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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Availability of the Final Record of Decision for the Programmatic Environmental Impact Statement for Northern Border Activities and Technical Corrections to the Final Programmatic Environmental Impact Statement for Northern Border Activities

AGENCY: U.S. Customs and Border, Protection, DHS.

ACTION: Notice of availability.

SUMMARY: U.S. Customs and Border Protection (CBP) announces the availability of the Final Record of Decision (ROD) for the Programmatic Environmental Impact Statement for Northern Border Activities (PEIS). The release of this Final ROD concludes a process of assessment of the potential for CBP activities to affect the environment along the northern border and recommends what measures CBP anticipates it will routinely consider to reduce the potential for environmental harm from its actions. CBP is also making certain technical corrections to the PEIS to ensure that it accurately describes CBP activities and the preparation of the PEIS itself. This notice describes those technical corrections.

ADDRESSES: You may obtain copies of the Final ROD and the PEIS revisions by accessing the following Internet addresses:

http://www.cbp.gov/xp/cgov/about/ec/nepa_pr/nepa_by_state/nobo_peis/ and

<http://www.dhs.gov/nepa>. Alternatively you may e-mail

cbpenvironmentalprogram@cbp.dhs.gov before [INSERT DATE 90 DAYS FROM

DATE OF PUBLICATION IN THE FEDERAL REGISTER] or telephone (202-325-4191) to request a copy of the Final ROD.

FOR FURTHER INFORMATION CONTACT: Jennifer DeHart Hass, CBP, Office of Administration, telephone 202-325-4191. You may also visit the project's webpage through: http://www.cbp.gov/xp/cgov/about/ec/nepa_pr/nepa_by_state/nobo_peis/.

SUPPLEMENTARY INFORMATION:

The Northern Border PEIS was prepared to inform CBP decision-makers about potential environmental impacts resulting from CBP Northern Border activities. The action alternatives considered in the PEIS represent reasonably foreseeable changes to CBP's Northern Border security program that could potentially occur over the next five to seven years.

On July 27, 2012, CBP published a Notice of Availability (NOA) in the **Federal Register** (77 FR 44259) announcing the availability of the Final PEIS and availability of the Draft ROD for the Northern Border PEIS for a 30-day public review prior to making a decision on what alternative CBP would select from among those analyzed. Previous **Federal Register** notices published for the PEIS are as follows:

- Notice of Intent (NOI) to prepare four PEISs, July 6, 2010, 75 FR 38822.
- NOI to Prepare One PEIS, November 9, 2010, 75 FR 68810.
- NOA of a Draft PEIS, September 16, 2011, 76 FR 57751.

The Executive Director for Facilities Management signed the Final ROD on April 11, 2013. It is available on the CBP website at http://www.cbp.gov/xp/cgov/about/ec/nepa_pr/nepa_by_state/nobo_peis/. The Final ROD confirms CBP's determination that the Detection, Inspection, Surveillance, and Communications Technology Expansion Alternative is most representative of the

approach CBP will employ in order to enhance response to emergent border security threats while advancing trade and travel facilitation over the next five to seven years. The Detection, Inspection, Surveillance, and Communications Technology Expansion Alternative would focus on increased patrol activity and deploying more and better technologies to support CBP's detection, inspection, and surveillance capabilities and operational communications. This alternative is consistent with current statements of national policy with regard to Northern Border security and trade and travel facilitation goals.

The release of this Final ROD concludes a process of assessment of the potential for CBP activities to impact the environment along the northern border and recommends what measures CBP anticipates it will routinely consider to reduce the potential for environmental harm from its actions. Other alternatives studied in the PEIS included the Facilities Development and Improvement Alternative, the Tactical Security Infrastructure Deployment Alternative, and the Flexible Direction Alternative. The Flexible Direction Alternative would allow CBP to employ any of the tools and activities in the other alternatives. CBP determined that although the Flexible Direction Alternative fully meets the purpose and need presented in the PEIS, its approach is more resource intensive than the risk-based approach envisioned for enhancing border security. If within five years of signing this ROD, CBP is required to adopt additional measures beyond the scope of the alternative selected at this time, CBP will evaluate whether it should issue a ROD adopting the Flexible Direction Alternative. **Comment Response and Clarifications**

Incorporated into the Final ROD

In response to a comment received on the Draft ROD and further consideration of its decision, CBP included certain clarifications in the Final ROD.

Easement Clarification

During the 30-day period following the public release of the Final PEIS and Draft ROD, CBP received seven inquiries and only one comment on the Final PEIS. This comment was from the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS). Along with providing information on all NRCS easements along the Northern Border, NRCS requested that CBP attempt to avoid constructing facilities and infrastructure within NRCS conservation easements. CBP addressed this comment in the Final ROD by including easements in the list of Federal lands for which CBP should use the Borderlands Management Task Force structure to enhance coordination among land-managers regarding usage for CBP construction, modification, and maintenance projects.

Best Management Practices (BMPs) Clarifications

BMP A.1, described in the Final ROD, is focused on improving CBP coordination with the Department of Interior (DOI) and USDA during project planning. The Final ROD clarifies this BMP's applicability to DOI managed lands and lands held in trust for American Indians and Federally-recognized Indian tribes. The Final ROD further emphasizes that CBP will also coordinate and consult with governments of tribes or nations when activities impact such lands held in trust. In response to NRCS comments, CBP also included applicable easements to the list of USDA managed land.

BMP A.5 is concerned with minimizing impacts to migratory birds and threatened and endangered flying species from CBP towers. The Final ROD clarifies that the BMP applies to construction of new antennae structures. Furthermore, when CBP is collocating equipment on antennae structures owned by non-Federal entities, it can only

implement BMPs for the structure in accordance with the owner's willingness, structural capability, and zoning restrictions.

Additional Clarifications

In section V, "Implementation," CBP made minor wording changes to further clarify that the selected alternative describes the lines of activity that CBP believes it would take in response to future changes in the threat environment and security priorities.

Also, in section II, "Factors Considered in the Decision," the ROD now reiterates the theme that partnerships and intelligence are a vital part of resolving emerging cross-border threats prior to them reaching the border.

Technical Corrections to the PEIS

During its deliberations, CBP found that certain technical corrections to the Final PEIS were needed. These technical corrections to the PEIS ensure that the PEIS accurately describes CBP activities and the preparation of the PEIS itself. The technical corrections are confined to: (1) the description of certain technologies used for inspecting vehicles and cargo, and (2) the list of government personnel involved in the preparation of the Final PEIS and Final ROD.

The technical corrections CBP is making to the Final PEIS do not change any impact determinations in the PEIS. Accordingly, CBP will not reissue the PEIS for public input. CBP has incorporated the technical corrections, as they are described below, into the online version of the PEIS.

Gamma imaging and X-ray Inspection Technologies

On page 2-11 and in the table on page 2-12 of the Final PEIS, the discussion of inspection technologies included in the Detection, Inspection, Surveillance, and

Communications Technology Expansion Alternative was amended to better describe CBP's use of gamma imaging inspection systems and X-ray technologies.

The bullet at the bottom of page 2-11 explains why CBP evaluates the usefulness of commercial off the shelf technologies. In order to reflect the proper application of X-ray scanners by CBP, the bullet at the bottom of page 2-11 was amended so it now reads as follows: "Performing inspections using more personal radiation detectors (PRD), RIIDs and NII tools such as gamma imaging inspection systems, and low and high energy x-ray inspection systems (see box on page 2-12). (CBP completed Programmatic Environmental Assessments (EA) on the deployment of various types of NII technology in 2010 and recently published a programmatic EA for the use of low energy x-ray inspection systems to scan personally owned vehicles (POVs) with the driver/passenger in the vehicle.)."¹

Page 2-12 of the PEIS discusses gamma imaging inspection systems and uses Vehicle and Cargo Inspection System® (VACIS) as the operative example. "Gamma imaging inspection system" is the general description of the impacting technology. VACIS® is merely the proprietary name for a particular brand of gamma imaging inspection system. Therefore, the PEIS should have used the more general term "gamma imaging inspection system" throughout the discussion. Accordingly, the relevant passage on page 2-12 was amended so it now reads: "Gamma Imaging Inspection Systems - The gamma imaging inspection system is used to scan cargo. It can be delivered as a portal or on tracks for POEs, or mounted on a truck to be used at multiple,

¹ This passage previously stated: "Processing visitors and cargo more rapidly while maintaining strict security by using more and improved personal radiation detectors (PRD), RIDs, and NII tools, such as high-energy container scanners and full-body scanners (see box). (CBP completed a programmatic Environmental Assessment (EA) on the deployment of various types of NII technology in 2009 and recently published EAs for the use of high-energy scanners for both cargo and people.)"

temporary, and/or remote locations as well as POEs. The truck-mounted system can be especially useful for those situations where the container itself is fixed.”²

The discussion of X-Ray inspection technologies on page 2-12 of the PEIS incorrectly asserted that high energy X-Ray inspections systems (HEXRIS) were used by CBP to perform body scans. Neither high energy nor low-energy X-ray systems are used for body scan imaging. LEXRIS are used to scan personally owned vehicles at ports of entry while the drivers or passengers remain in their vehicles. Therefore, the discussion of HEXRIS was revised to state: “X-Ray Imaging Systems - High Energy X-Ray Inspection Systems (HEXRIS) is a non-intrusive inspection technology for use to aid in inspecting high-density cargo containers. Low Energy X-Ray Systems are utilized to scan personally owned vehicles (POVs).”³

Also, on page 8-197, in the paragraph beginning. “Use NII Technology,” the phrase “high-energy X-ray imaging systems” should be “high-energy inspection systems.”

List of Preparers

A number of government personnel who contributed to the preparation of the Final PEIS were inadvertently omitted from the Chapter 11 List of Preparers in the Final Programmatic Environmental Impact Statement. This notice amends the Final PEIS Preparers table to add the following personnel according to their name and description of their associated professional experience:

² This passage previously stated: “Vehicle and Cargo Inspection System - This is a gamma-ray backscatter imaging system used for inspecting cargoes. It can be delivered as a portal for POEs or mounted on a truck to be used at multiple, temporary, and/or remote locations. The truck-mounted system can be especially useful for those situations where the container itself is fixed, such as a railroad car.”

³ This passage previously stated: “High-Energy X-Ray Imaging Scanners - High-energy imaging scanners scan a passenger by rastering or moving a single high-energy X-ray beam rapidly over the body. The signal strength of detected backscattered X-rays from a known position then allows a highly realistic image to be reconstructed (EPIC, 2010).”

- Paula Bienenfeld (Parsons), Ph.D., Anthropology - 32 years: archeology; NHPA Section 106 consultation, NEPA document preparation, analysis, and review;
- Jennifer Hass (CBP), M.S. Environmental Law; J.D. - 6 years: environmental planning, environmental program management, environmental issue advocacy, NEPA document preparation, analysis, and review;
- John Petrilla (CBP), B.S. Environmental Economics and Policy, M.P.P. Policy Studies - 5 years: environmental planning and compliance; NEPA document preparation, analysis,

and review; and

- Joseph Zidron (CBP), Masters of Public Administration - 5 years: environmental planning and compliance; NEPA document preparation, analysis, and review.

Date: May 6, 2013

Karl H. Calvo
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Office of Administration

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