. Because of the 25 percent increase, in FY 2000 the maximum small entity annual fee increased from $1,800 to $2,300. However, despite the increase, total fees for many small entities were reduced because they no longer paid Part 170 fees. Costs not recovered from small entities were allocated to other materials licensees and to power reactors.

While reducing the impact on many small entities, the NRC determined that the maximum annual fee of $2,300 for small entities could continue to have a significant impact on materials licensees with relatively low annual gross receipts. Therefore, the NRC continued to provide the lower-tier small entity annual fee for small entities with relatively low gross annual receipts, manufacturing concerns, and for educational institutions not State or publicly supported with fewer than 35 employees. The NRC also increased the lower-tier small entity fee by 25 percent, the same percentage increase to the maximum small entity annual fee, resulting in the lower-tier small entity fee increasing from $400 to $500 in FY 2000.

The NRC stated in the RFA for the FY 2001 final fee rule that it would reexamine the small entity fees every 2 years, in the same years in which it conducts the biennial review of fees as required by the Chief Financial Officers Act. Accordingly, the NRC examined the small entity fees again in FY 2003 and FY 2005, determining that a change was not warranted to those fees established in FY 2001.

As part of the small entity review in FY 2007, the NRC also considered whether it should establish reduced fees for small entities under Part 170. The NRC received one comment requesting that small entity fees be considered for certain export licenses, particularly in light of the recent increases to Part 170 fees for these licenses. Because the NRC's Part 170 fees are not assessed to a licensee or applicant on a regular basis (i.e., they are only assessed when a licensee or applicant requests a specific service from the NRC), the NRC does not believe that the impact of its Part 170 fees warrants a fee reduction for small entities, in addition to the Part 171 small entity fee reduction. Regarding export licenses, the NRC notes that interested parties can submit a single application for a broad scope, multi-year license that permits exports to multiple countries. Because the NRC charges fees per application, this process minimizes the fees for export applicants. Because a single NRC fee can cover numerous exports, and because there are a limited number of entities who apply for these licenses, the NRC does not anticipate that the Part 170 export fees will have a significant impact on a substantial number of small entities. Therefore, the NRC retained the $2,300 small entity annual fee and the $500 lower-tier small entity annual fee for FY 2007 and FY 2008.

The NRC conducted an in-depth biennial review of the FY 2009 small entity fees. The review noted significant changes between FY 2000 and FY 2008 in both the external and internal environment which impacted fees for NRC's materials users licensees. Since FY 2000, small entity licensees in the upper tier had increased approximately 53 percent. In addition, due to changes in the law, NRC is now required to recover only 90 percent of its budget authority compared to 100 percent recovery required in FY 2000. This 10 percent fee-relief has influenced the materials users' annual fees. A decrease in the NRC's budget allocation to the materials users also influenced annual fees in FY 2007 and FY 2008.

Based on the review, the NRC changed the methodology for reviewing small entity fees. The NRC determined the maximum small entity fee should be adjusted each biennial year using a fixed percentage of 39 percent applied to the prior 2-year weighted average of materials users fees for all fee categories which have small entity licensees. The 39 percent was based on the small entity annual fee for FY 2005, which was the first year the NRC was required to recover only 90 percent of its budget authority. The FY 2005 small entity annual fee of $2,300 was 39 percent of the 2-year weighted average for all fee categories in FY 2005 and FY 2006 that had an upper-tier small entity licensee. The new methodology allows small entity licensees to be able to predict changes in their fee in the biennial year based on the materials users' fees for the previous 2 years. Using a 2-year weighted average smoothes the fluctuations caused by programmatic and budget variables and reflects the importance of the fee categories with the majority of small entities. The agency also determined the lower-tier annual fee should remain at 22 percent of the maximum small entity annual fee. In FY 2009, the NRC decreased the maximum small entity fee from $2,300 to $1,900 and decreased the lower-tier annual fee from $500 to $400.

In FY 2011, the NRC reexamined the small entity fee, including the new methodology developed in FY 2009. Per the methodology used in FY 2009, the agency computed the small entity fee by using a fixed percentage of 39 percent applied to the prior 2-year weighted average of materials users' fees. This resulted in an upper-tier small entity fee amount that was 7 percent higher than the current fee of $1,900, a reflection of the increase in annual fees for the materials users licensees for the past 2 years. Implementing this increase would have a disproportionate impact upon small NRC licensees. Therefore in FY 2011, NRC has decided to limit the increase for upper tier fees to $2,300, a 21 percent increase, and the lower tier fee to $500, a 25 percent increase. This increase in the small entity fee partially reflects the changes to the annual fee for the materials users for the previous 2 years.

IV. Summary

The NRC has determined that the 10 CFR Part 171 annual fees significantly impact a substantial number of small entities. A maximum fee for small entities strikes a balance between the requirement to recover 90 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. Based on its RFA, the NRC concludes that a maximum annual fee of $2,300 for small entities and a lower-tier small entity annual fee of $500 for small businesses and not-for-profit organizations with gross annual receipts of less than $450,000, small governmental jurisdictions with a population of fewer than 20,000, small manufacturing entities that have fewer than 35 employees, and educational institutions that are not State or publicly supported and have fewer than 35 employees, reduces the impact on small entities. At the same time, these reduced annual fees are consistent with the objectives of OBRA–90. Thus, the fees for small entities maintain a balance between the objectives of OBRA–90 and the RFA.

Attachment 1 to Appendix A—U.S. Nuclear Regulatory Commission Small Entity Compliance Guide; Fiscal Year 2011

Contents

I. Introduction

The Small Business Regulatory Enforcement Fairness Act (SBREFA) requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by U.S.C. 604 to prepare a regulatory flexibility analysis. Therefore, in

compliance with the law, Attachment 1 to the Regulatory Flexibility Analysis is the small entity compliance guide for FY 2011.

Licensees may use this guide to determine whether they qualify as a small entity under NRC regulations and are eligible to pay reduced FY 2011 annual fees assessed under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 171. The U.S. Nuclear Regulatory Commission (NRC) has established two tiers of annual fees for those materials licensees who qualify as small entities under the NRC's size standards.

Licensees who meet the NRC's size standards for a small entity (listed in 10 CFR 2.810) must submit a completed NRC Form 526 "Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171" to qualify for the reduced annual fee. This form can be accessed on the NRC's Web site at *http://www.nrc.gov.* The form can then be accessed by selecting "Business with NRC," then "NRC Forms," selecting NRC Form 526. For licensees who cannot access the NRC's Web site, NRC Form 526 may be obtained through the local point of contact listed in the NRC's "Materials Annual Fee Billing Handbook," NUREG/BR–0238, which is enclosed with each annual fee billing. Alternatively, the form may be obtained by calling the fee staff at 301–415–7554, or by e-mailing the fee staff at *fees.resource@nrc.gov.*

The completed form, the appropriate small entity fee, and the payment copy of the invoice should be mailed to the U.S. Nuclear Regulatory Commission, Accounts Receivable/Payable Branch, at the address indicated on the invoice. Failure to file the NRC small entity certification Form 526 in a timely manner may result in the denial of any refund that might otherwise be due.

II. NRC Definition of Small Entity

For purposes of compliance with its regulations (10 CFR 2.810), the NRC has defined a small entity as follows:

(1) *Small business*—a for-profit concern that (a) provides a service, or a concern that is not engaged in manufacturing, with average gross receipts of $6.5 million or less over its last 3 completed fiscal years; or (b) a manufacturing concern with an average number of 500 or fewer employees based on employment during each pay period for the preceding 12 calendar months;

(2) *Small organizations*—a not-for-profit organization which is independently owned and operated and has annual gross receipts of $6.5 million or less;

(3) *Small governmental jurisdiction*—a government of a city, county, town, township, village, school district, or special district, with a population of less than 50,000; and

(4) *Small educational institution*—an educational institution that is (a) supported by a qualifying small governmental jurisdiction, or (b) one that is not State or publicly supported and has 500 or fewer employees.[1]

To further assist licensees in determining if they qualify as a small entity, the following guidelines are provided, which are based on the Small Business Administration's regulations (13 CFR Part 121).

(1) A small business concern is an independently owned and operated entity which is not considered dominant in its field of operations.

(2) The number of employees means the total number of employees in the parent company, any subsidiaries and/or affiliates, including both foreign and domestic locations (i.e., not solely the number of employees working for the licensee or conducting NRC-licensed activities for the company).

(3) Gross annual receipts include all revenue received or accrued from any source, including receipts of the parent company, any subsidiaries and/or affiliates, and account for both foreign and domestic locations. Receipts include all revenues from sales of products and services, interest, rent, fees, and commissions from whatever sources derived (i.e., not solely receipts from NRC-licensed activities).

(4) A licensee who is a subsidiary of a large entity, including a foreign entity, does not qualify as a small entity.

III. NRC Small Entity Fees

In 10 CFR 171.16(c), the NRC has established two tiers of fees for licensees that qualify as a small entity under the NRC's size standards. The fees are as follows:

	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years):	
$450,000 to $6.5 million	$2,300
Less than $450,000	500
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$450,000 to $6.5 million	2,300
Less than $450,000	500
Manufacturing entities that have an average of 500 employees or fewer:	
35 to 500 employees	2,300
Fewer than 35 employees	500
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 50,000	2,300
Fewer than 20,000	500
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer	
35 to 500 employees	2,300
Fewer than 35 employees	500
Fewer than 20,000	500

IV. Instructions for Completing NRC Small Entity Form 526

1. Complete all items on NRC Form 526 as follows: (**Note:** Incomplete or improperly completed forms will be returned as unacceptable.)

(a) Enter the license number and invoice number exactly as they appear on the annual fee invoice.

(b) Enter the North American Industry Classification System.

(c) Enter the licensee's name and address exactly as they appear on the invoice. Annotate name and/or address changes for billing purposes on the payment copy of the invoice—include contact's name, telephone number, e-mail address, and company Web site address. Correcting the name and/or address on NRC Form 526 or on the invoice does not constitute a request to amend the license.

(d) Check the appropriate size standard under which the licensee qualifies as a small entity. Check one box only. Note the following:

(i) A licensee who is a subsidiary of a large entity, including foreign entities, does not qualify as a small entity. The calculation of a firm's size includes the employees or receipts of all affiliates. Affiliation with another concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management, and identity of interest (often found in members of the same family),

[1] An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

among others, are indications of affiliation. The affiliated business concerns need not be in the same line of business.

(ii) Gross annual receipts, as used in the size standards, include all revenue received or accrued by your company from all sources, regardless of the form of the revenue and not solely receipts from licensed activities.

(iii) NRC's size standards on a small entity are based on the Small Business Administration's regulations (13 CFR Part 121).

(iv) The size standards apply to the licensee, not to the individual authorized users who may be listed in the license.

2. If the invoice states the "Amount Billed Represents 50% Proration," the amount due is not the prorated amount shown on the invoice but rather one-half of the maximum small entity annual fee shown on NRC Form 526 for the size standard under which the licensee qualifies (either $1,150 or $250) for each category billed.

3. If the invoice amount is less than the reduced small entity annual fee shown on this form, pay the amount on the invoice; there is no further reduction. In this case, do not file NRC Form 526. However, if the invoice amount is greater than the reduced small entity annual fee, file NRC Form 526 and pay the amount applicable to the size standard you checked on the form.

4. The completed NRC Form 526 must be submitted with the required annual fee payment and the "Payment Copy" of the invoice to the address shown on the invoice.

5. Section 171.16(c) states licensees shall submit a proper certification with its annual fee payment each year. Failure to submit NRC Form 526 at the time the annual fee is paid will require the licensee to pay the full amount of the invoice.

The NRC sends invoices to its licensees for the full annual fee, even though some licensees qualify for reduced fees as small entities. Licensees who qualify as small entities and file NRC Form 526, which certifies eligibility for small entity fees, may pay the reduced fee, which is either $2,300 or $500 for a full year, depending on the size of the entity, for each fee category shown on the invoice. Licensees granted a license during the first 6 months of the fiscal year, and licensees who file for termination or for a ''possession-only'' license and permanently cease licensed activities during the first 6 months of the fiscal year, pay only 50 percent of the annual fee for that year. Such invoices state that the "amount billed represents 50% proration."

Licensees must file a new small entity form (NRC Form 526) with the NRC each fiscal year to qualify for reduced fees in that year. Because a licensee's "size," or the size standards, may change from year to year, the invoice reflects the full fee, and licensees must complete and return NRC Form 526 for the fee to be reduced to the small entity fee amount. Licensees will not receive a new invoice for the reduced amount. The completed NRC Form 526, the payment of the appropriate small entity fee, and the "Payment Copy" of the invoice should be mailed to the U. S. Nuclear Regulatory Commission, Accounts Receivable/Payable Branch, at the address indicated on the invoice.

If you have questions regarding the NRC's annual fees, please contact the license fee staff at 301–415–7554, e-mail the fee staff at *fees.resource@nrc.gov,* or write to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Office of the Chief Financial Officer.

False certification of small entity status could result in civil sanctions being imposed by the NRC under the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.* NRC's implementing regulations are found at 10 CFR Part 13.

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